

Government of Assam
Finance (Budget) Department
Janata Bhawan, Dispur, Guwahati-781006.

No-BB.292/2014/41

Dated the Dispur the 9th October, 2017

ORDER

In pursuance of this Department's letter no BB.292/2014/37 dated 22nd September/2017 issued by SPIO & Under Secretary to the Government of Assam, Finance (Budget) Department, regarding hearing on the RTI Appeal petitions, filed by Shri Dulal Bora, a resident of Koinadhara Tiniali, House No-118, Khanapara, Guwahati-781022, District-Kamrup (M), Assam, Shri Dulal Bora, remained absent without any intimation before the 1st Appellate Authority, Finance Department, in my office chamber, today i.e. on 25th September/2017 at 1.00pm. SPIO, issued the notice for hearing through Secretariat Issue Branch and a receipt has been obtained.

SPIO, Finance (Budget), furnished me the 1st Appeal petition vide No.D.NO D.B.53946/17/R/1 dated 28/8/2017 received by Finance Department on 30/09/2017, along with enclosures i.e. copy of letter to get information under RTI, Act.2005.D.No.D.B-1946/16(B) Dated 9/1/2017 & copy of Allegation letter No.D.B.61/1/2015 dated 7/3/2015. All the Appeal petitions are addressed to Additional Chief Secretary/Principal Secretary to the Government of Assam, Finance Department, Dispur, Guwahati-781006.

Also present at the time of hearing:- (1) Shri Makibar Rahman, SPIO & Deputy Secretary, Finance (EC-1), (2) Shri D. Talukdar, ASPIO, Finance (EC-1), (3) Sri Bharat Thakuria, Nodal Officer, RTI Cell & Under Secretary, Finance (SIU) Department (4) MD. Abdus Salem, SPIO & Deputy Secretary, Finance (EC-11) (5) Shri Sudharshan Sarma, SPIO & Under Secretary Finance, Budget. (5) Lila kanta Bora under Secretary, Finance (Esst-A) (6) Isfaquar Rahman SPIO & Joint Secretary, Finance (Esst-B) (&) Smti Gitanjali Ahmed Nayar, SPIO & Deputy Secretary, Finance (SIU) Department in pursuance of notice issued vide No.BB.292/2014/38 dtd. 22/09/2017.

Since Shri Dulal Bora was absent on 25th September, 2017, for the ends of justice so as to provide reasonable and sufficient opportunity to the Applicant to make his submission, SPIO & Under Secretary, Finance (Budget) issued a second notice vide letter no BB.292/2014/40 dated 25th September, 2017 for hearing on 9th October, 2017 at 1.30pm.

Shri Dulal Bora also remained absent on 9th October, 2017. SPIO's as stated above remained present.

Perused the Appeal petition dated 25/9/2017. The Report submitted by SPIO, Finance (Budget) dated 4/10/2017, is enclosed, which is self Explanatory. Heard SPIO present, also perused the records made available to me by SPIO in File no BB/292/2014.

SPIO, Finance (Budget), made his submission before the undersigned that he has not received the original allegation petition dated 7/3/2017 and RTI Application dated 09/01/2017. Hence the question of furnishing information does not arise. He has only received the 1st Appeal petition with copy of allegation petition dated 7/3/2017 & RTI Application dated 9/1/2017.

Moreover SPIO has also stated that contents of the information sought for is not available in the Finance Department and he is not sure where the information is likely to be available.

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On the other hand, vide endorsement dated 20/9/2017 in File No. BB/292/2014 at note-sheet page-7/N Shri Bharat Thakuric, Under Secretary, Finance (SIU) & ASPIO & Nodal Officer, RTI Cell reported that RTI Petition has been received and exempted from disclosures under section-8 of RTI Act. and copy placed at Sl. 35/c. He has informed Shri Dulal Bora vide his letter No FIN.RTI/2016/005/184 dated 3rd February, 2017 that the information as sought for by you under RTI ACT, 2005 is exempted from disclosure under Sec.8 of the RTI Act, 2005 giving reference to 73 No's of RTI applications dated 09/01/2017(Copy enclosed). This has been done with the approval of the then Commissioner and Secretary, Finance (SIU) Department.

Also heard SPIO and ASPIO and Nodal Officer, RTI Cell. They stated that the contents of the Allegations are not the subject matter of Finance Department. The same is the case in respect of the RTI Petitions, the information is not available with the Finance Departments. So as SPIO, ASPIO, they are not in a position to furnish the relevant information and they do not know where the information is likely to be available as per verbal submission.

On perusal, examination of the relevant documents available in the relevant file, made available to me by the SPIO & ASPIO & Nodal officer, RTI Cell, and after hearing SPIO & ASPIO, & Nodal, officer, RTI Cell, is of the opinion that contents of the bulk RTI petitions, filed by Shri Dulal Bora, is not the subject matter of the Finance Department. The information is therefore not available with the Finance Department and hence SPIO and ASPIO, is not in a position to furnish the relevant information. SPIO, ASPIO is also not sure where the information is likely to be available. Hence they are not in a position to forward or transfer, the RTI petitions to the SPIO/PIO of the concerned administrative Departments where the information is likely to be available.

Regarding refusal to disclose the information by ASPIO & Nodal Officer, RTI Cell as already inform to Shri Dulal Bora, with reference to his RTI, Applications, as stated above, I am of the view that if Dulal Bora is aggrieved by the said order, he can submit copies of the RTI, Petitions to the concerned PIO/SPIO of the Administrative Departments, where the information is likely to be available.

In conclusion, it is ordered as follows, except as per Government O.M. cited below.

- (1) Wherever the information is available, SPIO / ASPIO will furnish the required information, as per provision, of RTI, ACT.
- (2) If the information is not available with the SPIO, ASPIO, he will take necessary action as per section 6(3) of the RTI Act. ELSE, SPIO/ASPIO, will forward the same to the concerned PIO/SPIO of the concerned administrative department where the information is likely to be available.
- (3) Factual report should always be intimated to the Applicant, as per RTI, provision.

In the instant RTI, petitions, under reference, SPIO, ASPIO has confirmed the information is not available, and they are also not confirmed where the information is likely to be available.

(3).Shri Dulal Bora is at liberty to submit copy of the RTI, Application before the concerned PIO/SPIO, of the concerned administrative department where he thinks and satisfied that the information is likely to be available. It is expected the PIO/SPIO on receipt of such petitions from Shri Dulal Bora, will dispose of the RTI, petitions as per provision of the RTI ACT.

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In conclusions, the followings Government O.M.s issued by Ministry of Personnel, Public Grievances of Pension, Department of Personnel & Trainings, Govt. of India, the contents of which is self explanatory is brought to the knowledge of all SPIO/ASPIO etc. & Applicant for perusal & taking necessary actions accordingly.(Copies enclosed).

1. Govt. order No. 11/2/2008-IR Dated, 10th July,2008.
2. Govt. order No. 1/7/2009-IR Dated, 1st June,2009.
3. Govt. letter No.1/18/2011-IR Dated 16th September, 2011.

This disposess of RTI petitions filed before the 1st APPELLATE Authority, of the Finance Department. If, any other RTI Application filed before the 1st Appellate authority, is pending and is of similar nature, it also stands dispose of, and similar action will be taken, accordingly.

Informed all concern accordingly.

Enclosed:-As Stated Above.

7(Seven):-----Nos.

sd/-
Additional Secretary to the Government of Assam
And First Appellate Authority, Finance Department.

Memo No BB.292/2014/ 41-A

Dated Dispur the 9th October, 2017

Copy to:-

1.Shri Dulal Bora,koinadhara Tinali,House no 118,Khanapara,Guwahati-781022, District-Kamrup Metro, Assam, Mobile No. 9577279984,email-associatesdpb@gmail.com for information and necessary action.

2. Shri Makibur Rahman,SPIO & Deputy Secretary, Finance(EC-1)/Abdus Salam, SPIO & Deputy Secretary, Finance(EC-11)/Ghana Kanta Pegu Joint Secretary, &SPIO, Finance (EC111)/Lila Kanta Borah, Under-Secretary & SPIO, Finance(Establishment-A)/ Joint Secretary & SPIO, Finance(Establishment-B)/Smti Bipasha Kherkatary, Under-Secretary & SPIO Finance(Taxation)/Smti Nirala Borah, Under-Secretary & SPIO Finance(A&F)/Deboram Pegu, Research Officer & SPIO Finance (PRU)/Bhaskar Panda, Under-Secretary &SPIO Finance(IF)/Sudharshan Sarma, Under Secretary&SPIO Finance(Budget)/Prasanta Phukan, Joint Director & SPIO, Finance(EA), Smti Gitanjali Ahmed Nayar, Deputy Secretary & SPIO, Finance(SIU),Departments respectively, for information and necessary action. If any RTI application for First Appeal is pending in different subject matter, they will put the same to the undersigned by today positively for disposal by the First Appellate authority, as per this Departments letter No. mentioned above.

3.Shri Bharat Thakuria, Under Secretary & ASPIO,& Nodal Officer RTI, Cell, Finance (SIU), Department for information and necessary action.

4. SPIO, Finance Department will keep this order in the relevant concerned file.

✓ 5. e-Governance Unit, Finance Department for uploading the order in the official websites of Finance Department.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Additional Secretary to the Government of Assam & First Appellate
Authority, Finance Department