

**MEGHALAYA INFORMATION COMMISSION, SHILLONG**

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**No.MIC/Complaint/32/2009/18**

Shri Julius Nongtdu of Khliehriat, Jaintia Hills - Complainant

-Vrs-

Shri B.Pachiang, Jt Secretary, J.H.A.D.C., Jowai, (PIO) - Respondent

**11-5-2009**

**ORDER**

Shri Julius Nongtdu is the Complainant in this case. Shri B.Pachiang, Joint Secretary, JHADC is the Respondent-PIO.

The case of the Complainant is that he filed an R.T.I. application before the Respondent-PIO which was duly received by him on 19-11-2008. The Respondent-PIO however, failed to response to his application within the statutory period of 30 days which expired on 19-12-2009. However, vide letter No.JHADC/PUB/RTI/6/2007/15 dated 6-1-2009 he responded to the Complainant that the information requested by him was not available with the Respondent-PIO as all relevant files, register, record have been placed by the concerned branch with Shri L.P.Nongpluh, the Examiner of Accounts appointed by the Executive Committee, JHADC to examine and enquire into the allegation of misusing of Council's fund. Not satisfied with the Respondent-PIO, the Complainant has approached the Commission with the instant Complaint which was received in the Commission on 16-3-2009.

The issues before the Commission are therefore:

- (i) Whether there is denial of information by Respondent-PIO to the Complainant?
- (ii) Whether the PIO is liable for a penalty according to Law?

The Respondent-PIO has been asked to show cause why information should not be furnished and why the penalty prescribed by Law should not be imposed upon him for denial of information to the Complainant.

The Respondent-PIO responded to the show cause stated that the information requested is not held by him but by the Financial & Accounts Officer (FAO), JHADC. That being the case, he had vide letter No. JHADC/PUB/RTI/6/2007/14 dated 24-11-2008, called for the information from the F.A.O., JHADC. In reply the F.A.O., JHADC stated that she does not have the material for information as the files, registers and records related to the information sought have been sent by her to the Secretary, Executive Committee for endorsing the same to the Examiner of Accounts as called by him in connection with the enquiry of the case as ordered by the Executive Committee of the Council. The Respondent-PIO mentioned that when the file he had endorsed to the F.A.O. came back he found that only partial information could be furnished to the Complainant and that he had done so vide letter No. JHADC/PUB/RTI/6/2007/15 dated 6-1-2009. Therefore, according to the Respondent-PIO it was not the case of denial of information. He however, admitted that the information has been delayed because of the problem stated by him.

The matter has been enquired by the Commission and found that the Respondent-PIO does not hold information and that relevant information has been endorsed by the Finance Department of the Council through the Secretary to the Enquiry Officer ordered by the Executive Committee to enquire to the case of misusing of Council fund. The Commission however, found that the Respondent-PIO responded to the Complainant on 6-1-2009, i.e. 18 days after the expiry of 30 days and therefore, the period from 19-12-2008 to 6-1-2009 amount of refusal on the part of the PIO.

This Commission further observed that the JHADC is a single Public Authority. Therefore, the information sought by the Complainant is only available within the Public Authority if not with the Respondent-PIO. The Examiner of Accounts who is the enquiry officer appointed by the Council is for all intents and purposes an officer of the Council. The Commission, therefore, failed to understand why the information which is available within the Public Authority could not be made available to the Respondent-PIO. The Commission has sought clarification from the Secretary, Executive Committee, JHADC. According to the Secretary,

Executive Committee, JHADC there is a standing decision made by the Executive Committee of the Council on 7-6-2007 requiring all matters pertaining to information under R.T.I. be put up before the Executive Member in-charge for approval before furnishing to the public and this has created some delay on the part of the officials who have to wait upon the approval of the Executive Member concerned.

The Commission holds that any procedure followed by a public authority in furnishing information should be completed within the period of 30 days as required by Law. No rules or decision or instruction made by a Public Authority can justify as a ground for refusal or delay of information.

On 6-4-2009 the Respondent-PIO was directed by the Commission to furnish the information to the Complainant immediately. The information was furnished by the Respondent-PIO to the Complainant on 22-4-2009 in the presence of Commission. The Complainant expressed dissatisfaction with some items of the information relating to drawal of money and the Head of Accounts from which the money was withdrawn. The Complainant was also not satisfied with the clarification of the PIO that there was no withdrawal of money from any account or official disbursements of money to some people resulting to misused of Council's fund but it is a case of misuse of the Revenue collection of the Council. The Commission, therefore, decided to allow the Complainant to produce evidence, if any, of the withdrawal of money stated to have been misused, and to place such evidence before the Commission on **11<sup>th</sup> May, 2009**. The Complainant, though agreed to do so, he did not produce any evidence. The Commission therefore, decided that the Complainant has no evidence to produce that the money was withdrawn by the Council, and, accepted that the information given by the Respondent-PIO is correct.

From the present enquiry, the Commission found that the delay for furnishing the information is not based on valid ground. The Respondent-PIO has been informed that he is liable for penalty for the time gap of 18 days between 19-12-2008 and the date of response i.e. 6-1-2009. However, considering the occurrence of holidays from 24-12-2008 upto 1-1-2009 i.e. a period of 9 days, the remaining

period of 9 days are liable for penalty under the Law. Therefore the Commission, decided that the Respondent-PIO pay a penalty amounting to Rs. 2250/- (250 x 9) for a period of 9 days of delay and he shall deposit the above amount to the Treasury at Jowai under the Head of Account “**0070-Other Administrative Services etc., 60-Other Services, 118-Receipt under the Right to Information Act, 2005 Volume – I under:- (02) Fees & Fines for the Penalty Amount Imposed by the Commission**” with intimation to this Commission, within a period of 30 days from the date of this Order.

Case disposed off.

**( G.P.Wahlang )**  
**C.I.C.**

**Memo.No.MIC/Complaint/32/2009/18-A      Dated Shillong, the 11<sup>th</sup> May, 2009**

Copy to:-

- (1) The Secretary, Executive Committee, Jaintia Hills Autonomous District Council, Jowai.
- (2) Shri B.Pachiang, Jt Secretary, Jaintia Hills Autonomous District Council, Jowai (PIO).
- (3) Shri Julius Nongtdu, Khliehriat West Jaintia Hills District, (Phone – 98565-54854)

**( P.T.Rani )**  
Under Secretary,  
Meghalaya Information Commission,  
Shillong.