

**BEFORE THE ORISSA INFORMATION COMMISSION  
BHUBANESWAR**

Present.: **Hon'ble Shri D.N. Padhi, S.C.I.C**

and

**Prof. Radhamohan, S.I.C**

Date 05<sup>th</sup> July, 2006



**Complaint case No. 17/2006**

Sri Krushna Mohan Panigrahi,  
Notary Public, 3<sup>rd</sup> Lane, Berhampur,  
P.S : B.N. Pur,

Dist: Ganjam.....Complainant

-Vrs-

1. Sri Niranjana Padhi,  
Asst. Engineer, Estimating Branch and  
Public Information Officer, N.H. Division,  
Berhampur
2. Sri Pradeep Kumar Sutar,  
Executive Engineer and  
First Appellate Authority, N.H. Division,  
Berhampur.....Opposite Parties

**Complaint case No. 21/2006**

Sri Abakash Padhi  
Vill: Saru, Ps: Hinilikat

Ganjam District.....Appellant

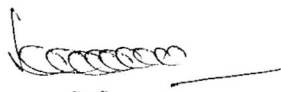
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Asst. Engineer, Estimating Branch and  
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2. Sri Pradeep Kumar Sutar,  
Executive Engineer and  
First Appellate Authority, N.H. Division,  
Berhampur.....Opposite Parties

**Decision**

1. By this common judgment, complaint case No. 17 and 21 of 2006 shall be disposed off as common questions of fact and law are involved in both the cases and the Opposite Parties are also same. Factually, both the complaints are also placed on the same footing in as much as both the Complainants have identical grievances against the Opposite Parties who allegedly refused to accept their applications tendered in persons and subsequently sent by post.

2. Complainant Sri Krushna Mohan Panigrahi in Case No.17 and Sri Abakash Padhy in Case No.21 are present. Sri Nirajan Padhy, Asst. Engineer-cum-Public Information Officer and Sri Pradeep Kumar Sutar, Executive Engineer-cum-1<sup>st</sup> Appellate Authority are present.
3. Both the Complainants have sought for information relating to execution of work pursuant to the Agreements executed from 01/01/2005 till date with National Highway Division, Berhampur. Both have submitted that the Public Information Officer refused to accept their application filed under Section 6 of the RTI Act, 2005. They also met the 1<sup>st</sup> Appellate Authority Mr. Sutar who also refused to accept the same. Then they have sent their application by registered post. The postal receipt in relation to the Public Information Officer on the envelop of the letter shows that the addressee refused to accept the letters. As regards the 1<sup>st</sup> Appellate Authority the postal endorsement is that no such addressee C/o Executive Engineer, National Highway Division -217, Berhampur is available. The said letters were returned to the senders and they have filed photocopies thereof before the State Commission in the above two cases.
4. During hearing same aspersions were made by the Complainants against the Opposite Parties. The Public Information Officer and the 1<sup>st</sup> Appellate Authority submit that on no occasion they were personally approached by the Complainants and that the so called letters by post were never tendered to them by any Postman.
5. The fact that the Opposite Parties intentionally refused to accept the application of the Complainants is to be proved by them as the onus of proof lies on them to establish the said fact beyond all reasonable doubts. Once they are successful in proving the alleged dereliction by the Opposite Parties, statutory action for imposition of penalty under Section 20 of RTI Act can be initiated against the Opposite Parties. In the instance case save and except the bald oral submission of the Complainants, there appears no other cogent proof by them to establish alleged dereliction of refusal in person by the Opposite Parties.
6. Instead of advertng to the above factual controversy between the parties, the true purport and object of the legislation cannot be lost sight of. In the absence of any acceptable evidence adduced by the Complainants, the State Commission feel it just, proper and equitable to direct the Complainants to submit their application under Section 6 of the RTI Act afresh in relevant performa on 06/07/2006. No fees for the fresh application shall be charged by the Public Information Officer from the Complainants since they submit to have deposited the required fees in the Treasury the receipts of which are inside closed postal envelopes filed by them.
7. In case the Complainants want to inspect the record, opportunity be provided to them by the Opposite Parties. Copies of the documents, if any, needed by the Complainants be provided to them on payment of the prescribed fees therefor.



8. All the above exercises, by both the parties, are to be completed within the prescribed time limit of 30 days which is to be computed from 06/07/2006 on which date, the Complainants submit their application for information before the Public Information Officer of the National Highway Division, Berhampur. Both the parties are to report compliance to the State Commission through the Registrar on or before 03/08/2006.
9. With the aforesaid observation both the complaint cases are allowed.

**Pronounced**

Given under the hand and seal of the State Commission, this 05<sup>th</sup> day of July, 2006.

  
**Hon'ble S.C.I.C**  
5-7-06

  
S.I.C