

**BEFORE THE ORISSA INFORMATION COMMISSION  
BHUBANESWAR**

**Present:- Hon'ble Shri D.N. Padhi, SCIC  
and  
Prof. Radhamohan, SIC**

Dated: - 08th, January 2008

**Complaint Case No 72 / 2007**



Nrusingh Prasad Das,  
Section Teacher,  
Sudarshan High School,  
Thakurhat,  
Kendrapara District... ..Complainant

-Vrs-

Public Information Officer  
School and Mass Education Department,  
Government of Orissa,  
Secretariat,  
Bhubaneswar... ..Opposite Party

**Decision**

1. Complainant Sri Nrusingh Prasad Das is absent. The same is condoned in terms of Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. Shri Gagan Behari Swain, Joint Secretary and Shri Makar Ketan Swain, Senior Assistant, Section-XVI (RTI Cell) of School and Mass Education Department, Secretariat, Bhubaneswar are also present. The PIO is absent. He has filed a petition to dispense with his attendance. The same is accepted. The

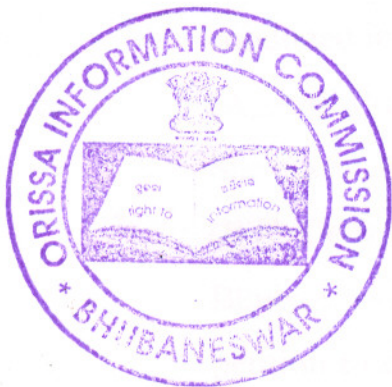
Opposite Parties have filed their respective showcause memorandum which were perused and taken to record. Heard the Opposite Parties and perused the case record.

2. This case was earlier heard in the State Commission on 18.9.2007. The State Commission considering that the date of form A application was 23.11.06 and the reply by the PIO was dated 27.01.2007 came to the conclusion that there has been delay of 35 days in giving the reply. On scrutiny of the note sheet filed by the PIO it is prima-facie established that the Joint Secretary and the Senior Assistant were responsible for the delay. Accordingly notices were issued to them and both of them are present today.
3. A common defence has been raised by both the referred PIOs. They submitted that the need of the Complainant was not within the purview of the word 'Information' as defined under Section 2(f) of the RTI Act, 2005 (Act for short). They further stated that no material were available in the Department to answer the questionnaire of the Complainant in his form A application, which is available in record. The State Commission, therefore, were of the view that in the absence of any tangible material available with the Public Authority it was not possible on the part of the PIO to provide the information. However, instead of rejecting the request they took the trouble of examining each of the questions and to the best of the ability of the Public Authority gave a reply to the Complainant vide letter No.1526 dated 26.01.2007.

4. Both the referred PIOs pleaded with the State Commission to refer the contents of form A application. The State Commission after going through the same were also satisfied that the information sought in the questionnaire related to hypothetical issues in terms of what would be the view/opinion of the Department in case a particular situation occurred. The word 'Information' means any material but in the instant case there were no material in the Department and, therefore, the request of the Complainant does not come within the purview the definition of 'Information' which is a salient requirement of an application under the Act. It was well open to the PIO to reject the application as it was not tenable in accordance with the Act.
5. Having held as above that the request of the Complainant does not come within the purview of the definition of 'Information', the case of the Complainant is not maintainable in the eye of law and the same is hereby dismissed.

**Pronounced**

Given under the hand and seal of the State Commission, this 08<sup>th</sup> day of January, 2008.



*Newhaman*

*[Signature]*  
**Hon'ble SCIC**

*08.1.08*

**SIC**