

অসম ৰাজপত্ৰ



স্বাধীনতা

THE ASSAM GAZETTE

অসাধাৰণ
EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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ORDERS BY THE CHIEF INFORMATION COMMISSIONER
ASSAM INFORMATION COMMISSION

JANATA BHAWAN :: DISPUR

NOTIFICATION

The 17th December, 2007

No.SIC.108/2006/47 : In exercise of the powers conferred by Section 15(4) of the Right to Information Act, 2005 (Act 22 of 2005) and all other provisions in the Act enabling in this behalf, the State Chief Information Commissioner hereby makes the following Orders for management of the affairs of the Assam Information Commission in the interest of its efficient functioning.

CHAPTER -1: Short Title and Commencement

- (i) These Orders may be called "the Assam Information Commission (Management & Regulation) Orders, 2007."
- (ii) They shall come into force with effect from such date as the State Chief Information Commissioner may by order specify.
- (iii) Appeals and Complaints which have already been filed before the date of commencement of these Orders and have been found in order and are already registered before this date will be proceeded with as before and shall not abate for any infirmity therein but these Orders will be applicable for any prospective action even in regard to such pending appeals and complaints.

Definitions: In these Orders unless the context otherwise requires,-

- (a) "Act" means the Right to Information Act, 2005 (Act 22 of 2005);
- (b) "Appellant" includes a complainant.
- (c) "Chief Information Commissioner" means the State Chief Information Commissioner, Assam appointed under the Act.
- (d) "Commission" means the Assam Information Commission;
- (e) "Decision" includes an order, direction or determination of an issue
- (f) "First Appellate Authority" means an authority so appointed or notified by the public authority under the Act and includes a head of the office or the head of the public authority if no first appellate authority is appointed or notified.
- (g) "Orders" mean the Orders framed herein .

- (h) "Prescribed" means prescribed by or under the Act or under the Rules or these Regulations.
- (i) "Records" mean the aggregate of papers relating to an appeal or complaint including pleadings, rejoinders, comments, proceedings, documentary or oral evidence, decision, orders and all other documents filed with or annexed to an appeal or complaint or submitted subsequently in connection with such appeal or complaint.
- (j) "Registry" means the Registry of the Commission comprising the Registrar(s), Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) or Assistant Registrar(s).
- (k) "Registrar" means the Registrar of the Commission and unless the context otherwise requires includes an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar. In absence of any such officer it will include the Secretary, Deputy Secretary or Under Secretary specifically designated for the purpose of these Orders by the State Chief Information Commissioner.
- (l) "Representative" means a person duly authorized by or on behalf of any of the parties to the proceedings or interveners and may include a Legal Practitioner.
- (m) "Respondent" includes an intervener or a third party or a party impleaded by the Commission.
- (n) "Rules" mean the Rules framed by the Assam Government under Section 27 of the Act;
- (o) "Secretary" means the Secretary of the Commission and unless the context otherwise requires includes a Joint Secretary, a Deputy Secretary or an Under Secretary.
- (p) "Section" means section of the Act;
- (q) "State Information Commissioner" means a State Information Commissioner appointed under the Act and a "designated Commissioner" means a State Information Commissioner designated by the State Chief Information Commissioner to deal with appeals or complaints assigned to him by a general or special order.
- (r) "SPIO" means an officer designated or notified or appointed by a public authority under Section 5(1) of the Act and includes an Assistant SPIO so appointed, designated or notified under Section 5(2) of the Act and it also includes-
- (i) an officer to whom an application is submitted by the petitioner in absence of the SPIO/ASPIO under the Act for obtaining information or an officer to whom such application is transferred under section 6(3) of the Act by a public authority,
 - (ii) any officer to whom the request for information from an applicant is submitted by the SPIO either for approval or for orders or for disposal and
 - (iii) the Head of the public authority in case no SPIO is appointed or notified or designated
- (s) Words and expressions used herein but not defined shall have the meaning assigned to them in the Act or in the Rules.

CHAPTER - II: Assam Information Commission

The Assam Information Commission (AIC) was constituted by the Government of Assam under Section 15 (1) & 15 (2) of the RTI Act, 2005. The AIC shall function autonomously under Section 15 (4) of the RTI Act without being subjected to direction by any other authority and consistent with the provisions of the Act, the AIC will issue orders regulating its

management, functioning, and notifying the salaries, allowances and other terms and conditions of the service of the State Chief Information Commissioner and the State Information Commissioner under Section 16(5) of the Act. AIC will also exercise residual powers in financial and administrative matters of the Commission in line with the appropriate government.

CHAPTER – III: Officers of the Commission and their functions

1. Secretary:

- (i) The Secretary of the Commission will function as the administrative head of office under the direction and control of the State Chief Information Commissioner. He will exercise the financial powers of a head of the department as detailed in the Schedule – 2 of the DFP Rules, 1999.
- (ii) The Secretary will also function and exercise the powers of the Registrar when there is no Registrar appointed or functioning in the Commission.
- (iii) The Secretary will ensure proper functioning of the Commission Office and maintain discipline, decorum and proper upkeep of the Office.
- (iv) The Secretary will maintain close liaison with the State Administration and other public authorities at his own initiative. He may initiate correspondence with other public authorities in the interest of the smooth functioning of the Commission.
- (v) The Secretary may delegate, with the approval of the State Chief Information Commissioner, any function entrusted to him to Joint Secretary, Deputy Secretary or Under Secretary.

2. Appointment of Registrar:

The Commission may designate one or more of its officers in the Commission to function as Registrar(s) of the Commission. It may also designate other officers of the Commission to act as Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) or Assistant Registrar(s) and provide other staff that may be necessary to assist the Registrars in the performance of their duties and responsibilities.

3. Powers and functions of the Registrar:

- (i) The Registrar shall be the Chief Executive of the Commission on the judicial side. Any communication addressed to him will be deemed to be addressed to the Commission and the Commission will be represented by him in all judicial matters.
- (ii) The Registrar shall discharge his functions under the control and superintendence of the State Chief Information Commissioner.
- (iii) All records of the Commission shall be in the custody of the Registrar.
- (iv) The Official Seal of the Commission shall be kept in the custody of the Registrar.
- (v) Subject to any general or special directions of the State Chief Information Commissioner, the Official Seal of the Commission shall be affixed to any order, summons or other process under the authority of the Registrar.

- (vi) The Official Seal of the Commission shall not be affixed to any certified copy issued by the Commission save under the authority of the Registrar.
- (vii) The office of the Registrar shall receive all applications, appeals, counter statements, replies and other documents.
- (viii) The Registrar shall decide in consultation with the SCIC all questions arising out of the scrutiny of the appeals and complaints before these are registered.
- (ix) The Registrar may require any application, appeal, counter statement, replies presented to the Commission to be amended in accordance with these Regulations and direct any formal amendment of such records in consultation with the SCIC.
- (x) The Registrar shall fix the date of hearing of appeal, complaint or other proceedings and may prepare and notify in advance a cause list in respect of the cases listed for hearing.
- (xi) The Registrar will decide questions relating to extension of time in respect of filing of counter statement, reply, rejoinder etc. in consultation with the SCIC.
- (xii) The Registrar may, on payment of a fee prescribed for the purpose, grant leave to a party to the proceedings to inspect the record of the Commission under supervision and in presence of an officer of the Commission.
- (xiii) Copies of documents authenticated or certified shall be provided to the parties to the proceedings only under the authority of the Registrar.
- (xiv) The Registrar shall communicate the decisions, orders or directions of the Commission to the concerned person/persons, and all such communications signed or authenticated by the Registrar or under his authority shall be deemed to be the communication from the Commission.
- (xv) The Registrar shall be responsible for ensuring compliance of the orders, directions or decisions passed by the Commission and to take all necessary steps in this regard.
- (xvi) The Registrar shall ensure that decency, decorum and order is maintained during hearing of an appeal, complaint or any other proceedings maintained and shall take all necessary steps in this regard.
- (xvii) The Registrar shall exercise all such powers and discharge all such functions as are assigned to him by these Regulations or by the State Chief Information Commissioner from time to time.
- (xviii) The Registrar shall assist the State Information Commissioners in discharge of their functions.
- (xix) The Additional Registrar shall have all the powers conferred on a Registrar and will exercise all the functions of the Registrar under his guidance.
- (xx) The Registrar may with the approval of the State Chief Information Commissioner delegate to a Joint Registrar, Deputy Registrar or

Assistant Registrar any function required to be performed under these Regulations.

CHAPTER -IV: Working Hours, sitting and vacations etc.

1. Subject to any order by the State Chief Information Commissioner, the office of the Commission will follow the working hours and list of holidays of the Assam Government.
2. The Commission may however declare the local holidays on occasions listed by the Government of Assam as such.

CHAPTER – V: Submission of Request For Information From Public - Responsibilities of Head of Office/Public Authority

- (i) The Head of Office/the Public Authority will notify the names and designation of officers who will accept the petition for information in absence of SPIO/ASPIO.
- (ii) While the written request for information should be submitted to the State Public Information Officer (SPIO) / Assistant State Public Information Officer (ASPIO) under Section 6(1) of the Act., in absence of the SPIO/ASPIO, the written request may be submitted to any officer(s) notified by the Head of Office/Public Authority to receive the petition. Where no such officer has been designated or no specific arrangement has been made, the application can be submitted to the Head of Office/the Public Authority and such Head of Office/Public Authority will accept the petitions. If the HOO / PA is also not available in office the application may be submitted to any officer present who will accept it with due acknowledgment.
- (iii) The Head of Office/the Public Authority will make arrangement for accepting the application fees in cash and by other instruments as prescribed under the Rules.
- (iv) The Head of Office/ the Public Authority will put up signboards at prominent places in their offices notifying the names of the SPIOs/ASPIOs and other officers who may receive petitions for information with their designation, address and telephone numbers. The mode of acceptance of the application fee should also be mentioned in the sign boards.

CHAPTER – VI: Procedure in respect of applications/petitions received from public in the Commission Office.

1. The Commission receives large number of petitions/applications direct from the public seeking information/redressal of grievances. As the Commission is not the custodian of any information nor it is in a position to redress grievances of the public without hearing the parties concerned, the Commission adopts the following measures in respect of these applications/petitions;
 - (i) applications/petitions, which prima facie reveal the seeking of information, are transferred under Section 6(3) of the Act to the concerning Public Authority/SPIO for furnishing the information. The Commission makes it clear that non-receipt of application fee should not

be a ground for rejecting it as the fee can be collected at the time of furnishing information.

- (ii) applications/petitions, which are of general nature, are forwarded to the concerning Public Authority for appropriate action.
- (iii) applications/petitions, which do not disclose any of (i) or (ii) or not legible are filed in the Commission Office with intimation to the applicants/petitioners.

Chapter – VII: Registration, Abatement or Return of Appeal or complaint

1. Appeal or complaint etc. to be in writing:

Every appeal, complaint, application, statement, rejoinder, reply or any other document filed before the Commission shall be typed, printed or written neatly and legibly and in double line spacing and the language used therein shall be formal and civilized and should not be in any way indecent or abusive. The appeal, complaint or an application shall be presented in at least two sets in a paper-book form.

2 Contents of appeal or complaint:

- (1) an appeal or complaint the commission shall contain the following information, namely:-
 - (i) name, address and other particulars of the appellant or complainant, as the case may be;
 - (ii) name and address of the State Public Information Officer (SPIO) or the State Assistant Public Information Officer (SAPIO) against whom a complaint is made under Section 18 of the Act, and the name and address of the First Appellate Authority before whom the first appeal was preferred under Section 19(1) of the Act.
 - (iii) particulars of the decision or order, if any, including its number and the date it was pronounced, against which the appeal is preferred.
 - (iv) brief facts leading to the appeal or the complaint;
 - (v) if the appeal or complaint is preferred against refusal or deemed refusal of the information, the particulars of the application, including number and date and name and address of the State Public Information Officer to whom the application was made and name and address of the First Appellate Authority before whom the appeal was filed;
 - (vi) prayer or relief sought.
 - (vii) grounds for the prayer or relief;
 - (viii) verification by the appellant or complainant, as the case may be; and
 - (ix) any other information which may be deemed as necessary and helpful for the Commission to decide the appeal or complaint.
- (2) the contents of the complaint shall be in the same form as prescribed for the appeal with such changes as may be deemed necessary or appropriate.

3. **Documents to accompany appeal or complaint:-**

Every appeal or complaint made to the Commission shall be accompanied by self attested copies/photo copies of the following documents, namely:-

- (i) The RTI application submitted before the SPIO along with documentary proof as regards payment of fee under the RTI Act;
- (ii) The order, or decision or response, if any, from the SPIO to whom the application under the RTI Act was submitted.
- (iii) The first appeal submitted before the First Appellate Authority with documentary proof of filing the First Appeal.
- (iv) The Orders or decision or response, if any, from the First Appellate Authority against which the appeal or complaint is being preferred;
- (v) The documents relied upon and referred to in the appeal or complaint;
- (vi) A certificate stating that the matters under appeal or complaint have not been previously filed, or are pending, with any court or tribunal or with any other authority;
- (vii) An index of the documents referred to in the appeal or complaint; and
- (viii) A list of dates briefly indicating in chronological order the progress of the matter up to the date of filing the appeal or complaint to be placed at the top of all the documents filed.

4. **Return of appeal or complaint**

Appeal or complaint not fulfilling the requirement stated herein will be liable to be returned to the parties. However the SCIC may accept such appeal or complaint if he considers that in the interest of justice such appeal or complaint be heard.

5. **Posting of appeal or complaint before the Information Commissioner:**

- (i) An appeal or a complaint, or a class or categories of appeals or complaints, shall be heard either by the State Chief Information Commissioner or a Single State Information Commissioner or a Division Bench of two State Information Commissioners, or a Full Bench of three or more State Information Commissioners, as decided by the State Chief Information Commissioner by a special or general order issued for this purpose from time to time.
- (ii) Where in the course of the hearing of an appeal or complaint or other proceeding before the State Information Commissioner(s), the SIC(s) consider that the matter should be dealt with by a Division or Full Bench, it shall refer the matter to the State Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter.
- (iii) Similarly, where during the course of the hearing of a matter before a Division Bench, the Bench considers that the matter should be dealt with by a Full Bench, or where a Full Bench considers that a matter should be dealt with by a larger Bench, it shall refer the matter to the State Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter.

6. **Amendment or withdrawal of an Appeal or Complaint:**

The Commission may in its discretion allow a prayer for any amendment or withdrawal of an appeal or complaint during the course of its hearing of such a prayer is made by the appellant or complainant on an application made in writing. However, the Commission may entertain no such prayer after the matter has been finally heard or the Commission has pronounced a decision or order.

7. Personal presence of the appellant or complainant:

- (i) The appellant or the complainant, as the case may be, shall be informed of the date of hearing at least seven clear days before that date.
- (ii) The appellant or the complainant, as the case may be, at his discretion be present in person or through his duly authorized representative at the time of hearing of the appeal or complaint by the Commission, or may opt not to be present.
- (iii) Where the Commission is satisfied that circumstances exist due to which the appellant or the complainant is being prevented from attending the hearing of the Commission, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.
- (iv) The appellant or the complainant, if he/she wishes, may seek the assistance of any person while presenting his/her case before the Commission and the person representing him/her may or may not be a legal practitioner.
- (v) If an appellant or complainant at his discretion decides not to be present either personally or through his duly authorized representative during the hearing of an appeal or complaint before the Commission, the Commission may pronounce its decision or order in the matter *ex parte*.

8. Date of hearing to be notified:

The Commission shall notify the parties the date and place of hearing of the appeal or complaint in such manner as the State Chief Information Commissioner may by general or special order direct.

9. Adjournment of Hearing:

The appellant or the complainant or any of the respondents may, for just and sufficient reasons, make an application for adjournment of the hearing. The Commission may consider the said application and pass such orders as it deems fit.

10. Evidence before the Commission:

In deciding an appeal or a complaint, the Commission may:-

- (i) receive oral or written evidence on oath or on affidavit from concerned person or persons;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;

- (iv) examine or hear in person or receive evidence on affidavit from state Public Information Officer, State Assistant Public Information Officer or such Senior Officer who decided the first appeal or such person or persons against whom the complaint is made as the case may be; or
- (v) examine or hear or receive evidence on affidavit from a third party, or an intervener or any other person or persons, whose evidence is considered necessary or relevant.

11. **Issue of notices/summons for appearance etc.:**

- (i) Notice to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar under the authority of the Commission, and it shall be in such form as may be prescribed by the Commission with copies to the appellant.
- (ii) If the parties concerned fail to respond to the notice, summons in the form presented by the Commission will be issued to them for compelling appearance or production of documents etc.

12. **Award of costs by the Commission:**

The Commission may award such costs or compensation to the Appellant/Complainant as it deems fit having regard to the facts and circumstances of the case under section 19(8)(b) of the Act.

13. **Communication of decisions and Orders:**

- (i) Every decision or order of the Commission shall be signed and dated by the Commissioner or Commissioners who have heard the appeal or the complaint or have decided the matter.
- (ii) Every decision/order of the Commission may either be pronounced in one of the sittings of the Commission, or may be placed on its website, or may be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard.
- (iii) Every such decision or order, whenever pronounced by a single State Information Commissioner or by a Division Bench or by a Full Bench of three or more Information Commissioners, shall be deemed to be the decision or order by the Commission under the Act.

14. **Finality of Decision:**

- (i) A decision or an order once pronounced by the Commission shall be final.
- (ii) An appellant or a complainant or a respondent may, however, make an application to the State Chief Information Commissioner for correction of technical mistakes or mistakes by oversight or mistake of fact or mistake of law.
- (iii) The Chief State Information Commissioner, on receipt of such a request, may consider and decide the matter as he thinks fit.

15. **Abatement of an Appeal/Complaint:**

The proceedings pending before the Commission shall abate on the death of the appellant or complainant.

CHAPTER - VIII :- MISCELLANEOUS**1. Seal and Emblem:**

The Official Seal and Emblem of the Commission shall be such as the Commission may specify.

2. Language of the Commission:

(i) An appeal or a complaint may be filed in English or in Assamese or in Associate official languages of the state and all the documents or copies thereof may also be filed in these languages.. Where a document, in original, in a language other than English or in Assamese, a certified / authenticated copy of its translated version in English or in Assamese shall be filed along with the original. This shall also apply in the case of a counter statement, rejoinder, reply or any other document or documents filed before the Commission.

(ii) The proceedings of the Commission shall be conducted in English or in Assamese or in the associate official languages of the state as convenient and practicable.

The 17th December, 2007

No.SIC.108/2006/46 : It is notified for general information that the "**Assam Information Commission (Management and Regulations) Order 2007**" framed under Section 15(4) of the Right to Information Act, 2005 shall come into force with immediate effect.

JAINUDDIN AHMED,

Secretary,

Assam Information Commission,

Janata Bhawan, Dispur, Guwahati.