

**BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR**

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

Date: 31st July, 2008

Complaint Case No.146 of 2007

Pramod Kumar Pattanaik,
PO-Jenapada,
Via-Athagarh,
Cuttack District.....Complainant

-Vrs-

Public Information Officer,
Office of the Regional Transport Officer,
Cuttack.....Opposite Party



Decision

1. Complainant Pramod Kumar Pattanaik is absent. His absence is condoned as per Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. Mahesh Prasad Rath, Junior Clerk, office of the RTO, Cuttack is present. Ashok Kumar Panda, RTO, Cuttack has sworn an affidavit on 30.07.2006 before the Executive Magistrate, Cuttack stating therein that the old building where his office was functioning was damaged and declared unsafe for which all the files were lifted and staked in two rooms spared by Collector, Cuttack and in that process the relevant papers relating to the information sought for have been misplaced and are not traceable. This matter arises out of a complaint petition dated 13.02.2007.
2. This case was earlier heard by the State Commission on 12.10.2007, 14.02.2008 and 24.07.2008. In order dated 14.02.2008 it has been clearly observed that the Complainant in his form A application had sought for copies of the form numbers 29 and 30 filed before the Public Authority for change of ownership of a TATA SUMO four wheeler vehicle bearing Registration No.OR-05-Q-0726.

It was submitted by the RTO before the State Commission on that day that the old building in which his office was functioning was damaged and declared unsafe by the PWD authorities for which the files were removed and heaped in two rooms temporarily spared by Collector, Cuttack.

He further contended that some of his staff were working in the verandah of the Collectorate after shifting of the files/records. The information related documents could have been misplaced or lost as despite intensive search they could not be traced. It was further contended by the RTO that the new building which is under construction is likely to be completed soon, after which the office records will be properly arranged. He had, therefore, expressed his inability to provide the information with the Complainant as the same was misplaced and not traceable. However, during the hearing on 14.02.2008 he provided a photocopy of form 39 to the Complainant indicating that the said vehicle had been sold by Sudhir Pattanaik, son of Pramod Pattanaik of Sunapada (Complainant in this case) to one Pravakar Swain, son of Prahallad Swain. The State Commission upon hearing the RTO as above had directed him on 24.07.2008 to swear an affidavit before the Competent Authority and submit the same in original for perusal of the State Commission. In obedience to the said direction the RTO had sworn an affidavit and submitted the same in original through Mahesh Prasad Rath, Senior Clerk of his office which was perused and taken to record. In view of the above discussed peculiar facts and circumstances of the case, the officials of the Public Authority cannot be held responsible for any delay since there appears sufficient cause for not being able to provide the information to the Complainant.

3. The State Commission while closing this case is of the considered opinion that the PIO having proved his bonafides cannot be legally held responsible for any violation of the provisions of the RTI Act, 2005.


The Complainant who had raised an issue of forgery purportedly committed by a malafide purchaser is free to take legal action by taking recourse to the penal provisions under the Indian Penal Code/Criminal Procedure Code by lodging an FIR in the concerned Police Station.

4. With the above observations, the case of the Complainant is disposed of and closed.

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 31st day of July, 2008.




SCIC
31-7-08