

Name of the State Commission: Assam Information Commission

Order No & date: KP (M) 166/2018 dated 31-07-2018,08-10-2018,07-12-2018, 09-01-2019 and 01-02-2019 by Shri H.S. Das, IAS (Rtd.), State Chief Information Commissioner.

Subject /Section/Issue: Documents in connection with MACT cases required by Insurance Company.

Operative Section: Section 19(8) of the RTI Act,2005.

Summary:

It was brought before the Commission that required information was sent to the petitioner vide PIO's letter dated 30-01-2018. The petitioner orally submitted that he did not receive the informations. The SPIO of the office of the Superintendent of Police, Darrang was directed to furnish another copy of the informations to the petitioner within 7(seven) days from the date of receipt of the order.

In course of the deliberations in hearing on several such matters, it transpired that different practices are being followed in different districts in replying to RTI applications filed by investigators appointed by the insurance companies **in connection with settlement of motor vehicle Accident Claims**. It was also brought before the Commission in course of hearing that investigators sometimes want information which are exempted under section 8(1) (g) and section 8(i)(j) of the RTI Act,2005. Further, it was also brought to the notice of the Commission that some sensitive informations may also come under the exemption clause under Section 8(1)(h) of the RTI Act,2005 and that documents once submitted before the Hon'ble Trial Court becomes the property of the Court. There are different sets of rules and procedures for providing copies of documents which are under the custody of the Courts. For obtaining copies of such documents the Insurance Companies will have to follow these rules and procedures.

In reply to a question by the Commission as to how they obtained documents required for settlement of Motor Vehicles Accident Claims before the RTI Act, 2005 came into force, they submitted that they used to personally contact the concerned police stations and S.P.

Offices to obtain the required documents. From their submissions it appeared that some investigators appointed by the Insurance Companies use RTI Act to obtain the documents required for settlement of Motor Vehicles Accident claims from the concerned Police Authorities.

The Commission viewed that the settlement of Motor Vehicle accident claims should be done transparently and expeditiously so that the victims of the accident or the next of kins, as the case may be, are not required to wait for long period of time to get the compensations which are due to them. To facilitate this, it is imperative that the Insurance Companies have access to the police records and documents that are required for settlement of the claims.

The Commission was also informed that there are no instructions/guidelines issued by Assam Police Headquarters to the Superintendent of Police of different districts for furnishing copies of documents required for settlement of Motor Vehicles Accident Claims.

It appeared before the Commission that the Police Authorities of different districts are following different practices in furnishing informations regarding this matter in absence of uniform instructions/guidelines by the Assam Police Headquarters.

The Commission in exercise of powers under Section 19(8)(a) of the RTI Act,2005 and with a view to obviating any confusion, complications and delay in settlement of Motor Vehicle Accident claims, and to standardize the practice to be followed by all district polices, the Director General of Police, Assam was directed vide order dated 31-07-10-2018 to issue a Standard Operating Procedure(SOP) containing clear instructions and guidelines for furnishing informations and documents required by the Insurance Companies and/or investigators appointed by them for expeditious settlement of motor vehicle accident claims. The Commission fixed 08-10-2018 for review of compliance of the above order.

The case came up for review on 08-10-2018. A copy of the letter vide memo No. G/(RTI)/VI/125/2018/12 dated 07-09-18 addressed to the District Superintendent of Police including Police Commissioner, Guwahati city from Asstt. Inspector General of Police and PIO of Assam Police Headquarter was received by the Registry of the Commission. By that letter all the SPs and Police Commissioner of Guwahati city were requested to issue

Standard Operating Procedure (SOP) containing clear instructions and guidelines to the OCs and Incharge of different Police Stations and Outposts under their establishment for furnishing the informations/documents required by the Insurance Companies and the investigators appointed by them for expeditious settlement of motor vehicle accident claims. This Commission was of the view that the above instructions to the SPs and Commissioner of Police, Guwahati is likely to create a situation where different police districts will be following different practices, which may create confusion. **The Commission vide order dated 8-10-18 directed DGP, Assam to comply with the Commission's earlier order dated 31-07-18 or to be present personally on the next date of hearing and clarify the matter.**

The Commission reviewed the matter on 07-12-18, 09-01-19 and 01-02-19. **The Commission's order was fully complied with by DGP, Assam by issuing instructions vide letter Nos. G (RTI)/VI/125/2018/22 dated 20-12-2018 and G (RTI)/VI/125/2018/25 dated 22-01-2019 to Commissioner of Police, Guwahati city and all District S.Ps. to provide copies of FIR, Post Mortem report, MVI report, GD Entry, Seizure list etc. to the Insurance Companies or their Investigators. Therefore, the Second Appeal petition dated 21-03-18 was finally disposed of.**



RIGHT TO
INFORMATION



OFFICE OF THE

ASSAM INFORMATION COMMISSION

JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No.	KP(M). 166/2018
Complainant/ Appellant	Sri Nitumoni Choudhury
Respondent	Superintendent of Police, Mangaldoi
Date of Hearing	31.07.2018
Complaint/ Second appeal heard by	Shri H. S. Das, IAS (Retd) State Chief Information Commissioner, Assam

O R D E R
31.07.2018

1. The petitioner Sri Nitumoni Choudhury is present. The public authority is represented by Sri Satyajit Nath, APS, Additional Superintendent of Police, (H.Q), Darrang accompanied by Sri Sajjad Ahmed, Jr. Assistant of the same office.
2. The second appeal petition dated 21-3-2018 is taken up for hearing in presence of both the parties.
3. The Superintendent of Police, Darrang has sent a written submission dated 9-7-2018 which is entered into the case records.
4. From perusal of the case records it is seen that the Superintendent of Police, Darrang sent another written submission dated 28-6-2018 to this Commission with relevant enclosures, stating that the sought for informations were already sent to the petitioner vide PIO's letter dated 30th January, 2018.
5. The petitioner submitted orally that he did not receive the informations. **The SPIO of the office of Superintendent of Police, Darrang is, therefore, directed to furnish another copy of the informations to the petitioner within seven (7) days from the date of receipt of this order.**
6. In course of the deliberations in hearing the instant second appeal petition case as well as the second appeal case Nos. KP(M).368/2018 between respondent Superintendent of Police, Mangaldoi -vs- the appellant Sri Nitu Moni Choudhury and the second appeal case No. KP(M).369/2018 involving respondent Superintendent of Police Goalpara-vs- the appellant Sri Dipak Kr. Sarma , which cases were also heard today, it transpired that different practices are being followed in different districts in replying to

RTI applications filed by investigators appointed by the Insurance Companies in connection with settlement of Motor Vehicle Accident claims. The Additional Superintendent of Police of Darrang District Sri Satyajit Nath, APS deposed before this Commission that the FIRs involving rash or negligent driving and injury or death caused thereby are registered under Section 279 and 304(A) respectively of the Indian Penal Code, 1860.

7. The Additional Superintendent of Police (ASP) also mentioned that documents like Post Mortem report, belong to the category of 3rd party informations so far as Investigators of Insurance Companies are concerned. He also mentioned that the Investigators sometimes want informations which are exempted under Section 8(i)(g) and Section 8(1)(j) of the RTI Act, 2005. The Addl. S.P further submitted that during the pendency of investigation, some sensitive informations may also come under the exemption clause under Section 8 (1)(h) of the RTI Act, 2005. He further added that documents once submitted before the Hon'ble Trial Court becomes the property of the Court. Therefore, such documents may be obtained by the concerned Insurance Companies by following the laid down Court Rules and Procedures for obtaining such documents. He, however, added that he has no objection to provide any such information if the investigators representing the Insurance Companies come with a letter of "No Objection" from the claimants.

8. In response to the above submissions of the Additional S.P, Darrang, the two appellants responded by saying that they normally get positive response from the concerned SPIOs of the Offices of Superintendent of Police and police stations and are able to obtain the documents required in connection with settlement of Motor Vehicle Accident claims. Only in some districts and police stations they face non-cooperation and difficulties, causing delay in settlements of Motor Vehicle Accident claims.

9. In reply to a question by this Commission as to how they obtained documents required for settlement of Motor Vehicles Accident claims before the RTI Act, 2005 came into force, they submitted that they used to personally contact the concerned police stations and S.P offices to obtain the required documents. From their submissions it appears that some investigators appointed by the Insurance Companies now use RTI Act to obtain the documents from the concerned Police authorities required for settlement of Motor Vehicles Accident claims.

10. This Commission is of the view that settlement of Motor Vehicle Accident compensation accident claims should be done transparently and expeditiously so that the victims of the accident or the next of kins, as the case may be, are not required to wait for long periods of time to get the compensations which are due to them. To facilitate this it is imperative that the Insurance Companies have access to the police records and documents that are required for settlement of the claims.

11. In the written statement dated 24th July, 2018 submitted by the Addl. Inspector General of Police (A) and PIO of Assam Police Headquarters, it has been stated that :-

- (a) At present there is no instruction/ guidelines issued by Assam Police Headquarters to the Superintendent of Police of different districts for furnishing copies of documents required for settlement of Motor Vehicles Accident claims
- (b) However, when any petition/ complaint is received in Assam Police H.Q regarding furnishing of documents required for settlement of Motor Vehicle Accident claims, then the petition/complaint is immediately forwarded to the concerned Superintendents of Police to furnish the said documents to the petitioner/ complainant.

12. From the above, it appears that although the Assam Police H.Q have no reservation or objection in furnishing the documents required for settlement of Motor Vehicles Accident claims, the police authorities of different districts are following different practices in the absence of uniform instructions/ guidelines by the Assam Police Headquarters. **Therefore, with a view to obviating any confusion , complications and delay in settlement of Motor Vehicle Accident claims, and to standardize the practice to be followed by all the district polices, and in exercise of powers under Section 19(8)(a) of the RTI Act, 2005, the Director General of Police, Assam, is directed to issue , a Standard Operating Procedure (SOP) containing clear instructions and guidelines for furnishing informations and documents required by the Insurance Companies and / or investigators appointed by them for expeditious settlement of motor vehicle accident claims.**

13. Fix 8th October, 2018 at 12,30 P.M for review of compliance of the above order.

Sd/-

(H. S. Das)

State Chief Information Commissioner,
Assam

Authenticated true copy

Sd/-

Registrar I/c

Assam Information Commission

Memo No SIC/ KP(M). 166/2018 / 22-25 A

Dated 31.07.20

Copy to:-

- 1 Chief Secretary to the Govt. of Assam, Dispur, Guwahati-6 for kind information.
2. Director General of Police, Assam Police Headquarters, Ulubari, Guwahati-7 for information and necessary action as ordered above.
3. Sri Satyajit Nath, APS, Additional Superintendent of Police, (H.Q), Darrang for information.
4. Sri Nitumoni Choudhury, C/o M/S P. Photostat, G.K. Complex, R.G. Baruah Road, Near City Bus stoppage, Ganeshguri, Guwahati—781 006 for information.
5. Sri Dipak Kr. Sarma, House No. 15, Jagannath Path, Near Regent Paradise, Bhetapara, Beltola, Guwahati-28 for information.
6. Director, Information and Public Relations, Last Gate, Dispur, Guwahati-6 for information and necessary action.
- 7.. Computer Section for uploading in the Website
8. Office file.
9. Order Book.

Handwritten signature

Registrar I/c
Assam Information Commission.

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ASSAM INFORMATION COMMISSION
Dispur, Guwahati



RIGHT TO
INFORMATION



OFFICE OF THE

ASSAM INFORMATION COMMISSION

JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : No.KP(M)166/2018
Complainant/ Appellant : Sri Nitumani Choudhury
Respondent : Superintendent of Police, Mangaldoi
Date of Hearing : 08-10-2018
Complaint/ Second : Shri H. S. Das, IAS (Retd)
appeal heard by : State Chief Information Commissioner, Assam

O R D E R
08-10-2018

1. (a) The SPIO of Assam Police Headquarter is absent. However, a copy of letter vide memo No. G/(RTI)/VI/125/2018/12 dated 7.9.18 addressed to all District superintendent of Police including Police Commissioner, Guwahati from Asstt. Inspector General of Police and PIO of Assam Police Headquarter was received by the Registry of this Commission. By that letter all the SPs and Police commissioner of Guwahati were requested to issue Standard Operating Procedure (SOP) containing clear instructions and guidelines to the OCs and Incharge of different Police Stations and Outposts under their establishment for furnishing the informations/documents required by the Insurance Companies and the investigators appointed by them for expeditious settlement of motor vehicle accident claims. The above communication was made with reference to this Commission's order dated 31.7.2018.
- (b) The intent of this commission while giving the direction to DGP in paragraph 12 of its order dated 31.7.2018 was to put in place a common SOP applicable uniformly throughout the State. Instead of doing so, the Asstt. Inspector General of Police and SPIO of Assam Police Headquarters vide his letter dated 7.9.2018 referred to above asked the Police Commissioner of Guwahati and SPs of all districts to issue their own SOPs applicable within their respective jurisdictions. **This is likely to create a situation where different police district will be following different practices, which may create confusion.**
2. (a) In response to Assam Police Headquarters' request letter dated 7.9.2018, the Superintendent of Police of Karbi Anglong District has made a written submission vide Memo No. DPU/C/18/309 dated 6.10.2018 with copy to the DGP, Assam. His WS is entered into the case records.

(b) The SP, Karbi Anglong has raised several important and pertinent points in his written statement date 06.10.2018. The DGP, Assam may take those points into account in addition to any other inputs that he might have meanwhile received from other SPs or from any other quarter.

3. In view of the above, read with this Commission's earlier order dated 31.7.2018, the DGP, Assam is directed to comply with this Commission's directions at paragraph 12 of his order dated 31.7.2018.

4. **Fix 12.30 PM on 19.11.2018 for next hearing.**

Issue notice to SPIO of office of the Director General of Police, Assam to file his written submission as well as for his personal appearance on the date of next hearing.

Sd/-

(H. S. Das)

Chief Information Commissioner, Assam,
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Joint Registrar
Assam Information Commission.

Memo No. SIC/KP(M).166/2018/ 40

Dated 08-10-2018

Copy to :-

1. The Asstt. Inspector General of Police & SPIO of Assam Police Headquarters, Ulubari, Guwahati-7 for information and necessary action.
2. Sri Nitumani Choudhury., C/o- P. Photostant, G.K. Complex, R.L. Baruah Road, Near City Bust Stoppage, Ganeshguri, Guwahati-6 for information
3. Computer Section for uploading in the Website.
4. Office file.
5. Order Book.


Joint Registrar

Assam Information Commission





(7)

**OFFICE OF THE
ASSAM INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : KP(M).166/2018
Complainant/ appellant : Shri Nitumani Choudhury
Respondent : SPIO of the office of the Director General of Police,
Assam
Date of hearing : 07.12.2018
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
07.12.2018

The petitioner Shri Nitumani Choudhury is present. The public authority to be represented by the SPIO of the office of the Director General of Police, Assam is absent. However, he informed the Registry of this Commission over telephone that due to ongoing Panchayat elections the DGP office is busy and the SPIO could not appear before this Commission today. He prayed for another date of hearing.

Fix 12.30 PM on 09.01.2019 for next hearing.

The SPIO of the office of the Director General of Police, Assam is directed to come fully prepared in response with this Commission's earlier orders dated 31.7.2018 and 8.10.2018.

Sd/-

(H. S. Das)
Chief Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-
Joint Registrar
Assam Information Commission

Memo No. SIC/ KP(M).166/2018/ 44

Dtd. 07.12.2018

- Copy to:
1. The SPIO of the office of the Director General of Police, Assam, Ulubari, Guwahati-7 for information and necessary action.
 2. The SPIO of the office of the Superintendent of Police, Mangaldoi, Dist. Darrang for information.
 3. Shri Nitumani Choudhury, C/o- M/S P. Photostat, G.K. Complex, R.L. Baruah Road, Near City Bus Stoppage, Ganeshguri, Guwahati-6 for information.
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Jc
Joint Registrar
Assam Information Commission



(8)

**OFFICE OF THE
ASSAM INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : KP(M).166/2018
Complainant/ appellat : Shri Nitumani Choudhury
Respondent : SPIO of the office of the Director General of Police,
Assam
Date of hearing : 09.01.2019
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
09.01.2019

The appellant Shri Nitumani Choudhury is present. The Assistant Inspector General of Police (Admin) and SPIO of Assam Police Headquarters sent a written statement dated 8.1.2019, which is entered into the case records. Copies of Assam Police Headquarters' instruction dated 20.12.2018 was also enclosed with the WS. By the instruction Police Commissioner, Guwahati and all District Superintendents of Police were directed to provide documents like copies of FIR, Post Mortem Report, MVI report, etc. to the Insurance Companies or their investigators as required for expeditious settlement of motor vehicle accident case. The appellant Shri Nitumani Choudhury submitted that the copies of relevant GD entry and seizure list should also be added in Assam Police Headquarters' instruction to District Superintendents of Police and Commissioner of Police, Guwahati. ASI Shri Paresh Bora submitted orally that there should be no difficulty to do so. This Commission, therefore, directs the Assam Police Headquarters to add the above two documents also as an addendum, to their earlier instructions vide memo no. G(RTI).VI/215/2018/22 dated 20.12.2018. The SPIO of Assam Police Headquarters is directed to report compliance along with the copy of the additional instructions within 15 days from the date of receipt of this order.

Fix 12.30 PM on 01.2.2019 for review of compliance.

Sd/-

(H. S. Das)
Chief Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Registrar i/c
Assam Information Commission

Memo No. SIC/ KP(M).166/2018/49

Dated. 09.01.2019

- Copy to:
1. The SPIO of the Director of Police, Assam, Ulubari, Guwahati-7 for information and necessary action.
 2. The SPIO of the Superintendent of Police, Darrang, Mangaldoi, Assam for information and necessary action.
 3. Shri Nitumani Choudhury, C/o-M/S P. Photostat, G.K. Complex, R.G. Baruah Road, Near City Bus Stand, Ganeshguri, Guwahati-6 for information.
 4. Computer Section for uploading in the Website.
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 6. Order Book

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Registrar i/c
Assam Information Commission

o/c

(9)



**OFFICE OF THE
ASSAM INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : KP(M).166/2018
Complainant/ appellant : Shri Nitumani Choudhury
Respondent : SPIO of the office of the Director General of Police,
Assam
Date of hearing : 01.02.2019
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
01.02.2019

The petitioner Shri Nitumani Choudhury as well as the public authority to be represented by the Assam Police Headquarters – both are absent. However, as directed by this Commission vide its order dated 9.1.2019, the SPIO and AIGP of Assam Police Headquarters has submitted a compliance report dated 30 June, 2019 enclosing copy of their fresh instructions dated 22nd January, 2019 addressed to the Commissioner of Police, Guwahati and all District Superintendents of Police directing them to add two additional documents, i.e., copy of GD entry and seizure list in continuation of APGHQ's earlier instructions vide their letter No. G(RTI)/VI/215/2018/25 dated 20.12.2018. Since directions of this Commission's order fully complied with, the second appeal petition dated 21.3.2018 is now finally disposed of.

Sd/-

(H. S. Das)
Chief Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-
Registrar i/c
Assam Information Commission

Memo No. SIC/ KP(M).166/2018/52

Dated. 01.02.2019

- Copy to: 1. The SPIO of the Director of Police, Assam, Ulubari, Guwahati-7 for information and necessary action.
2. The SPIO of the Superintendent of Police, Darrang, Mangaldoi, Assam for information and necessary action.
3. Shri Nitumani Choudhury, C/o-M/S P. Photostat, G.K. Complex, R.G. Baruah Road, Near City Bus Stand, Ganeshguri, Guwahati-6 for information.
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Assam Information Commission

o/c