

**ORISSA INFORMATION COMMISSION
FORM OF DECISION SHEET**

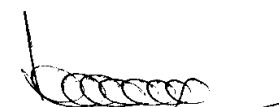

Hon'ble State Chief Information Commissioner, Orissa

Complaint Case No. 39/2006

Sri Mahadeb Barik,
S/o-Sanka Sekhar Barik,
At-Amarshia,
Po-Thakurdchak,
Via/Ps-Belda,
Paschim Medinipur District,
West Bengal-721424.....Complainant



-Vrs-

Chief District Medical Officer,
Mayurbhanj, Baripada-757001.....Respondent

SL No.	Date of decision	Decision with the signature of the State Commission	Action taken with date
1	<u>28/06/2006</u>	<p>Pursued the Complaint case record. We are satisfied that there is a prima facie case in favour of the Complainant. Admit .Issue notice to the Opposite Parties fixing 19/07/2006 to show cause and for hearing</p> <p style="text-align: center;">Inform the Complainant.</p> <p style="text-align: right;"> Hon'ble SIC 28.6.06  SIC 28.6.06</p>	

2 19/07/06 Complaint Case No 39 / 2006.

1. 12 (twelve) Complaint cases bearing numbers 34 to 45 (both included) are taken up together for hearing being analogous in nature and abounded by identical facts. The Public Information Officer (Opposite Party) is also same in all the cases.
2. The Complainants are absent on call. The PIO (OP) is also found absent. The absence of the Complainants is immaterial since they have their statutory option either to remain present or not under Rule 9 (2) of the OIC (Appeal Procedure) Rules, 2006. The PIO (OP) who is the CDMO, Baripada, Mayurbhanj District was duty bound to remain present today during hearing of the cases. This is highly improper which he/she has to take note for future guidance. In the event of recurrence of such lapses it shall be very seriously viewed. This may be separately intimated to Director, Health Services, Orissa and the CDMO concerned.
3. The primary aim and object of the Right to Information Act, 2005 is to promote transparency in the working of the Public Authority by providing access to statutorily permissible information for the citizen. Therefore, it shall neither be just nor equitable to be hypertechnical so as to dismiss the cases for default of both the parties. Thus the State Commission perused the case records. All the Complainants have alleged that incomplete, false and misleading information were supplied by the CDMO, Baripada, Mayurbhanj vide letter No 989 dated 24/12/05. While perusing the said letter of the CDMO it is found to have been signed by the CDMO but not as the PIO. As pointed out above, the Complainants, who could have proved their allegations to the hilt, are absent. Except the bald allegation no acceptable proof has been given by the Complainants in support of their allegations. They have failed to discharge the onus of proof.
4. It shall not be out of place to mention that 120 (one hundred and twenty) numbers of cases involving similar facts have already been disposed of by the State Commission on 10/05/2006 by pronouncing a common decision. The concerned PIO in the said cases has also complied with the direction given by the State Commission. That is how it is not only noticed but could be reasonably inferred that the Complainants in the present bunch of 12 cases have lost interest in pursuing the complaint cases. However, since the object of getting information has been fulfilled in the other group of 120 cases disposed of earlier there is no need to prolong these cases, the pendency of which would amount to abuse of the process and time of the State Commission.
5. In the light of the above observation the above mentioned 12 numbers of complaint cases are disposed of. A copy of the common decision given on 10/05/06 by the State Commission be attached to this (these) case record(s) for ready reference.


Hon'ble SIC
19.7.06

SIC

DECISION

1. Perused the averments and the copies of the annexed documents accompanying the complaint cases bearing No. 1 to 120 of 2005. In all the above cases, the common complaint is that the PIO in the Office of the Director, Health Services, Orissa, Bhubaneswar has refused them access to information.
2. As gathered from the documents referred to above, the requests for access to information have not been sent by the Complainants through post at the correct address of the PIO for which a peculiar situation has arisen depicting insufficient service of notice. Moreover from the postal endorsement it is found that Postman carrying the letters tendered them in the Health Department of Government of Orissa and when they refused to receive the same, he endorsed on the letters as “refused”. Such an endorsement by the postman cannot be a legal substitute for actual delivery of the complaint petitions in face of the wrong address written by the complainants on the postal covers.
3. In the context of the above discussed factual scenario which is amply borne out from the records, it would not be appropriate to say that there exists a prima-facie case. Thus we are of the considered view that the requests of all the complainants can be equitably taken care of by giving a direction to the PIO (Establishment Officer, Medical) Office of the Director, Health Services, Orissa, Bhubaneswar to comply with the requests of the complainants, in accordance with the provisions of the R.T.I. Act, 2005 and rules made thereunder within the prescribed timeframe from the date of receipt of this decision.
4. Inform the PIO accordingly, Copies of all the Applications sent by the complainants to the PIO U/s 6(1) of the RTI Act be handed over to the PIO in person to facilitate early disposal of the complaint cases.

(Contd.)

5. With these limited observations all the above 120 complaint cases are disposed of by this common order.

Inform all concerned.

(Prof. Radhamohan)

SIC

(Shri D. N. Padhi)

Hon'ble SCIC