

BEFORE THE ORISSA INFORMATION COMMISSION

BHUBANESWAR

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

Date: 14th March, 2008

Complaint Case No.121 and 172 /2006



Purusottam Behera,
At-Kalidaspur,
PO-Haripur,
Balasore District-756003.....Complainant

-Vrs-

First Appellate Authority,
-cum-Executive Engineer,
Balasore R and B Division,
Balasore District.....Opposite Party

Decision

1. Complainant Purusottam Behera is absent. His absence is condoned in terms of Rule 9(2) of Orissa Information Commission (Appeal Procedure) Rules, 2006. Manas Ranjan Sethy, Assistant Engineer-cum-PIO and Gananath Mahanta, ex-Executive Engineer (Roads and Building) Balasore are present. Heard the opposite parties and perused the case record.
2. By this common order both the above Complaint Cases No.121/2006 and 172/ 2006 shall be disposed of since they are between same parties. It would be relevant to mention here that Complaint Cases No.119 and 120 of 2006 were also identical which were filed by Complainant Ashok Kumar Parida against the same Opposite Parties.
3. This case has been heard earlier on 21.09.06., 21.11.06,20.12.06, 01.03.07, 20.04.07, 18.05.07, 03.08.07, 22.08.07,14.09.07 and 20.12.07.Gananath Mahanta, ex-Executive Engineer-cum-referred PIO in his showcause memorandum has averred that penalty has already been imposed on him on 20.12.07 by the State Commission in Complaint Case No.119/2006. He has admitted in his showcause that he was ignorant of the provisions of RTI Act, 2005(Act for short) which caused delay in supply of information within the prescribed time limit.

His sole prayer is that since he has already been found responsible for violating the provisions of Section 7(1) of the Act he should not be subjected to identical punishment in the other cases arising out of form A application filed before the Public Authority during the same period. He further stated that in no other case filed after these cases there is any semblance of delay.

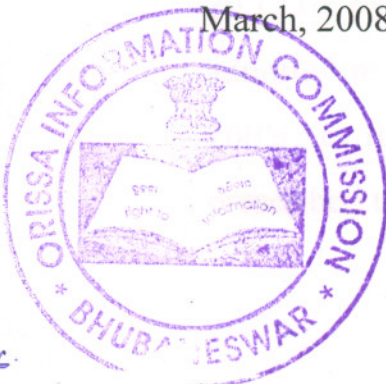
4. It is found from the record and admitted as well by Gananath Mahanta that the file remained with him from 17.4.06 to 30.10.06 i.e. for a period of 195 days, in which all the four form A applications (though of different dates and two different applicants) had been simultaneously dealt with in one file in his office. The solitary submission of ignorance about the provisions of the Act is not a valid substitute to prove that the referred PIO had acted reasonably and diligently. Hence he has failed to prove to the satisfaction of the State Commission that reasonable cause existed for the delay. Having failed to discharge the burden statutorily placed on him under Section 20(1) of the Act, he has no escape from the rigours of the violation of Section 7(1) of the Act.
5. The first and foremost concern of the State Commission is to be satisfied that the seeker of the information received information that he had needed. It has been reflected in our order dated 14.9.07 that the required information had been supplied to the Complainant to the best of his satisfaction. Since the Complainant had received all the information the only residual issue to be decided is the delay of 195 days caused by Gananath Mahanta, ex- Executive Engineer (Opposite Party).
6. After having heard Gananath Mahanta, the State Commission called for the record in Complaint Case No.119 of 2006 disposed of on 20.12.07. It is seen that Gananath Mahanta has been taken to task for the delay of 74 days and penalty of Rs.18,500/- has already been imposed on him.
7. In this case the delay is of 195 days. The provisions of Section 20(1) of the Act are clear which permits the State Commission to impose maximum penalty of Rs.25,000/- which is equivalent to the penalty for delay of 100 days @ Rs.250/- per day.

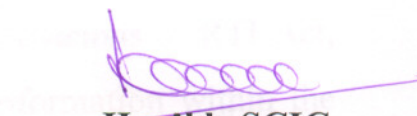
Even if 195 days delay appears in this case, the State Commission cannot legally impose penalty on him beyond the said maximum limit. As indicated above Gananath Mahanta has already been directed to deposit penalty amounting to Rs. 18,500/- for 74 days. Thus the balance left out of 100 days comes to 26 days. The amount of penalty on calculation counts to Rs.6, 500/- (i.e. @ Rs.250/- per day x 26 days delay).

8. For the reasons aforementioned, the State Commission while exonerating Manas Ranjan Sethy, PIO of the Public Authority impose penalty of Rs.6500/- on Gananath Mahanta, ex- Executive Engineer-cum-referred PIO for having violated the provisions of Section 7(1) of the Act. He is directed to deposit the said penalty amount of Rs.6,500/-(Rupees six thousand five hundred only) within 30 days of receipt of the order in the Head of account "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" as provided under Rule 9 of Orissa Right to Information Rules,2005. In case he fails to deposit, it shall be duty of the Public Authority to recover the said penalty amount from his salary for the month of April, 2008 payable in May, 2008. In case the Public Authority fails to realize the penalty amount as per Rule 9(supra) steps should be taken in accordance with the provisions of Rule 13 ibid for realization of the said amount. The Head of the Public Authority will report compliance to the State Commission, through the Registrar.
9. With the above decision, both the Complaint cases are allowed. Inform the Complainant.

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 14th day of March, 2008.




Hon'ble SCIC

14.3.08