

**BEFORE THE ORISSA INFORMATION COMMISSION**

**BHUBANESWAR**

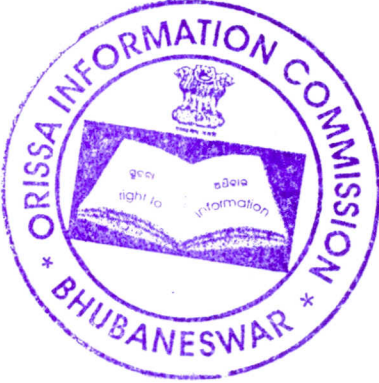
**Present: Hon'ble Shri D.N. Padhi, SCIC**

**and**

**Shri Jagadananda, SIC**

**Date: 06<sup>th</sup> March, 2009**

**Complaint Case No. 119/2007**



Bichitrananda Panda,  
Plot No-342 (1<sup>st</sup> floor),  
Sahid Nagar,  
Bhubaneswar-751007.....Complainant

**-Vrs-**

Public Information Officer,  
Housing and Urban Department,  
Secretariat,  
Government of Orissa,  
Bhubaneswar..... Opposite Party

**Decision**

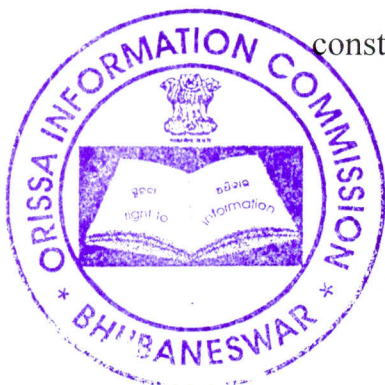
1. Complainant Bichitrananda Panda is absent. The same is condoned under Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. Balakrishna Behera, PIO and Chitta Ranjan Behera, ex-PIO of Housing and Urban Development Department, Government of Orissa, Bhubaneswar are present. Heard. Perused the case record. This case arises out of complaint petition dated 07/02/07 and heard by the State Commission on 09/10/07, 13/02/08, 03/04/08, 22/08/08 and 19/11/08.
2. Form A application was filed by the Complainant before the PIO, Law Department on 28.10.06. G. Hota, PIO, Law Department in letter

no.5483, dated 17.05.07 had informed the State Commission that the application of Bichitrananda Panda was received by the Law Department 06.11.06 which was subsequently transferred u/S 6(3) of the RTI Act, 2005 (Act for short) to the PIO, Housing and Urban Development Department vide letter no.14451, dated 10.11.06 and the Applicant informed about this transfer vide memo no.14452 dated 10.11.06. The Complainant confirmed receipt of this intimation of transfer of his RTI application to Housing and Urban Development Department. On the other hand the PIO, Housing and Urban Development Department submitted that they had not received the transferred application from the Law Department. However, in response to the notice, with the enclosures including form A application issued by the State Commission he requested the PIO, BDA vide his letter no.19111 dated 21.08.07 take necessary action. He replied vide their letter no.7366 dated 25.08.07. This information was supplied to the Complainant vide letter no.20891 dated 14.09.07 by the PIO, Housing and Urban Development Department and acknowledged by the former.

3. However, aggrieved by the transfer of his application from the Law Department to the Housing and Urban Development Department under Section 6(3) of the Act, the Complainant preferred on 18/12/06 an appeal before the First Appellate Authority, Law Department. First Appellate Authority, N.C. Sahoo reiterated the position that as the matter related to the Housing and Urban Development Department it has been rightly transferred to them. However, he requested the First Appellate Authority, Housing and Urban Development Department for early disposal of the appeal and the Complainant Bichitrananda Panda, informed vide memo no.16200 dated 27.12.06. The First Appellate Authority, Housing and Urban Development Department did not respond

to this communication of the First Appellate Authority, Law Department. Hence aggrieved by non-response, the Complainant approached the State Commission on 17.02.07 for redressal.

4. The Complainant submitted during hearing that the information sought by him in form A application related to the Law Department and there was no reason why it should have been transferred at all to the Housing and Urban Development Department. From the form A application it was seen that he wanted to know the quantum of punishment as per law to be awarded by the Government of Orissa to BDA for preventing the specific performance of a contract entered by Government of Orissa with this applicant. Complainant Panda further submitted that neither the Housing and Urban Development Department nor the BDA is the appropriate Public Authority to provide the information, as they are interested parties. The Law Department should be in a position to furnish all of the information he has sought for in terms of breach of contract under the Indian Contract Act.
5. The State Commission on 09/10/07, had therefore, felt it expedient to hear the PIO and First Appellate Authority of Law Department.
6. The First Appellate Authority, Law Department informed the State Commission vide memo no.13992 dated 14/12/07 (main letter was issued to the Complainant bearing letter no 13991 dated 14/12/07) that the requirements sought by the Complainant did not conform to the definition of "Information" under Section 2 (f) of the RTI Act, 2005 but related to expert legal advice. However, he clarified that "Flood prone area" by itself was not a ground to refuse approval of plan for construction of a house on the plot by the BDA. It was not the case of




the BDA that if his plan was approved by the BDA and a house was constructed according to the approved plan, BDA will be liable to pay compensation to the house owner if the house so constructed on the plot was damaged by floods or any other natural calamity. It was also not the case of BDA that they would be required to pay compensation for the houses/ flats constructed on the basis of plan approved by the BDA, if these houses/flats so constructed are damaged by earthquake, cyclone etc.

7. For the foregoing reasons, in our opinion, the observation made by the First Appellate Authority of Law Department is correct and we do not find any malafides with the opposite parties and hence with no orders on penalty, the case is disposed of and closed. Inform the Complainant. He may seek expert legal opinion in the appropriate quarters.

**Pronounced in open proceedings**

Given under the hand and seal of the State Commission, this 06<sup>th</sup>  
day of March, 2009.



SCIC

6.3.09



SIC

6/3/09