

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

**Present : Shri Sunil Kumar Misra,
State Chief Information Commissioner**

Date 04th April, 2019

Second Appeal No. 2587 / 2015

Hemanta Panda,
At-Tikarapara,
PO- Balngir,
Dist.- Balangir.....Appellant

-Vrs-

1. Public Information Officer,
Parliamentary Affairs Department
& Office of the Chief Minister,
Government of Odisha,
Secretariat, Bhubaneswar.
2. First Appellate Authority,
Parliamentary Affairs Department
& Office of the Chief Minister,
Government of Odisha,
Secretariat, Bhubaneswar.....Respondents.

Decision

1. Appellant, Hemanta Panda, is not present. Nabakishore Sethi, PIO-cum-Under Secretary, Parliamentary Affairs(P.A.) Department & office of the Chief Minister, Odisha; Bishnuprasad Mishra, Deputy Secretary, office of the Chief Minister, Odisha and Rabindra Kumar Mohanty, First Appellate Authority-cum-Deputy Secretary of the P.A. Department & office of the Chief Minister, Odisha are present. The PIO and the First Appellate Authority have filed written submissions along with annexures.

2. Vide an application in Form-A dated 09.05.2015 filed with the PIO, Office of the Chief Minister, Odisha, the appellant had requested the PIO to provide him information regarding demands / requests made by the Hon'ble Chief Minister, Odisha to the Central Government for various developmental works / projects / institutions etc. in the State from the year 2001 till date. Vide a letter dated 12.06.2015, the PIO informed the appellant that he could contact all the Departments separately to get the required information. Along with this letter, the PIO also forwarded to the appellant a copy of the letter dated 08.06.2015 of the office of the Chief Minister.

3. Aggrieved, the appellant filed first appeal vide an appeal memo in Form-D dated 07.08.2015. The First Appellate Authority-cum-Additional Secretary posted the case for hearing; and, after considering the submission made by the appellant, he disposed of the appeal vide an order dated 08.09.2015. It was held by him that the PIO had rightly advised the appellant to contact different Departments. Holding as above, the First Appellate Authority declined to interfere with the action taken by the PIO.

4. The appellant followed up the first appeal by filing the subject second appeal vide an appeal memo in Form-E dated 24.10.2015. It was alleged by him that the First Appellate Authority in his order unduly stretched Section 6(3) of the RTI Act and dismissed the appeal.

5. This case was earlier heard on 4 occasions. During the initial hearings, the PIO and the First Appellate Authority of the Parliamentary Affairs Department and of the office of the Chief Minister, Odisha made their written submissions explaining, inter alia, the procedures followed in the office of the Chief Minister vis-a-vis letters received from the various Departments in the files. They also submitted that not only that the information / files sought by the appellant were not available in the Chief Minister's office, the same also related to a long period of 15 years involving all the Departments of the Government.

5.1. The Commission considered the submissions thus made and noted that letters in the files once approved by the Chief Minister's office were being returned to the source Department. Hence the Commission allowed an opportunity to the appellant to make his own submission in the matter. The Commission also directed the PIO to produce the relevant Registers and files for perusal.

5.2. In compliance of the direction thus issued, the PIO produced the relevant Register on 04.10.2018 which was perused. The appellant also made a written submission strongly contesting the stand taken by the PIO. It was argued by him that the information sought by him did not come under any exemption category. The failure of the PIO to provide the required information would, therefore, create an unlawful tradition in the office of the State's highest constitutional institution. The appellant also alleged that the PIO violated the RTI Act by not transferring the application in form-A to the concerned Departments and, instead, in asking him to approach the said Departments.

5.3. On due consideration of the submissions thus made, the Commission directed the PIO to explain as to why the appellant's application was not transferred to the other Departments with whom the information would be available and / or to whom the subject matter of the information was directly related.

6. Responding to the direction thus given, the PIO and the First Appellate Authority have made a further written submission stating that the application of the appellant has since been transferred to the PIOs of all the Departments of Government of Odisha vide letter No.5241 dated 05.10.2018 with a request to supply the required information directly to the appellant. The PIO and the First Appellate Authority have enclosed to their written submission a copy of the said letter dated 05.10.2018.

7. The respective submissions have been considered whereupon the subject appeal is disposed of on merits as under:

7.1. The main grievance of the appellant in the subject appeal was that the PIO had failed to transfer his application under Section 6(3) of the RTI Act, 2005 to the other public authorities; and the First Appellate Authority had also stretched Section 6(3) to hold that the PIO was justified in not transferring the application in form-A to the other Departments. Irrespective of the stand thus taken earlier, the PIO has, in the meanwhile, transferred the application to all the Departments with request to furnish information to the appellant. Thus, the grievance of the appellant as per the grounds raised in the subject second appeal have stood redressed. In the circumstances, the Commission does not consider it necessary to proceed further with the case. The case is therefore closed.

8. Having decided as above, the Commission nonetheless considers it necessary to make a few observations. The appellant had sought to have information regarding the demands and requests placed by the Hon'ble Chief Minister with the Central Government. It has not been denied by the respondents that such demands and requests had been made by the C.M.'s office from time to time. In the circumstances, it was incumbent upon the office of the Chief Minister to maintain and keep all the records relevant to the information sought by the appellant. The Commission, therefore, does not approve of the submission made by the PIO and the First Appellate Authority explaining why the information was not being maintained. The RTI Act which mandates every public authority to maintain, index and catalogue registers; to publish the information as specified, to disclose information suo motu and also to disseminate information. Further, when it comes to requests and demands made by the C.M.'s office, the said office is expected to know which are the public authorities to whom the same related. Hence, even if the C.M.'s office did not maintain the registers relevant to the information, it was expected of them at least to guide the citizen about the source from which the information could be accessed. Instead, the appellant was advised to approach all the Departments. Needless to say, such an advice

amounts to compelling the citizen to engage in something akin to a wild goose chase.

8.1. In view of the above, the Commission hereby advises the concerned public authority to ensure that the mandate of Section 4(1) is followed and all information relating to the office of the Chief Minister are maintained, indexed and catalogued in the said office itself so that as and when a citizen seeks such information, the same can be furnished to him. The office of the Chief Minister, Odisha shall send a compliance report in this matter to the Commission within a month.

9. With the above observations and directions, the case is hereby closed and the subject second appeal stands disposed of.

Pronounced in open proceedings

Given under the hand and seal of the Commission this day, the 04th
April, 2019.

**State Chief Information Commissioner
04.04.2019**