

BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR

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

Date: 14th July, 2009

Complaint Case No. 769/2007



Sandhyarani Pani,
Hill Patna, 3rd lane,
Berhampur-760005,
Ganjam district.....Complainant

-Vrs-

Public Information Officer,
Office of the Engineer in Chief (Civil), Orissa
Nirman Soudha,
Bhubaneswar.....Opposite Party

Decision

1. Complainant Sandhyarani Pani is absent on call. The same cannot be condoned today under Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006 as she has been absent persistently on the last three successive days of hearing viz: 28.01.2009, 07.04.2009 and 04.05.2009 despite being communicated by speedpost the orders of the State Commission to be present in person to come to a finality quickly. Pradip Kumar Sutar, Executive Engineer –cum- PIO, office of the Executive Engineer(Civil), Pitabas Sethi, ex-PIO (currently Superintending Engineer,(D&P)), office of the Chief Engineer, NH, Bhubaneswar and Biswanath Mishra, Section Officer, office of the Engineering in Chief (Civil), Orissa, Bhubaneswar are present. Heard and perused the case record. This case arises out of the complaint petition dated 7.6.2007.
2. The case was last heard on 04.05.2009. It reveals from the record and from the submissions of the opposite parties that the Complainant had sought information in form A application dated 10/04/07, from the PIO, office of the Engineer-in-Chief (Civil), Orissa, Bhubaneswar on 5 points relating to absorption of DLR persons against the regular posts and publication of the relevant gradation list up to 2007.

The PIO had stated on 26/09/08 that he received the application on 16/04/07 and the required information were finally supplied to the Complainant on 10/07/07. Therefore, the State Commission had decided to call for the presence of the Complainant to take part in the hearing of the case to have her say in the matter and confirm in person the receipt of full and correct information. The delay, however, was apparent.

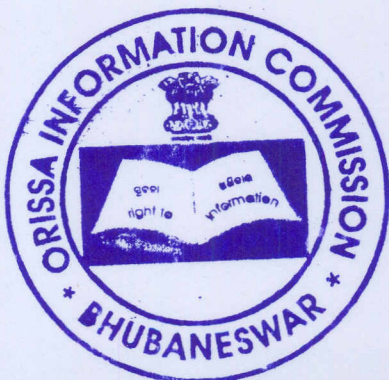
3. It was evident from the chronological date chart filed on 28/01/07 by the then PIO, Pitabas Sethi that the delay could be attributable to Narayan Sethi, Dealing Assistant, who inexplicably kept the file with him from 20/04/07 to 08/06/07 totaling 48 days of delay. On the basis of his written submission dated 04/05/09 and verification of documents, the State Commission were of the considered opinion that delay at his level was for a period of 29 days. The burden of proof, therefore, was on Narayan Sethi, ex-Senior Assistant, office of the Engineer-in-Chief (Civil), Orissa, Bhubaneswar (now Sub-Treasury Officer, Gunupur, Rayagada district) that he acted reasonably and diligently in dealing with the said RTI application.
4. Though reasonable opportunity was given to Narayan Sethi to establish under the RTI Act, 2005 that he had acted reasonably and diligently he failed to discharge the same. Another opportunity was offered keeping with the principles of natural justice, to prove his innocence. Admitting his fault, he refused the said opportunity. Hence, the State Commission in consideration of the facts of the case, imposed a penalty of Rs.7250/- (Rupees Seven thousand two hundred fifty only) on Narayan Sethi, ex-Senior Assistant, office of Engineer-in-Chief (Civil), Orissa, Bhubaneswar (currently Sub-Treasury Officer, Gunupur) at the rate of Rs.250/- per day for the delay of 29 days. He was directed to remit the penalty amount in the Government 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" within 30 days of receipt of these orders failing which the penalty amount shall be recovered from his salary by the Public Authority under Rule 9 of the Orissa Right to Information Rules, 2005. If the Public Authority fails

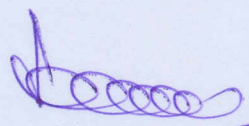
to recover the said penalty amount the same shall be recovered from him under Rule 13 of the Rules (supra). The fact of full recovery should be reported immediately by the PIO to the Secretary, Orissa Information Commission, Bhubaneswar. In obedience to the above directions of the State Commission, Narayan Sethi, ex- Senior Assistant had deposited the penalty amount of Rs.7250/- vide chalan no. 130 dated 16.6.2009 (copy available on record.)

5. As regards delay in respect of B. N. Misra, Section Officer (General), office of the Engineer –in- Chief (Civil), Orissa, Nirman Soudha, Bhubaneswar , the State Commission directed him to clarify the delay at his level while dealing with the RTI application, in terms of the chronological date chart dated 28/01/09 submitted by the ex-PIO, Pitabas Sethi.
6. Biswanath Mishra, Section Officer submitted today, during the hearing, with corroboratory evidence that he was on leave with prior permission of his higher authority, on 29.6.2007 and 30.6.2007 and again from 2.7.2007 to 5.7.2007 (1.7.2007 being Sunday). This was also confirmed by the PIO during the hearing .The State Commission perused the documents exhibited and accepted the plea.
7. In consideration of the above facts and circumstances of the case, the State Commission directed to close the case with no orders of penalty on Biswanath Mishra. Inform the Complainant.

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 14th day of July, 2009.




SCIC
14-7-09