

BEFORE THE ORISSA INFORMATION COMMISSION  
BHUBANESWAR

Present: Hon'ble Shri D.N.Padhi, SCIC

and

Shri Jagadananda, SIC

Date: 6<sup>th</sup> February, 2009



Complaint Case No. 113/2007 and 700/2007

Saroj Ranjan Patnaik,  
S/o-Giridhari Patnaik,  
3<sup>rd</sup> Lane,  
Sidhartha Nagar,  
Berhampur-4 ..... Complainant

-Vrs-

Public Information Officer,  
cum-Additional Executive Officer,  
Office of the Berhampur Municipality,  
Berhampur ..... Opposite Party

Decision

1. Complainant Saroj Ranjan Patanaik is absent. The same is condoned under Rules 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. Prafulla Chandra Pradhan ex-PIO-cum-ex-Additional Executive Officer, Ratindra Narayan Mallik, PIO-cum-Municipal Engineer, Ramesh Chandra Panda, Junior Assistant, Sudhir Kumar Mahapatro, Head Ministerial Officer-cum-APIO, Kailash Chandra Nayak, Junior Assistant all of Berhampur Municipality, Berhampur are present. Heard. Perused the case record. The above two cases are tagged and heard analogously as they arise out of the same application dated 09/10/06 of the Complainant. This matter relates to complaint petition dated 29/01/07.
2. It reveals from the record that Complainant had sought information in form A application dated 09/10/2006 from the PIO, Berhampur

Municipality, Berhampur on the reasons for non-payment of pay arrears, pension etc. of Smt. Sakuntala Patnaik, retired Head Mistress, Municipality High School, Berhampur. The PIO, mentioned that he intimated the Complainant (in form 'B') vide letter No. 798 dated 24/01/2007 to deposit Rs. 8/- towards cost of providing information. The Complainant deposited the cost on 06/02/2007 and received the information on 22/02/2007 duly acknowledged by him.

3. The State Commission observed that the PIO should not have asked the Complainant to deposit the cost of information after expiry of 30 days from the filing of form A application, which is violative of provision of Section 7(6) of the RTI Act, 2005 (Act for brevity). Hence he was directed to refund the cost to the Complainant forthwith.
4. Now the solitary point remaining for adjudication is the delay. PIO submitted that RTI application dated 09/10/06 of the Complainant was put up by the Dealing Assistant Ramesh Chandra Panda on 10/10/06. The APIO, Sudhir Kumar Mohapatra endorsed the file to the PIO on 11/10/06 to instruct the Dealing Assistant, Kailash Chandra Nayak to collect the information. The PIO approved the proposal the same day. The file was handed over to Kailash Chandra Nayak on 13/10/06 who put up the same on 15/11/06 to collect some additional information from other Dealing Assistants. The APIO endorsed the file on 15/11/06 to Additional Executive Officer (PIO) with a suggestion to ask the Dealing Assistant to supply the information on pension and provident fund. The PIO agreed with the suggestion on 15/11/06 itself. From the narration it seems Kailash Chandra Nayak retained the file with him from 13/10/06 to 15/11/06 for a period of 32 days.
5. The file was then resubmitted by the Dealing Assistant to APIO on 23/11/06 with a draft reply, who in turn endorsed the file to PIO on 18/12/06 to inform the Complainant to deposit the cost of Rs. 8/- for

providing information. Sudhir Kumar Mohapatra retained the file from 23/11/06 to 18/12/06, that is, for a period of 24 days. Thereafter the file was submitted to PIO on 15/01/07 by the Dealing Assistant who approved the same on 24/01/07 after nine days. It was on 24/01/07 that the Complainant was intimated to deposit the cost on 06/02/07. He received the information on 22/02/07 due to the strike of Municipal Employees with effect from 07/02/07.

6. All the responsible officers were called upon on different dates to explain the delay caused at their level. Though reasonable opportunities were given to them to prove that they have acted diligently they failed to prove that they discharged reasonably and diligently.
7. After deducting 3 days as per Orissa Record Manuals from each individual responsible for causing delay, Kailash Chandra Nayak, Sudhir Kumar Mahapatro and Prafulla Chandra Pradhan are held responsible for delay of 29, 21 and 6 days respectively.
8. Upon hearing the opposite parties, the State Commission were of the opinion that mandatory provision of the Act under Section 20(1) is automatically attracted. Repeated opportunities were given to the PIO/referred PIOs to establish their innocence. In this case the erring officials namely Kailash Chandra Nayak, Sudhir Kumar Mahapatro and Prafulla Chandra Pradhan failed to prove their bonafides. Therefore a penalty of Rs. 7,250/- is imposed on Kailash Chandra Nayak, Junior Assistant for the delay of 29 days. (ii) Rs. 5,250/- penalty is imposed on Sudhir Kumar Mahapatro Head Ministerial Officer for the delay of 21 days and (iii) Rs. 1,500/- is imposed as penalty on Prafulla Chandra Pradhan (retd.) ex-PIO-cum-ex-Additional Executive officer for the delay of 6 days. They are directed to deposit the said amount within 30 days of receipt of these orders in the Treasury under Head 0070-Other Administrative Services-60-other Services-118-Receipt Under Right to Information Act.




2005-0014-Collection of Fees and Fines-02178-Fees and Fines under Right to Information Act, 2005", failing which it will be recovered by the Public Authority under Rules 9 and 13 of the Orissa Right to Information Rules, 2005. Secretary of the Orissa Information Commission will be kept informed of the recovery status of the full payment by each.

9. Hence the case is allowed. Inform all concerned.

**Pronounced in open proceedings.**

Given under the hand and seal of the State Commission, this 6<sup>th</sup> day of February, 2009.

  
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SCIC  
6.2.09

  
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SIC 6/2/09