

GAHC010079332024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2179/2024

MD. ABDUL KADIR
SON OF HANIF UDDIN, RESIDENT OF VILLAGE- KHOLABANDHA, P.S.
KACHUMARA, PIN- 781127, DISTRICT- BARPETA, ASSAM, MOBILE NO.
9954283585

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE CHIEF COMMISSIONER, ASSAM STATE INFORMATION
COMMISSION, PANJABARI, GUWAHATI- 781037

2:DIRECTOR OF FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
BHANGAGARH
GUWAHATI-05

3:THE DEPUTY COMMISSIONER CUM DISTRICT INFORMATION OFFICER
BARPETA DISTRICT
P.O. AND P.S. BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781301

4:THE SECRETARY
DAKHIN BAGURIBARI SAMABAY SAMITI LTD
P.O. KHOLABANDHA
DISTRICT- BARPETA
ASSAM
PIN- 78112

Advocate for the Petitioner : MR. M H ANSARI, MR. S ALIM

Advocate for the Respondent : GA, ASSAM, MR N J KUMAR(R-1),MR D DEKA(R-1)

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 13.11.2024

Heard Mr. S. Alim, learned counsel for the petitioner; Mr. D. Deka, learned Standing Counsel, Assam Information Commission for the respondent no. 1; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 2 & 3.

2. The petitioner preferred an application under Section 6 of the Right to Information [RTI] Act, 2005 seeking certain information. The petitioner has stated that after preferring a first appeal under Section 19[1] of the RTI Act, 2005 and not receiving any reply, he approached the Assam Information Commission by presenting an application dated 14.02.2023, highlighting his grievances in respect of the information he sought for from the Public Information Officer.

3. This writ petition is preferred seeking *inter alia* a writ in the nature of mandamus for a direction to the respondent authorities to furnish the required information to the petitioner in terms of the provision under Section 6 of RTI Act, 2005.

4. Mr. Deka, learned Standing Counsel, Assam Information Commission for the respondent no. 1 has submitted that the Commission had received the application of the petitioner without the details as regards his approaches before the 1st Appellant Authority under Section 19[1] of the RTI Act, 2005. Moreover, the application was found not in proper form. The said application was, therefore, returned to the petitioner by an Order dated 15.12.2023.

5. Mr. Alim, learned counsel for the petitioner has submitted that the petitioner has not received any Order dated 15.12.2023 from the Commission.

6. If an applicant is aggrieved by the decision or indecision of the Public Information

Officer and the 1st Appellant Authority, he has the option of approaching the State Information Commission by way of 2nd appeal under Section 19[3] of the RTI Act, 2005.

7. Mr. Deka has submitted that if the petitioner approaches the Commission by way of a 2nd appeal in the proper form along with all the necessary documents in response to the Letter dated 15.12.2023, such 2nd appeal would be considered in accordance with law.

8. In response to such submission made by the learned Standing Counsel, Assam Information Commission, Mr. Alim, learned counsel for the petitioner has submitted that the petitioner will approach the Assam Information Commission by preferring a 2nd appeal under Section 19[3] of the RTI Act in proper form along with all the document relating to his approaches before the Public Information Officer and the 1st Appellate Authority.

9. Taking note of the submissions made by the learned counsel for the parties, this court is of the considered view that instead of keeping this writ petition pending the same can be disposed of, by permitting the petitioner to approach the Assam Information Commission by preferring a 2nd appeal under Section 19[3] of the RTI Act, 2005 along with all the supporting documents relating to his approaches before the Public Information Officer and the 1st Appellate Authority. It is accordingly ordered. It is observed that in the event the petitioner prefers an appeal under Section 19[3] of the RTI Act, 2005 it is expected that the Assam Information Commission would consider the same on its own merits and in accordance with law with utmost expedition.

JUDGE

Comparing Assistant