

1. **Name of the State Commission:** Assam Information Commission
  
2. **Order No & date:** KP(M)75/2018 dated 18-02-2019,20-05-19 and 20-07-2019 by Shri H.S. Das,IAS(Rtd.), State Chief Information Commissioner.
  
3. **Subject /Section/Issue:** Information regarding fixation of seniority in service at Regional Dental College, Guwahati and non compliance of Commission's order dated 03-05-18.
  
4. **Operative Section:** Section 19(8) (a) of the RTI Act, 2005.

**Summary:**

The background of the case is that one doctor who was transferred from Health and Family Welfare (A) to Health & Family Welfare (B) Department is claiming seniority over the appellant, thereby jeopardizing her future promotion and career prospects. The appellant also submitted that the Doctor who was transferred from H&FW (A) department went to pursue PG (MDS) studies in private capacity after taking study leave. He was not deputed by State Government for PG studies. On his return from PG studies he joined in Health and Family Welfare (A) in his parent post. Thereafter, vide Government Notification dated 22<sup>nd</sup> February, 2006, he was temporarily attached at Regional Dental College, Guwahati until further orders with the condition that during the period of his duties in the RDC, he would be drawing his pay and allowances from the office of the Joint Director Health Services, Barpeta Civil Hospital. This clearly shows that his substantive post was in Health and Family Welfare (A) and not in RDC under the Health and Family Welfare (B) Department. Subsequently, he was transferred and posted as a Demonstrator of Prosthodontics at RDC under Health and Family Welfare (B) department with the condition that his inter-se – seniority in the new post will be fixed from the prospective date, i.e. from the date of taking over the charge. By an affidavit dated 09-07-2007 he accepted the condition that his inter-se-seniority in the Regional Dental College, Guwahati will be from the prospective date i.e. from the date of his joining there. Subsequently, when he claimed seniority over the appellant, the State Government vide notification dated 16<sup>th</sup> August,2016 declared that the appellant is senior to the doctor claiming seniority over her.

The Appellant submitted that even after the Government Notification mentioned above, he is harassing her over the seniority issue by filing court cases to block promotions due to her. She, therefore, needs the informations, which was ordered to be provided to her by this Commission in its order dated 03-05-2018 so that she can defend her legitimate career/professional rights against the allegedly false claims made by the opposite party. She submitted that she did not receive the following informations against point no 6, 7, 8, and 17 of her RTI petition:

- I. **Point No.6-** Copy of the order for reservation of seat for the in-service doctors of Assam posted under Health and Family welfare(A) Department in the A.B. Shetty Institute of Dental Sciences, Mangalore, Karnataka in the year 2002;
- II. **Point No.7-** Copy of the order for allotment of P.G.seat for the in-service doctors of Assam posted under Health and Family welfare Department, Assam in the A.B. Shetty Institute of Dental Sciences, Mangalore, Karnataka in the year 2002;
- III. **Point No.8-** Copy of the order of selection of Dr. Jogeswar Barman and allotment of P.G. seat as an in-service P.G. candidate in the A.B. Shetty Institute of Dental Sciences, Mangalore, Karnataka by the Health and Family Welfare department with supporting documents; and
- IV. **Point No.17-** Copy of the order directing the Principal, Regional Dental College to recommend the name of Dr. Jogeswar Barman of Barpeta Civil Hospital under Health and Family welfare (A) Department for P.G. studies in the A.B. Shetty Institute of Dental Sciences, Mangalore, Karnataka in 2002.

. The SPIO informed the appellant that the relevant records were not available in the Department. However, the appellant produced before the Commission a copy of the letter addressed to her by the Principal and Dean of the Dr. A.B. Shetty Institute of Dental Science, Mangalore stating that they do not have any seat or quota for Government of Assam and no student was admitted under such quota in 2002 or any other years. The appellant contended that the opposite party misrepresented facts before the Government and the informations sought for by her and as ordered by the Commission are necessary to expose his false claims.

In view of above, the Commission in exercise of powers conferred under section 19(8)(a) of the RTI Act, 2005 directed the Principal Secretary of Health and Family Welfare Department to cause an inquiry through an officer not below the rank of Secretary of the Department as regards the missing records so as to ascertain the facts. The Commission reviewed the matter on 18-02-2019 and 20-05-2019. The Commission found that a comprehensive inquiry was made and appropriate responses against the points as mentioned above were provided to her. In course of inquiry it was explained to the appellant for response to point No.17 of the RTI petition that the sought for information is non-existent because there can be no question of any Government directions to the Principal of Regional Dental College to recommend the name of the opposite party who was serving in Barpeta Civil Hospital under Health and Family Welfare (A) Department for pursuing PG studies in the year 2002 as he was not an employee of the Regional Dental College, Guwahati in the relevant period. The appellant stated that she was satisfied with the replies furnished by the Department. As no further communication was received from any of the concerned parties, the matter was closed.

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

Case No. : KP(M).75/2018  
Complainant/ appellant : Shri Dr. Manjula Das  
Respondent : SPIO of Health & Family Welfare Department, Govt. of Assam  
Date of hearing : 18.02.2019  
Complaint/ Second : Shri H.S. Das, IAS ( Retd)  
Appeal heard by : Chief Information Commissioner, Assam

**O R D E R**  
18.02.2019

1. The petitioner Dr. Manjula Das and the public authority, i.e. Health & Family Welfare Department represented by its Deputy Secretary and SPIO Shri A.S.A. Barbhuyan – both are present.
2. The petitioner filed a petition dated 15.9.2018 complaining against non-compliance of this Commission's order dated 3.5.2018 by the concerned officials of Health & Family Welfare Department. She has mentioned in her complaint petition that one Dr. Jogeswar Barman, who was transferred from Health & Family Welfare (A) Department to Health & Family Welfare (B) Department is claiming seniority over her, thereby jeopardizing her future promotion and career prospects. She also submitted orally that Dr. Barman belongs to Health & Family Welfare (A) Department and he went to Prosecute PG (MDS) studies in his private capacity after taking study leave. He was not deputed by the State Government for PG studies. On his return from PG Studies he joined in Health and Family Welfare (A) Department, in his parent post. Thereafter vide Government Notification No. HLB.449/2005/20 dated 22<sup>nd</sup> February, 2006 Dr. Barman was temporarily attached at Regional Dental College (RDC), Guwahati until further orders with the condition that during the period of his duties in the RDC, Guwahati, he would be drawing his grade pay and allowances from the office of the Joint Director of Health Services, Barpeta Civil Hospital. This seems to clearly indicate that Dr. Barman's substantive post was in Health and Family Welfare (A) Department and not in RDC, Guwahati under the Health and Family Welfare (B) Department. Subsequently, Vide Government Notification No. HLB.439/2005/35 dated 7<sup>th</sup> August, 2017 Dr. J. Barman, Dental Surgeon, Barpeta Civil Hospital under the Health & Family Welfare (A) Department was transferred and posted as a Demonstrator of Prosthodontics at RDC, Guwahati under Health & Family Welfare (B) Department with the condition that his inter- se seniority in the new post will be fixed from the prospective date i.e. from the date of taking over the charge. By an affidavit dated 9.7.2007 Dr. J. Barman already accepted the condition that his inter-se seniority in the RDC, Guwahati will be from the prospective date i.e. from the date of his joining there.

3. Subsequently, Dr. Barman claimed his seniority over Dr. Manjula Das, which was resolved by the State Government vide Notification No. HLB.121/2014/Pt/263 dated 16<sup>th</sup> August, 2016 by declaring that Dr. Manjula Das is senior to Dr. J. Barman in the gradation list of the faculties of RDC, Guwahati.

4. The petitioner submitted that even after the Government Notification dated 16<sup>th</sup> August, 2016 Dr. J. Barman is harassing her over the seniority issue by fling court cases to block promotions due to her. She is, therefore, in need of the informations, which was ordered to be provided to her by this Commission in its order dated 3.5.2018 so that she can defend her legitimate professional rights against the allegedly false claims of Dr. J. Barman.

5. She submitted orally that against pint no. 13 of her RTI petition dated 12.7.2016, she has received the sought for informations. But she is yet to receive any information against point no. 6, 7, 8 and 17 of her RTI petition.

6. The Deputy Secretary and SPIO of Health & Family Welfare Department furnished copies of his letters dated 19<sup>th</sup> May and 24<sup>th</sup> July, 2018 addressed to Superintendent of Health & Family Welfare (A) Department for furnishing the required informations. Subsequently, the SPIO informed the petitioner Dr. Manjula Das vide letter dated 29<sup>th</sup> September, 2018 that the relevant records were reported to be not available in the department. He enclosed a copy of undertaking dated, 29.8.18 signed by two Superintendents of Health & Family Welfare Department stating that the records in respect of Dr. J. Barman, the then Dental Surgeon, is not available in the department.

7. However, the petitioner Dr. Manjula Das produced before this Commission a copy of letter dated 21.3.2017 addressed to her by the Principal and Dean of Dr. A.B. Shetty Memorial Institute of Dental Science, Mengalore stating that they do not have any seat under the quota of Government of Assam and no student was admitted under such quota in 2002 or any other years. Dr. Manjula Das is, therefore, contending that Dr. J. Barman is misrepresenting facts before the Government and the informations sought for by her and as ordered by this Commission are necessary to expose the false claims of Dr. J. Barman.

8. In view of the above, and documents already collected by the petitioner Dr. M. Das, this Commission is of the view that a thorough inquiry is necessary to ascertain the facts about the missing records, which have not been furnished to the petitioner although they are admissible under the RTI Act and were ordered to be provided to her vide this Commission's order dated 3.5.2018.

9. Therefore, in exercise of powers conferred u/s 19(8)(a) of the RTI Act, 2005, the Principal Secretary of Health & Family Welfare Department is directed to cause an inquiry not below the level of Secretary of the Department as regards the missing records so as to ascertain the facts. Both the parties, i.e. Dr. Jogeswar Barman and the petitioner Dr. Manjula Das should be heard by the inquiry officer and peruse the records available with them in support of their respective claims, in addition to other relevant official records, especially the service book and personal file of Dr. Jogeswar Barman. The inquiry be completed within a period of 90 days from the date of receipt of this order

and outcome thereof be intimated to this Commission, besides furnishing of the sought for informations to the petitioner, if the same are retrieved in the mean time. The Principal Secretary of Health & Family Welfare Department is also directed to take appropriate departmental action against those who are found responsible for the missing records.

**Fix 1,30 PM on 20<sup>th</sup> May, 2019 for review of action taken.**

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).75/2018/47

Dated. 18.02.2019

- Copy to: 1. The Principal Secretary to the Govt. of Assam, Health & Family Welfare Department, Dispur, Guwahati-6 for information and necessary action.  
2. The SPIO of Health & Family Welfare Department, Govt. of Assam, Dispur, Guwahati-6 for information and necessary action.  
3. Dr. Manjula Das, Notun Sarania, Achala Bhuyan Road, PO- Silpukhuri, Guwahati-3 for information.  
4. Computer Section for uploading in the Website.  
5. Office File.  
6. ~~Order Book~~



Registrar i/c

Assam Information Commission



**OFFICE OF THE  
ASSAM INFORMATION COMMISSION  
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781037**

Case No : KP (M).75/2018  
Complainant/ Appellant : Smti. Manjula Das.  
Respondent : The SPIO of Health & Family Welfare Department.  
Date of hearing : 20.05.2019  
Complaint/ Second : Shri H.S. Das. IAS (Retd)  
Appeal heard by : Chief Information Commissioner, Assam

**O R D E R**

20.05.2019

1. The appellant Smti Manjula Das is present. The public authority i.e. Health & Family Welfare Department, Govt. of Assam is represented by Sri Pradip Kr. Sarma, Under Secretary and SPIO of the Health & Family Welfare Department accompanied by Sri Ripunjita Borthakur, Sr. AA of the department. The second appeal petition dated 23.1.2018 is taken up for further consideration in persuasion of this Commission's earlier order dated 18.2.2019.
2. The SPIO and Under Secretary of Health & Family Welfare Department has submitted a written statement dated 16.5.2019 which is entered into the case records. It has been mentioned in the written statement that Smti Sajeeda Islam Rashid, IAS, Secretary, Health & Family Welfare Department was designated as the Inquiry Officer in compliance with this Commission's previous order dated 18.2.2019. But, due to requisition of her service from 3.4.2018 for the General Election to Lok Sabha and State Legislative Assembly elections of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim, the inquiry could not be completed. The SPIO prayed for extension of time by six (6) weeks for submission of inquiry report.
3. In view of the above averments made in the written statement as noted above, the prayer is granted.
4. Fix on 2<sup>nd</sup> July, 2019 at 12.30 PM for next hearing.

Sd/-

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

Authenticated true copy.

Sd/-  
Registrar i/c  
Assam Information Commission



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

Case No. KP(M)75/ 2018  
 Complainant/ Appellant Dr. Manjula Das.  
 Respondent : SPIO of Health & Family Welfare Department, Assam  
 Date of hearing 02.07.2019  
 Complaint/ Second : Shri H. S. Das, IAS (Retd)  
 Appeal heard by Chief Information Commissioner, Assam

**O R D E R**

02.07.2019

1. The second appeal petition dated 23.1.2018 filed by Dr. Manjula Das is taken up for further consideration in pursuance of this Commission's earlier order dated 20.5.2019.
2. The Under Secretary and SPIO of Directorate of Health & FW Department is absent. However, he sent a written communication dated 26.6.2019 stating that as he had to travel outside the State in connection with his daughter's admission, he could not attend today's hearing. He had, however, already sent the copies of detailed inquiry report conducted by Smti Sajeeda Islam Rashid, IAS, Secretary, Govt. of Assam, Health & FW Deptt. vide letter dated 26.6.2019. The inquiry was conducted in pursuance of this Commission's earlier order dated 18.2.2019 and 20.5.2019 and the report was submitted by the IO Smt. Sajeeda Islam Rashid, IAS, Secretary, Govt. of Assam, Health & FW Deptt. vide letter dated 19.6.2019.
3. From perusal of the inquiry report it is seen that both Dr. Manjula Das, appellant and Dr. Jogeswar Barman were heard by the Inquiry Officer on 11.6.2019. Both of them produced the relevant documents available with them before the IO. It is mentioned in the inquiry report that after the inquiry all the informations and documents sought for by the appellant Dr. Manjula Das were furnished to her except the information against point no.17 of her RTI petition. In course of inquiry it was explained to the appellant that the sought for information is non-existent because there can be no question of any Govt. directions to the Principal of Regional Dental College, Guwahati to recommend the name of Dr. Jogeswar Barman of Barpeta Civil Hospital under Health (A) Deptt. for pursuing PG studies in the year 2002 whereas Dr. Jogeswar Barman, who was a Dental Surgeon in Barpeta Civil Hospital, was temporarily attached to the Regional Dental College vide notification No. HLB.439/2005/20 dated 22.2.2006 only. It is noted in the inquiry report that Dr. Manjula Das was fully satisfied with all the documents provided to her during the hearing.

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4. From perusal of the inquiry report, which is found to be thorough and comprehensive. It appears that the IO has addressed all the issues raised by the RTI applicant to her satisfaction. Therefore, there seems to be no further cause of action so far the instant second appeal petition 23.1.2018 and RTI petition dated 12.7.2016 are concerned. However, as a measure of abundant precaution the appellant Dr. Manjula Das is directed to inform and confirm the Registry of this Commission within 15 days from the date of receipt of this order that she has received all the sought for informations to her satisfaction.

5. If no reply is received from the appellant within the stipulated time, it will be presumed that she has no further submission to make, and on that presumption the second appeal petition shall be disposed of and the matter will be treated as closed.

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)75/2018/137

Dated 02.07.2019

- Copy to:
1. The SPIO of Health & Family Welfare Department, Govt. of Assam, Dispur, Guwahati 6 for information and necessary action.
  2. Dr. Manjula Das, Natun Sarania, Achala Bhuyan Road, P.O. Silpukhuri, Guwahati 3.
  3. Computer Section for uploading in the Website.
  4. Office File.
  5. Order Book.

  
Registrar i/c  
Assam Information Commission

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