

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

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No.MIC/Complaint/6/2009/8,

Shri Ditarson Syiemlieh of Nongspung Village - Complainant

-Vrs-

P.Khiewtam, R.O., O/o C.E., PWD (Roads), Meghalaya, (PIO) - Respondent

23-3-2009

ORDER

Respondent-PIO is present in the Commission, the Complainant is however absent.

Shri Ditarson Syiemlieh of Nongspung is the Complainant in the instant case.

According to him he had filed an RTI application dated 21-10-2008 to the PIO, Public Works Department, Shillong, seeking information on various road schemes taken up by the department in the East Khasi Hills District under P.M.G.S.Y., including specific information on the particular project in Demthring village.

Failing to receive the information within the statutory period of 30 days, which expired on 20-11-2008, he had filed the complaint before the Commission on 15-12-2008 which was received in the Commission on 7-1-2009, praying the Commission for providing him the information free of cost.

The Respondent-PIO in this case, is Shri P.Khiewtam, Research Officer in the office of the Chief Engineer, P.W.D. (Roads), Meghalaya, Shillong.

Having registered a complaint, the Commission had duly inquired into it.

A show cause was issued to the Respondent-PIO as to why penalty as provided under the Law should not be imposed upon him for denial of information to the Complainant and also to justify why the information applied for should not be furnished to the Complainant. Subsequently, an affidavit was required from the Respondent-PIO which was duly filed by him on 26-2-2009. In reply to the show cause, the Respondent-PIO stated that the information had not been denied to the

Complainant and that the main reason for the delay in furnishing the information was because the information is not held by him. According to him, he has been made PIO for the P.M.G.S.Y., scheme by his department which is being implemented by the Executive Engineers in-charge of each Division all over the State.

Finding that he does not hold the information requested for by the Complainant, he had written to all the Executive Engineers of Khasi Hills District to submit the required information along with all relevant documents to his office on 7-11-2008 without fail. Therefore, according to him, the delay occurred due to the failure on the part of the respective Executive Engineers in-charge of the Divisions who holds the information to furnish him the materials.

He also submitted that the application for information itself is vague and does not specify for which year the information is required. Further the applicant states **“for each type of work mentioned above please give Xerox copies of various which have been passed and paid to different contractors”** The Complainant has, therefore, failed to specify what are the various things that Xerox copies are required to be supplied. Such vagueness in the application seeking information and also the fact that the information is not held by him, hindered him from furnishing the information in time much against his will. He further submitted that he has already made available to the Complainant free of cost the relevant information on phase – (I) of P.M.G.S.Y., implementation in the East Khasi Hills. The Respondent-PIO further submitted that he had availed E.L. from 15-12-2008 to 03-02-2009 on account of sudden demise of his son and the department has not placed any person to officiate the vacancy resulting from his leave. He also informed the Commission that he had taken up with the department at the Secretariat level to decentralize the functions of the PIO in-charge P.M.G.S.Y., scheme so that Executive Engineers in-charge concerned who holds the information be designated as PIOs.

The issues before the Commission for decision are the following:

1. Is the application for information vague as to cause hindrance to the PIO to furnish the information in time?
2. Whether the PIO should be penalized for delay in furnishing the information?

1. The following is the extract from the original application dated 21-10-2008 filed by the Complainant before the PIO:

(1) "Since when was the PMGSY Scheme implemented in Meghalaya?"

(2) Under PMGSY and for East Khasi Hills District, please give the information in the following proforma:

Year	Name of Road	Length of Road taken up	Amount sanctioned	Amount spent	Name of the Contractors who implemented
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(3) Under Nongspung Constituency, there is a PMGSY road in Demthring village. For this particular road please give the following information:

Type of work	Amount spent on each type	Name of Contractor, Sub-Contractors for each work	Name of officer who supervise the work	Name of officer who pass the Bill
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For each type of work mentioned above please give Xerox copies of various which have been passed and paid to different contractors".

An examination of information sought under para – 2 of the application, it is apparent that the time period to which the information relates has not been clearly mentioned. The Complainant did not specify from which year to which year the information is required by him. Besides, the last paragraph of the application does not carry much sense as the things for which xerox copies are required have not been specified or indicated clearly. Therefore, the claim made by the PIO that the application is vague and lacks specificity as to hinder the PIO from discharging his function smoothly is not without valid ground.

2. In the instant case, the application for information was received by the PIO on 22-10-2008 the period of 30 days therefore expired on 21-11-2008. The first batch of information was made available by the PIO on 3-3-2009 vide letter No.PWD/CE/PMGSY/3/2008/PT/34. There is, therefore, a delay of 101 days. The second batch of information was furnished on 18-3-2009.

The PIO submitted the following causes for the above delay in his show cause viz.,

- (1) That he was on E.L. from 15-12-2008 to 3-2-2009 i.e. over a period of 50 days. Since the PIO was not performing official duties he is not liable for the penalty during the period as he was officially on leave.
- (2) However, the main reason for the delay which the PIO has cited is that the information is not held by him but by other PIOs who are the Executive Engineers in-charge of various Divisions in the District of the East Khasi Hills. He had to call for the information from all of them which they could not furnish the information readily in view of the prevailing confusion due to lack of clarity in the contents of the application for information.
- (3) Apart from the above reasons there is also apparently a system failure that causes hindrance to speedy disposal of the application for information. He has been designated PIO for the P.M.G.S.Y. Schemes in the whole State which scheme is being implemented by other PIOs namely all the Executive Engineers in-charge of the P.W.D. Divisions in the State. He produced evidence before this Commission of the initiative taken by him with the department to remove the hindrances by allowing all Executive Engineers to function as PIO of the P.M.G.S.Y. scheme implemented by them within their respective Divisions.

Having considered the matter in detail and in view of the fact that the information has already been furnished to the Complainant in spite of the situation aforesaid, the Commission is convinced that the PIO has tried his level best to collect and furnish the information and that there is no intentional delay on his part. The Commission, therefore, is not inclined to hold him personally liable for the delay. While the Commission does not hold him liable for penalty in the instant case, the PIO is well advised to take recourse of Section 5(5) of the RTI Act in future cases, should the concerned Department fails to take remedial measures.

Case disposed of.

(G.P.Wahlang)
Chief Information Commissioner.

Memo. No. MIC/Complaint/6/2009/8-A Dated Shillong, the 23rd March, 2009

Copy to:-

1. Shri P.Khiewtam, Research Officer, O/o Chief Engineer, P.W.D. (Roads), Meghalaya, Shillong, (PIO), Lower Lachumiere, Shillong – 793001.
2. Shri Ditarson Syiemlieh of Nongspung Village, P.O. Nongspung – 793121, East Khasi Hills. (Phone No. 9856775954).

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