

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

PRESENT

**Shri Pramod Kumar Mohanty,
State Information Commissioner**

Dated 25th June, 2013

Second Appeal No.278 /2011

Raghunath Rath,
Raghunath Para,
Titilagarh,
Bolangir-767033

.... Appellant

Vrs.

(1) Public Information Officer,
(2) First Appellate Authority,
O/o. the Inspector General of Registration, Odisha,
Cuttack. Respondents

DECISION

1. The appellant had filed a Form-A application on 02.06.2010 before the PIO, O/o. the Inspector General of Registration, Odisha seeking the following information.

“In most of the Registration Offices like Sub-Registrar, Titilagarh or District Sub-Registrar, Bolangir are registering Partnership Deeds. So supply me the information that whether they are empowered to register Partnership Deed and by which provisions of law. If not then who is empowered only to register Partnership Deed”.

2. In response to the same the PIO, O/o. the Inspector General of Registration, Odisha in his letter dated 19.06.2010 had furnished him the information that Partnership Deeds are being registered by the Registering Officers under Article 46 of Schedule I(A) of Indian Stamp Act. Alleging furnishing of misleading information, the appellant had approached the First Appellate Authority on 14.07.2010. The First Appellate Authority while disposing of the First Appeal intimated the appellant through his letter dated 28.07.2010 indicating that the Sub-Registrar, Titilagarh and District Sub-Registrar, Bolangir were registering Partnership Deeds as per provisions under Article 46 of Schedule I(A) of Indian Stamp Act and thus sustained the information already furnished by the PIO. In the Second Appeal filed on 19.08.2011, the appellant had alleged that misleading information had been provided to him by the PIO as well as the First Appellate Authority. Since Partnership Deeds are to be registered under the provisions of Partnership Act, 1932, he had every reason to believe that under the said Act the Sub-Registrar, Titilagarh and District Sub-Registrar, Bolangir had not been authorized to register such deeds and a wrong provision had been quoted by the PIO.

3. During hearing of the appeal the appellant had submitted a detailed note of argument wherein he had elaborated the above facts by quoting provisions under Indian Stamp Act as well as the Indian Partnership Act and insisted that the Sub-Registrar as well as District Sub-Registrar were unauthorizedly registering such documents in contravention of the provisions of the Indian Partnership Act. On the other hand misleading information was furnished to him justifying such action, for which, appropriate penal action should be taken against the PIO and compensation may be allowed to him for the harassment caused to him in accessing the information.
4. During hearing of the case, the PIO had submitted before the Commission that after receipt of the application, the relevant file was endorsed to the Joint, Inspector General of Registration in order to ascertain the position and his views. After getting his views the information was sent to the appellant vide letter dated 19.06.2010. Subsequently the First Appellate Authority also, in consideration of the submissions made by the appellant and the PIO, sustained the orders of the PIO.
5. In view of the specific complaint of the appellant indicating the provisions of the Indian Partnership act as well as Indian Stamp Act and the submissions made by the PIO, no clear picture emerged during hearing of the case in order to take a view whether any misleading information had actually been provided to the appellant by the PIO as well as the First Appellate Authority. Therefore, the Commission authorized the Inspector General of Registration, Odisha under Rule 7(1)(c) of Odisha Information Commission (Appeal Procedure) Rules, 2006 to conduct a thorough inquiry regarding such allegation of the appellant and whether correct information was provided to him. In response to the said directions, the Authorized Officer has submitted his inquiry report vide his letter dated 18.03.2013. The same was perused and taken to record. Thereafter, the Commission had also heard both the parties on the last date of hearing.
6. The Authorized Officer in his report has submitted that the position of law relating to registration of Partnership Deeds is covered under Article 46 of Schedule I (A) of Indian Stamp Act (Odisha amendment). On the other hand the registration of Partnership Firms is done under the provisions of Indian Partnership Act, 1932 covered under Chapter VII of the said Act. Section 58 of the said Act prescribes the Forms and fees for such registration. As per provisions under Section 57 of the said Act, the Inspector General of Registration has been declared as Registrar of Firms as per Odisha Government notification No.6937-JSC-18/1967-Com. dated 22.08.1967. However, the analysis of Article 46 of Schedule I(A) of Indian Stamp Act vis-à-vis registration of Partnership Deed and provisions contained under Chapter VII of Indian Partnership Act, 1932 for registration of Partnership Firms appear to be different in content and purpose. He has however submitted that on the question of interpretation of the statutes the competent court can only interpret the provisions.
7. After hearing both the parties and on perusal of the records, the Commission observed that in response to the RTI application, the PIO had intimated the

provisions as required by the appellant as per his knowledge and in consultation with his superior authorities which was subsequently sustained by the First Appellate Authority. In the inquiry report submitted by the Inspector General of Registration, Odisha, he has brought about the difference between registration of Partnership Deeds and Partnership Firms in respect of which the provisions under the Indian Stamp Act and Indian Partnership Act have been quoted. The RTI Act, 2005 comprehensively defines the word "information". The common feature of various categories mentioned in such definition is that they exist in one form or the other and the PIO has to furnish the same by way of copy or description. Therefore, the information sought by the appellant from the PIO cannot be treated as information unless such information is available in the recorded form. Since his views had been sought in the RTI application, in absence of any specific document indicating such authorization, he appears to have put up the file to his higher authorities only to ascertain the exact provisions under which the Partnership Deeds were being registered and on that basis the information had been provided. Subsequently this was sustained by the First Appellate Authority. Therefore, the Commission cannot hold either the PIO or the First Appellate Authority guilty of furnishing of any misleading information. However, since the procedure adopted by the Sub-Registrar and the District Sub-Registrar and corresponding provisions have already been intimated, the appellant may approach the appropriate authority/forum in case he suspects that incorrect provisions are being followed while registering the Partnership Deeds and on the question of interpretation of the two statutes, on which, the Commission cannot adjudicate under the provisions of the RTI Act, 2005.

8. Since the action of the PIO and the First Appellate Authority has been considered appropriate and devoid of any malafides, the claim of compensation made by the appellant is also disallowed.
9. With the above observations, the Second Appeal is disposed of.

Pronounced in open Proceedings

Given under the hand and seal of the State Commission, this the 25th Day of
June, 2013

Sd/-

State Information Commissioner