

**BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR**

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

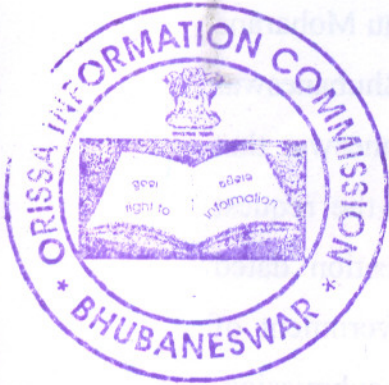
Date: 31st October, 2008

Complaint Case No. 478/2007

Renubala Moharana
Qrs No. VIM-303,
Sailashree Vihar,
Chandrasekharapur,
Bhubaneswar-751021.....Complainant

-Vrs-

Public Information Officer, IDCO,
IDCO Towers,
Saheed Nagar,
Bhubaneswar-751022.....Opposite Party



Decision

1. Complainant Renubala Moharana is absent but her authorized representative Gopabandhu Moharana is present. He filed a written authorisation dated 23/10/08 executed by the Complainant in his favour. The same was accepted. Jagabandhu Nath, Under Secretary, Industries Department, Government of Orissa, Secretariat, Bhubaneswar is present on behalf of the PIO of his Department. His presence was also accepted. Heard. Perused the case record. This case was filed in the form of a Second Appeal dated 24/04/07 under Section 19 (3) of the RTI Act, 2005 but treated as a Complaint after scrutiny under the relevant provisions of the Orissa Information Commission (Appeal Procedure) Rules, 2006.
2. Today, with the leave of the State Commission, the Under Secretary, Industries Department filed a written prayer

dated 31.10.08 of Basanta Kumar Behera, PIO-cum-Deputy Secretary, Industries Department. In the said prayer, the PIO has interalia averred that for the same cause of action the Complainant had filed two cases bearing nos.SA 238 of 2007 and CC 467 of 2007 which had been heard on merit by the State Commission in the presence of both parties and finally decided on 29/07/08. When confronted with the above factual position the representative of the Complainant confirmed the same.

3. During the hearing of this case on 19/02/08, Gopabandhu Moharana representative of the Complainant and PIO, IDCO, Bhubaneswar were present. It was submitted by PIO, IDCO, Bhubaneswar that his Public Authority was in no way connected with the request since the Complainant had filed her form A application dated 01/03/07 before the PIO, Industries Department, Government of Orissa, Secretariat, Bhubaneswar. Considering the said submission, the State Commission had observed in paragraph-3 of their order dated 19/02/08 that the PIO, Industries Department will do well to supply the permissible information to the Complainant, free of cost, by 29/02/08.
4. PIO, Industries Department in his written prayer has clearly mentioned that the above stated two cases already heard and finally decided upon relate to the same cause of action which is the subject matter of this case and all the three cases supra are also between same parties.
5. From the above narration of facts it is crystal clear that the two earlier instituted cases were for the same relief and their disposal was perfectly within the knowledge of the Complainant, but her representative had suppressed the said material fact from the notice

of the State Commission and insistently sought relief on the basis of directions at paragraph 3 of State Commission's Order dated 19/02/08. Rule of equity and propriety demand that the Applicant seeking relief from any competent adjudicatory forum is to come with clean hands. Material suppression of facts can never be said to be a bonafide conduct or a commission in good faith. For such lapses by the applicant adverse inference can legitimately be drawn against her/her authorized representative.

6. The State Commission relying upon the provisions of Section 11 of the Civil Procedure Code, 1908 dealing with "Resjudicata" which stipulates that "No Court shall try any suit or issue in which the matter directly and substantially in issue in a former suit between the same parties and has been heard and finally decided by such Court" decided to close this case as the State Commission while inquiring into any matter under Section 18 of the RTI Act, 2005 have the same powers as are vested in a Civil Court while trying a suit, and have all the trappings of a Court with quasi adjudicatory powers.

7. It was explained to the Complainant's representative that the present complaint is not legally maintainable as multiplicity of cases /proceedings cannot be encouraged for the same matter/issue heard, finally decided upon and communicated. Despite the above legal provision being explained to the Complainant's representative, he was inexcusably insistent on obtaining the information in accordance with paragraph 3 of the order dated 19/02/08. Indeed, his behaviour bordered on being contumacious, but was tolerated to provide an opportunity to him to mend and reform himself. He went to the extent of hindering the process of



hearing by obstructing the State Commission from progressing further. This was excused as a first offence.

8. On merits it was concluded that the Complaint case (filed as a Second Appeal) was not legally maintainable. Hence the same is disposed of and closed.

Pronounced in open proceedings

Given under the hand and seal of the State Commission, this 31st day of October, 2008.


SCIC

31.10.08



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