

BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR



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

Date: 24th April, 2008

Second Appeal No 97 / 2007

Shri Pritam Kumar Panda,
At-Shantipada,
PO-Rajendra College,
Bolangir District.....Appellant

-Vrs-

1. Public Information Officer
cum-Executive Engineer,
Bolangir Irrigation Division,
Bolangir District.
2. First Appellate Authority,
Office of the Superintending Engineer,
Bolangir Irrigation Division,
Bolangir District.....Respondents

Decision

1. Appellant Pritam Kumar Panda is absent. His absence is condoned in terms of Rule 9(2) of the Orissa Information (Appeal Procedure) Rules, 2006. Saroja Kanta Balabantaray, Assistant Executive Engineer and Prafulla Chandra Mishra, Assistant Engineer-cum-PIO, Bolangir Irrigation Division are present. Heard the PIO and perused the case record.
2. It reveals from the record that this case was earlier heard twice by the State Commission on 03.10.07 and 08.02.08. In order dated 08.02.08 the State Commission were of the opinion that prima facie delay of 39 days

appears to have been caused by Prafulla Chandra Misra, ex-PIO as he had supplied the information after 39 days of the expiry of the maximum prescribed of 30 days for supply of information under Section 7 (1) of the RTI Act, 2005 (Act for short). The ex-PIO on 08/02/08 had submitted before the State Commission that he was not aware of the provisions of the Act, and the Orissa RTI Rules, 2005 (Rules for short). The State Commission declined to accept the said stand as a valid defence. He was provided with the second and last opportunity to explain the delay as burden of proof is on him to establish that he had acted reasonably and diligently and there was sufficient reasonable cause by which he was prevented from supplying the information within the maximum prescribed time limit.

3. Ex-PIO, Prafulla Chandra Mishra submitted before the State Commission today that that when the RTI application was made his working territorial area was severely affected by heavy floods and he was kept in dual capacity as in-charge of Bolangir Irrigation Division and as Assistant Engineer-cum-Estimator in the Division Office. No document has been filed by him to corroborate the said verbal submissions. Thus the State Commission is of the considered opinion that ex-PIO, Prafulla Chandra Mishra has failed to discharge the burden levied on him under Section 20 (1) of the RTI Act, 2005 and he has also failed to prove the existence of any reasonable cause for the delay for which he is bound to be taken to task under Section 20(1) of the Act by imposing penalty on him for the delay of 39 days caused at his level.

4. As observed above Prafulla Chandra Mishra, ex-PIO has caused the delay of 39 days. Thus penalty of Rs 9750/- is imposed at the rate of Rs.250/- per day. He is directed to deposit the said penalty amount in the


following head of account viz '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 as provided under Rule 9 of the Orissa Right to Information Rules, 2005. In case he fails to deposit the said amount, the head of the Public Authority will recover the said penalty from his salary for the month of May, 2008 payable in June, 2008 onwards in two equal, consecutive, monthly instalments. If for any reason the amount cannot be recovered from the salary of the ex-PIO, Prafulla Chandra Mishra, the Public Authority will initiate action to realise the said amount in accordance with the provision of Rule 13 ibid.

5. Thus the appeal is allowed.

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 24th day of April, 2008.




SCIC
24. 4. 08