

OFFICE OF THE REGISTRAR GENERAL, GAUHATI HIGH COURT,
MAHATMA GANDHI ROAD, PANBAZAR, GUWAHATI

RTI APPEAL NO. ID No.01/18 dated 12.01.2018

APPELLANT :- Sri Nayan Muni Chakma, Buddhist Thai-Society,
 PO & PS- Bodhgaya, Dist-Gaya, Bihar, Pin-824231.

RESPONDENT :- Registrar (Judicial) & PIO, Gauhati High Court

DATE OF APPEAL :- 12.01.2018

DATE OF HEARING :- 23.01.2018

DATE OF ORDER :- 12.02.2018

FACTUAL BACKGROUND:-

Being aggrieved by the response received from the respondent within prescribed period, the appellant, Sri Nayan Muni Chakma, preferred this appeal which is doctated vide Regd. ID No. 01/18 dated 12.01.2018.

Before a discussion is directed towards the issue in question, a brief reference to the background of this appeal would be advantageous.

The record reveals that the appellant, vide his RTI application, dated 18.11.2017, had sought for following information from Gauhati High Court Legal Services Committee in connection with two petitions, dated 09.10.2017, submitted for legal services, under the Legal services Authority Act :-

- A. When did both the petition received in the office of the Executive Chairman, Gauhati High Court Legal Services Committee? What were their diary numbers?
- B. When did said petitions were placed in file before Hon'ble Chaiman, Secretary or in the meeting of the Gauhati High Court Legal Services Committee, for careful consideration of appropriate action regarding prayer for legal services requested in the said petitions?
- C. Supply clear photocopy of records of file noting, comments, notes given in the process of examining said both petitions for appropriate action?



- D. Were both petitions referred or transferred to any Legal Services Counsel-cum-Consultant or senior counsel for appropriate action? If yes, supply a clear photocopy of the forwarding letters sent to the Legal Services Counsel-cum-Consultant or senior counsel along with the said petitions?
- E. Any opinion, response received in the office of your Committee (GHCLSC) from the Legal Services Counsel-cum-Consultant or senior counsel for appropriate action regarding the said petitions? If yes, supply clear photocopy of the opinion, response received from the Legal Services Counsel-cum-Consultant or senior counsel of your Committee (GHCLSC).
- F. Supply clear photocopy of records of financial grants, letter of financial approval received since 2010 to 2016, from the Assam State Legal Services Authorities, Ministry of Law & Justice, Govt. of India & the National Legal Services Authority, New Delhi.
- G. Supply clear photocopy of records of minutes maintained in file and resolutions passed since 2000 to 2010 by the Gauhati High Court Legal Services Committee.
- H. Period for which information asked for 1/1/2000 to 30/12/2010.

In response, the Registrar (Judicial) & PIO, Gauhati High Court, vide letter No. HC.XXXV-1/2017/286/RTI, dated 20.12.2017, had provided the following information to the applicant:-

"Reply to query No.3.(ii) A to E :-

Applications not dealt with by Gauhati High Court Legal Services Authority and hence information is not available.

As per information, applications were dealt with by the Assam State Legal Services Authority, 1st Floor, Gauhati High Court (Old Block), M G Road, Guwahati".

"Reply to query No. 3(ii) F:-

Not available, as it relates to Assam State Legal Services Authority."

"Reply to query No.3.(ii) G:-

Information sought is vague and in-comprehensible."

Ground of Appeal :

The appellant did not assigned any specific ground for preferring this appeal. Instead, he simply stated that the response received the PIO is incorrect

and confusing. He, therefore, prayed for providing the information so referred in his petition.

While admitting the appeal on 12.01.2018, the date of hearing was fixed on 23-01-2018 and the appellant was duly notified about the date, vide letter no.HC.XXXV-5/2018/12/RTI dated 12.01.2018. But the appellant did not turn up. Instead, vide his letter dated 15.01.2018; he intimated the ground of his inability to attend the hearing and prayed for directing the PIO for provide him with the required information.

Decision and reasons thereof:-

We have gone through the appeal and the documents enclosed therewith carefully. Also we have gone through the record carefully. It appears from the record that the information, so required by the appellant, relates to the Assam State Legal Services Authority. The PIO could not furnish the required information to the appellant on the ground that the same were not available with her. The required information is closely connected with the PIO of Assam State Legal Services Authority. It is now well settled that a PIO is not under any obligation to furnish any information which is not available with him/her. Reference in this context can be made to a decision of Hon'ble Supreme Court in the matter of **Central Board of Secondary Education and Another v. Aditya Bandopadhyay & Others (Civil Appeal No. 6454 of 2011)**. Where it has been held that-

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section and the definitions of 'information' and 'right to information' under Clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analyzed data, or abstracts, or statistics, an Applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an Applicant."

This being the factual and legal position no fault can be found with the reply so furnished by the PIO. The appellant has failed to assign any ground, not to speak of convincing ground, for this appeal and the same deserve to be dismissed.

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed.

Keeping the above objective in mind, behind enacting the RTI Act, and, in view of the relation between Assam State Legal Services Authority and Gauhati High Court Legal Services Committee, it is provided that the application be transferred to the PIO of Assam State Legal Services Authority, as per the provision of Section 6 (3) RTI Act 2005, with intimation to the appellant, to deal with the same effectively. The concerned PIO be also informed that the application fee has duly been received by the PIO of the Gauhati High Court. The appeal stands disposed of with the above direction.

Let this order be communicated to the Appellant as well as the PIO, Gauhati High Court.

Given under my hand and seal of this Court on this 12th day of February-2018.


Registrar General
-cum-
Appellate Authority

12-02-18