

**BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR**

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

Date: 4th April, 2008

Complaint Case No.51/2006

Sandhyarani Pani,
Advocate,
Hill Patna-3rd Lane,
Berhampur-760005
Ganajm District.....Complainant

-Vrs-

1. Public Information Officer,
School and Mass Education Department,
Government of Orissa,
Secretariat,
Bhubaneswar
2. First Appellate Authority-cum-
Additional Secretary to Government,
School and Mass Education Department,
Government of Orissa,
Secretariat,
BhubaneswarOpposite Parties



Decision

1. The Complainant Sandhyani Pani is absent. Her absence is condoned under Rule 9 (2) of the Orissa Information Commission(Appeal Procedure) Rules, 2006. Umesh Chandra Mohanty, PIO and Giridhari Sahoo, referred PIO, School and Mass Education Department, Government of Orissa, Secretariat, Bhubaneswar are present. The referred PIO filed today an additional written showcause memorandum , the contents of which have been certified to be true by the PIO in terms of the State Commission's orders dated 03/04/08. He has also filed a list of 155 pending contempt cases before the

Hon'ble High Court of Orissa arising out of non-disbursement of arrear salary of employees of Aided High Schools under 610 Plan Schemes. Heard. Perused the said documents and the case records.

2. It will be relevant to mention that this case arising out of the form A application dated 16/01/06 of Sandhayarani Pani, received by post by the PIO on 18/01/06 has been heard on numerous occasions viz. 25/07/06, 22/08/06, 04/10/06, 15/12/06, 17/01/07, 13/03/07, 27/04/07, 12/07/07, 21/01/08, 31/01/08, 17/03/08 and 03/04/08. On the intervention of the State Commission, the Complainant received all the information, free of cost, on 17/05/06. On 12/07/07 it was clearly observed that delay was caused by Giridhari Sahoo, referred PIO whose responsibility was construed as prima-facie established for the period 25/01/06 to 01/03/06.
3. During hearing of the case on 03/04/08 (yesterday) both the PIO and the referred PIO submitted that there are authentic records in the form of clear directions by the Hon'ble High Court, Orissa to implement their order within six months which overlapped the period when the RTI application was pending in the same Section They also prayed for another opportunity to prove their bonafides. Accordingly, they were allowed for the last time till today to exhibit necessary corroboratory documents to prove their bonafides as well as existence of reasonable cause which prevented them from attending to the RTI request of the Complainant, within the maximum time stipulated under Section 7 (1) of the RTI Act (Act for short).
4. To appreciate the crux of the issue, the orders dated 03/04/08 of the State Commission in this case are to be read as a part and parcel of this order. On perusal of the official documents filed by the referred

PIO containing the express direction of the Hon'ble High Court of Orissa dated 08/07/04 in W.P.(C) No. 4995/2004, the State Commission was convinced that during the relevant period the Commissioner-cum- Secretary of the Department had entered appearance before the Hon'ble High Court in the contempt cases and had sought time to implement within 6 months from October,2005 the orders of the Hon'ble High Court. The referred PIO who was in charge of disbursement of the said arrear dues of the employees of the Aided High Schools remained occupied in complying with the directions of the Hon'ble High Court and in that process appropriate attention could not be given to RTI request of the Complainant causing delay without any ill intention or motive to harass.

5. The referred PIO has been able to prove satisfactorily that he was occupied in complying with the directions given by the Hon'ble High Court during the relevant period and he had given priority to the implementation of their Order and also ensure that Rs. 13 crore allotted for this purpose was not surrendered at the end of the financial year, 2005-06. This action / pre-disposition cannot be faulted with, in larger public interest.
6. Looking to the above proven facts and genuine circumstances fully corroborated by authentic official documents , the State Commission are the opinion that there were adequate grounds in favour of the referred PIO, Giridhari Sahoo and he has been able to prove to the full satisfaction of the State Commission that if had given priority to the RTI request of the Complainant, there was every risk of their being booked for contempt of court. It was also found from the record that soon after compliance on 28/02/06 of the directions given by the Hon'ble High Court, they provided information on 01/03/06 to the



RTI Section (who received it on 03.03.06) for supply to the Complainant, free of cost, strictly in accordance with the provisions under Section 7 (6) of the Act. The aspect of supply of information has already been dealt with in the earlier hearings.

7. For the reasons aforesaid, both the then PIO, Manmohan Rath and referred PIO, Giridhari Sahoo are exonerated with no orders on penalty. Since the Complainant had received all the information, free of cost, sought for by her the case is disposed of and closed. Inform the Complainant (alongwith a copy of the orders dated 03/04/08).

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 4th day of April, 2008.


Hon'ble SCIC

4.4.08



TMM