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2026:GAU-AS:9962

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

Case No. : WP(C)/3538/2026

RUPCHAN ALI
S/O. AMZAD ALI, R/O. VILLAGE - AMBARI, P.O. BARKALIA SHERSHOW, P.S. FAKIRGANJ, DISTRICT - DHUBRI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-06.

2:THE ASSAM INFORMATION COMMISSION
REPRESENTED BY STATE INFORMATION COMMISSIONER
ASSAM
GADAPANI PATH
JURIPAR
PANJABARI
GUWAHATI- 781022.

3:THE HEAD MASTER
1484 NO. AMBARI L.P. SCHOOL
P.O. B.K. SHERSHOW
DISTRICT - DHUBRI
ASSAM
PIN -783330

Advocate for the Petitioner : MR. M A SHEIKH, MS F INTAZ,MR. Z H AHMED

Advocate for the Respondent : GA, ASSAM, MR D DEKA(SC, ASSAM INFORMATION COMMISSION)

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 17-07-2026

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

2. Having regard to the issues agitated in this writ petition, this writ petition is taken up for disposal at the motion stage itself dispensing with the issuance of notice to the respondent no. 3, for the reasons mentioned herein below.

3. The facts projected in this writ petition, in brief, are that the petitioner submitted an application under Section 6 of the Right to Information Act, 2005 ['the RTI Act', for short] before the State Public Information Officer [SPIO], O/o the District Elementary Education Officer, South Salmara seeking certain information as regards 1484 no. Ambari Lower Primary School on 22.12.2023. On receipt of the application, the SPIO issued an intimation letter to the petitioner for collection of information from the Block Elementary Education Officer [BEEO], South Salmara. When the petitioner approached the BEEO, South Salmara, he did not provide any information and in the meantime, a period of thirty days had elapsed. Aggrieved by inaction on the part of the SPIO to provide the information as sought for by the petitioner, the petitioner preferred an appeal under Section 19[1] of the RTI Act before the 1st Appellate Authority on 03.02.2024.

4. After institution of the 1st appeal under Section 19[1] of the RTI Act, the Headmaster of 1484 no. Ambari Lower Primary School issued two letters to the petitioner on 13.02.2024 and 21.02.2024 respectively. By the first letter, the petitioner was asked to deposit a sum of Rs. 50,000/- for supplying the information, as sought for by the petitioner. By the subsequent letter dated 21.02.2024, the petitioner was asked to deposit a sum of Rs. 15,000/- for providing the same information. It was mentioned that if the petitioner was dissatisfied with the above estimate, he could submit an application before the BEEO, South Salmara or the Headmaster of 1484 no. Ambari Lower Primary School within three days therefrom.

5. Taking exception to the aforesaid actions on the part of the SPIO and the 1st Appellate Authority, the petitioner preferred a 2nd appeal under Section 19[3] of the RTI Act before the Assam Information Commission ['the Information Commission', for short] on 06.05.2024. On institution of the 2nd appeal, the Information Commission, through its Registrar, issued notices to the petitioner, the SPIO and the Headmaster of 1484 no. Ambari Lower Primary School on 10.10.2025 asking for their appearance at a hearing scheduled on 27.10.2025.

6. The hearing before the Information Commission finally took place on 27.10.2025. The petitioner, the SPIO and the Headmaster of 1484 no. Ambari Lower Primary School were not present on the date of hearing before the Information Commission without any intimation.

7. The Information Commissioner, from the materials on record, found that

the 1st Appellate Authority on 20.02.2024 has passed an Order to the following effect :-

> Order :- The FAA observes that the document sought by the petitioner for is over a very long period of time [i.e. 2012 to 2023] and the amount information asked for is pretty huge. To collate and process and hand over such huge volume of information the School authority will have to spend fair amount of School time perhaps this can affect the actual imparting of education to the Students.
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> In view of the above, the FAA directs the H.T. to handover the information asked for only last 3 [three] years i.e. 2021 to 2023 and not the other years. For the cost of the Photocopies of the documents the H.T. will issue a letter to the petitioner showing the actual budget estimate as per rule. The Accounts No. will have to be shown in the letter. After receiving the letter the petitioner will deposit the amount as per budget estimate. The respondent will submit the requisite documents to the petitioner within 15 [fifteen] days from the receipt of the fund.
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> With the above direction the 1st Appeal petition of Rupchan Ali is disposed of.

8. Having considered the grounds raised by the petitioner in the 2nd appeal and upon perusal of the materials on record, the Information Commission, by its Order dated 29.10.2025, disposed of the 2nd appeal with the following observations and directions :-

> Considering the facts on record, the Commission observes that the Information sought by the petitioner spans a period of 12 years and is, therefore, voluminous in nature. The Commission concurs with the decision of the First Appellate Authority [FAA] to restrict disclosure to records pertaining to the last three years, i.e., 2021 to

2023, and not for the entire 12 year period. However, the Commission finds that the direction requiring the petitioner to bear the cost of photocopies is not in consonance with the provisions of the RTI Act, 2005. Under Section 2[j] of the Act, the right to information includes the right to inspect records. In view of this, the commission considers it appropriate to allow the petitioner to exercise the right of inspection.

Accordingly, the Commission directs the Head Master, 1484 No. Ambari L.P. School, Dhubri, to facilitate inspection of the relevant records pertaining to the years 2021 to 2023 by the petitioner on a mutually convenient date and time. Both the petitioner and the school authority shall extend full cooperation to each other during the inspection process.

The petitioner shall be at liberty to take notes during the inspection. In case the petitioner requires photocopies of any specific documents, the same shall be provided upon payment of the cost of photocopying by the petitioner himself.

The Block Elementary Education Officer, South Salmara is directed to ensure compliance of this order.

With the above direction the 2nd appeal dated 06.05.2024 is hereby disposed of.

9. It is canvassed that after disposal of the 2nd appeal by the Information Commission by the Order dated 29.10.2025, the petitioner approached the Headmaster of 1484 no. Ambari Lower Primary School, Dhubri for inspection of the relevant records pertaining the years 2021 to 2023. As the Headmaster of 1484 no. Ambari Lower Primary School, Dhubri did not allow the petitioner to inspect the relevant records, the petitioner dispatched an application before the Information Commission by post on 28.01.2026. The Information Commission received the complaint of the petitioner on 29.01.2026. On 24.02.2026, the

Information Commission issued a notice to the petitioner to visit O/o the Headmaster of 1484 no. Ambari Lower Primary School, Dhubri again within a period of 10 days from the date of receipt of the said letter to collect the information from him as per the Order of the Information Commission.

10. It is averred in this writ petition that despite a visit by the petitioner to the O/o Headmaster of 1484 no. Ambari Lower Primary School, Dhubri on 18.03.2026, the Headmaster refused to provide the information sought for by the petitioner. Hence, the writ petition.

11. Mr. Deka, learned Standing Counsel, Assam Information Commission has submitted that without exhausting the remedy available under the RTI Act, the petitioner has approached this Court by the instant writ petition invoking the extra-ordinary jurisdiction under Article 226 of the Constitution of India and therefore, the instant writ petition is not to be entertained, and the petitioner is to seek recourse under the provisions of the RTI Act.

12. Section 18 of the RTI Act reads as under :-

> 18. Powers and functions of Information Commission.-
>
> [1] Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person,-
>
> [a] who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer,

as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or Senior Officer specified in sub-section [1] of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

[b] who has been refused access to any information requested under this Act;

[c] who has not been given a response to a request for information or access to information within the time limits specified under this Act;

[d] who has been required to pay an amount of fee which he or she considers unreasonable;

[e] who believes that he or she has been given incomplete, misleading or false information under this Act; and

[f] in respect of any other matter relating to requesting or obtaining access to records under this Act.

[2] Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

[3] The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Civil Procedure Code, 1908, in respect of the following matters, namely:-

[a] summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

[b] requiring the discovery and inspection of documents;

[c] receiving evidence on affidavit;

[d] requisitioning any public record or copies thereof from any court or office;

[e] issuing summons for examination of witnesses or documents; and

[f] any other matter which may be prescribed.

> [4] Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

13. This Court in a Judgment and Order dated 12.11.2024 passed in W.P.[C] no. 5132/2024 [**Sri Sonadhan Chakma vs. The State of Assam and others**], has observed that the State Information Commission, on receipt of a complaint, has the power to exercise its jurisdiction under Section 18 of the RTI Act. The Commission can proceed by taking cognizance of a complaint received from a person, who fulfils the expression, 'any person' occurring therein; and who has already exhausted the remedies under Section 6, Section 19[1] and Section 19[3] of the RTI Act, on its own merits by initiating an inquiry as contemplated under Section 18 if the contents of the complaint falls within any of the categories of sub-section [1] of Section 18 of the RTI Act on reaching a satisfaction that there is reason to inquire into the matter. It has been further observed that the Commission is vested with the powers delineated in sub-sections [3] and [4] of Section 18 of the RTI Act to deal with such a complaint.

14. This Court after an analysis of the provisions of the RTI Act has observed in **Sonadhan Chakma** [supra] in the following manner :-

> 28. Sub-section [4] of Section 18 of the RTI Act is with a non-obstante clause and it has given overriding powers to the Central Information Commission or State Information Commission, as the case may be, to examine any record during the

inquiry of any complaint under the RTI Act; examine any record to which the RTI Act applies which is under the control of the public authority; and no such record may be withheld from the Central Information Commission or the State Information Commission, as the case may be, on any grounds.

* * * * * *

31. From the above conspectus, it is evidently clear that the provisions of Section 18 have vital roles to play in enforcement of the directions or orders made by the Central Information Commission of the State Information Commission, as the case may be. A scenario is not difficult to envisage that even after a direction passed by the Central Information Commission or the State Information Commission to furnish information to an applicant in a second appeal preferred under Section 19 [3] of the RTI Act the public authority does not to furnish information to the applicant or furnishes information which is incomplete, misleading or false. If in such a situation the provisions of Section 18 are considered to be not operational then the Central Information Commission or the State Information Commission would be incapable to ensure compliance its own directions or orders and the applicant after exhausting all the remedies under the RTI Act would be left remediless, save and except to approach the High Court to invoke the extra-ordinary jurisdiction under Article 226 of the Constitution of India. In the considered view of this Court, the RTI Act is not enacted for a such situation to turn a Constitutional court to exercise its power under Article 226 of the Constitution of India to become a court executing the directions or orders of the Central Information Commission of the State Information Commission passed in their appellate jurisdiction. Noticeably, the powers as are vested in a civil court are vested to the Central Information Commission and the State Information Commission by sub-section [3] of Section 18 only while inquiring into any matter

under Section 18, but not while adjudicating an appeal under Section 19. Having regard to the provisions incorporated in Section 18 of the RTI Act this Court is of the considered view that the Central Information Commission or the State Information Commission are not powerless and incapable to enforce compliance of its own directions or orders. It is true [……..] that sub-section [8] of Section 19 of the RTI Act has vested the Commission with the power to impose any of the penalties which included the penalty under Section 20, but such imposition of penalty is to be passed in its decision rendered in the appellate order under Section 19 [3]. Clause [a] of sub-section [8] of Section 19 has provided that in its decision to be passed under Section 19, the Central Information Commission or the State Information Commission, as the case may be, has the power to require the public authority to take any such steps as may be necessary to secure compliance of the provisions of the RTI Act. If after an order passed in an appeal with direction to furnish information and thereafter, the public authority furnishes information which, according to the applicant, turn out be incomplete, misleading or false then the provision contained in sub-section [8] of Section 19 cannot be made operational as the Central Information Commission or the State Information Commission, as the case may be, after passing its decision in the appeal under Section 19 would not have the authority invoke it subsequently.

32. By keeping both the expressions, ‘complaint’ and ‘appeal’ in Section 20 separated by ‘or’, it has been made clear that a complaint is separate from an appeal. It has been stipulated in Section 20 that where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any ‘complaint’ or ‘appeal’ is of the opinion that the concerned Public Information Officer has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section [1] of Section 7 or malafidely denied the request for information or knowingly given

incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it can impose a penalty in terms of money, after giving a reasonable opportunity of being heard. The Central Information Commission or the State Information Commission, in certain situations, can also recommend disciplinary action against the concerned Public Information Officer.

33. It has been settled in Chief Information Commissioner [supra] that the Central Information Commissioner or the State Information Commissioner have supervisory jurisdiction under Section 18 and the same goes to mean that the Central Information Commission and the State Information Commission have power, authority and jurisdiction to pass necessary orders to keep the public authorities over whom it exercises jurisdiction within its bounds and can enforce compliance of the provisions of the Right to Information Act for the purpose of accessing information to the applicants, subject to the other limitations provided in the RTI Act. The Central Information Commission and the State Information Commission are statutory authorities established under Section 12 and Section 15 of the RTI Act. The powers and functions of these Information Commissions are well delineated in Section 18, already quoted hereinabove. In Section 18 of the RTI Act the Legislature has incorporated that it shall be duty of these Commissions to receive and inquire into complaint from any person on any of the issues covered by clause [a] to clause [f] of sub-section [1] of Section 18 of the RTI Act.

15. Taking into consideration the facts that the final order has already been passed by the Information Commission on 29.10.2025, thereby disposing of the 2nd appeal with specific directions to the Headmaster of 1484 no. Ambari Lower Primary School, Dhubri to facilitate the petitioner to look into the relevant records pertaining to the Years 2021-2023 and the petitioner has made a

grievance that he has been denied access to the relevant records by the Headmaster of 1484 no. Ambari Lower Primary School, Dhubri, the petitioner is at liberty to make a complaint to the Information Commission according to provisions of Section 18 [1] of the RTI Act. If the petitioner makes a complaint before the Information Commission under the provisions of Section 18 [1] of the RTI Act, the Commission may take cognizance of such complaint on the merits of the complaint. Thus, in the opinion of this Court, the present petition is not to be entertained at this stage in view of the availability of such adequate, efficacious and alternative statutory remedy under Section 18 [1] of the RTI Act and the same is hereby disposed of with an observation that the petitioner would be at liberty to take recourse of law, as provided under the RTI Act.

JUDGE

Comparing Assistant

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