

6. 17/07/08

**Complaint Case No.477/2006**

1. Complainant Bhagirathi Dash is absent. The same is condoned under Rule 9 (2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. Kalyani Patnaik, ex-PIO, Pipili Tahasil (currently Additional Tahasildar, Nimapara) and Shyam Sundar Barik, Junior Clerk-cum- referred PIO, Delang Tahasil, Puri District are present. Heard the opposite parties and perused the case record.
2. This case was earlier taken up for hearing on 26/07/07, 13/09/07, 18/01/08 and 07/07/08. On the last date of hearing Kalyani Patnaik was absent. She unconditionally apologized for her absence stating that she was detained on the way because of some technical problems in her conveyance. The absence was condoned.
3. It reveals from the order dated 27/07/07 that the Complainant had received all information during the course of hearing on the said date. The State Commission had, however, noticed inordinate delay and thus probed into the same to fix responsibility, if any, on the erring PIO/ referred PIO(s).
4. In order dated 18/01/08 it has been concluded prima facie that Kalyani Patnaik ex-PIO was responsible for the delay of 215 days and Shyam Sundar Barik, referred PIO for 35 days. They were provided with an opportunity to explain the delay on 04/04/08 since the burden of proof is on them to prove in the affirmative that they have acted reasonably and diligently and there was sufficient legitimate cause for the delay, the same being beyond their control.

5. Kalyani Patnaik .ex-PIO was found absent on 07/07/08. Shyam Sundar Barik referred PIO in his showcause memorandum as well as verbal submissions stated that due to shortage of staff, he was holding several charges including the Audit Section as the Dealing Assistant. After hearing him the State Commission had recorded their views that plea of heavy workload cannot be accepted as an valid defence to explain away delay in handling RTI applications/requests. However, another opportunity was given to both the ex-PIO and the referred PIO to prove their bonafides, if any, to-day.
6. The ex-PIO, Kalyani Patnaik in her showcause memorandum advanced the plea that the Complainant in his form A application dated 13/11/06 had expressed his desire to receive the information in person and accordingly, after receiving the information from the referred PIO on 22/12/06, she had verbally informed the Complainant to come and receive the information. It seems he refused stating that he would receive the information in the State Commission. She further submitted that the delay caused was due to the non-cooperation of the Complainant. This issue needs further probing.
7. Shyam Sundar Barik, referred PIO has filed on application today wherein he has admitted to the delay of 9 days to have been caused by him in providing information to the ex-PIO i.e. from 13/12/06 (due date of supply of information) to 22/12/06.
8. The State Commission upon due consideration of the totality of the established circumstances found that Shyam Sundar Barik, Junior Clerk-cum- referred PIO is responsible for the unexplained delay of 9 (nine) days and hence penalty of Rs.2250/- @ Rs.250/- per day is

imposed on him. He is directed to deposit the said amount within 30 days from the date of receipt of these orders 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". In case the said referred PIO fails to deposit the penalty amount as directed, the Head of the Public Authority will take steps to recover the same from his salary payable for the month of August, 2008 in September, 2008 and report compliance to the State Commission. In the event of failure by the Head of the Public Authority to realize the penalty amount, action shall be initiated by him to recover the penalty amount strictly in accordance with the provision of Rule 13 of the Orissa Right to Information Rules, 2005. Inform the Head of the Public Authority viz. Tahasildar, Delang, Puri District for necessary action.

9. Kalyani Patnaik, ex-PIO of the Public Authority is provided with another opportunity to explain the delay caused at her level. Put up on 25/09/08 for further hearing in presence-of Kalyani Patnaik, ex-PIO of the Public Authority. Inform the Complainant, as his presence is required to establish the facts of the case in so far as the ex-PIO is concerned.



SCIC

17-7-08