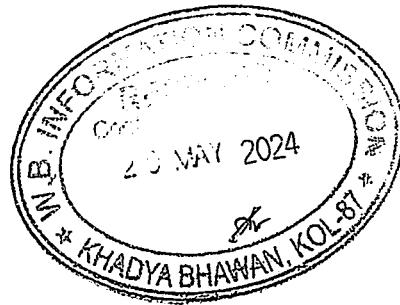


100511 (A)
21/05/2024



To,

West Bengal Information Commission
11 A, Mirza Galib Street,
Khadya Bhaban,
Kolkata-700 087

Subject: Second Appeal under Section 19(3) of Right to Information Act, 2005

Date: 08/05/2024

Name and Address of the appellant:

Jiwalall Sharma

B. R. I. COLONY,

Near Rly. Power House,

Post: Pradhan Nagar,

Siliguri

Pincode: 734003

Name and Address of the CPIO:

The Public Information Officer,

Siliguri Police Commissionerate.

Siliguri,

West Bengal,

PIN- 734 001

Date of submission of RTI request: 23/12/2023

A
VA
2024
M

Date of RTI reply: 16/01/2024

Name and Address of the FAA:

Siliguri Police Commissionerate.

Siliguri,

West Bengal,

PIN- 734 001

Date of submission of FA request: 17/02/2024

Date of FA reply: 19/03/2024

Brief facts of the case:

1. The Applicant had filed a RTI Application seeking information on the following grounds:

BACKGROUND:

I am Jiwalall Sharma, son of Dhaneshwar Sharma, residing in B. R. I. Colony, Near Rly. Power House, Pradhan Nagar, Siliguri, Pin Code: 734003.

I am a 100% disabled individual. In 2003, I was granted a license by Indian Oil and the West Bengal Government to distribute PDS kerosene oil to Bijanbari in the Pul Bazar Police Station area of Darjeeling. Due to the absence of my own tanker truck, I opted to rent one until I could acquire my own. I chose a tanker operator named Kajal Sarkar for this purpose in 2003.

Unfortunately, my decision to engage Kajal Sarkar for tanker hire in 2003 turned out to be a grave mistake. Kajal, through threats and intimidation, continued to exploit my business until December 2022.

The kerosene oil business is susceptible to black market activities, and Kajal Sarkar, over the last two decades, has amassed illicit wealth exceeding Rs 500 crore. Despite having a license from Indian Oil, I find myself in abject poverty, contemplating nothing but suicide.

In December 2022, I was compelled to surrender my license to Indian Oil. Since then, I have been reaching out to government and non-government officials, both state and central, political leaders, and the State Human Rights Commission. I have detailed the harrowing exploitation by Kajal Sarkar for the past two decades in numerous emails, sending multiple reminders to each officer. Regrettably, no one has exhibited the courage to investigate the atrocities committed against me.

In August 2022, I submitted my first request via email to the Siliguri Police Commissionerate to register an FIR regarding Kajal Sarkar's exploitation. Given the exceptional nature of this case, where an unauthorized individual has looted a

disabled person and amassed over Rs. 500 crores in black money for twenty years, I have sent several reminders to the DG Police, Kolkata.

I shared my ordeal with the police administrations through the following two email addresses:

- a. exploitationinsiliguri01@gmail.com
- b. exploitationinsiliguri@gmail.com

Please provide the following information regarding the action taken against Kajal Sarkar by the police administration on the FIR filed by me:

1. Certified copy of the actions taken on my multiple requests through email to the police administration to register an FIR against Kajal Sarkar.
2. As the reply from the PIO and the FAA is unsatisfactory, a second appeal should be preferred against the CPIO under Section 19(3) of Right to Information Act. The copy of the RTI application and first appeal have been annexed herewith as Annexure 1 and Annexure 2.

Grounds for Prayer or Relief:

1. As the reply from the PIO/FAA is unsatisfactory, a second appeal should be preferred against the CPIO under Section 19(3) of Right to Information Act. The copy of the RTI application and first appeal have been annexed herewith as Annexure 1 and Annexure 2.
2. The failure of the concerned public authorities to adequately and properly respond to the application is a violation of Section 5(3), 5(4) and 5(5) which mandates that the PIO is to make all efforts to ensure that the requested information is properly furnished to the applicant.
3. The failure of the authorities to give a proper response to the applicant amounts to refusal to respond to the application, is also a violation of Section 7(1) of the RTI Act which obliges the PIO to provide access to information to a citizen unless furnishing of such information is covered by one of the exemptions provided under Section 8 or Section 9 of the RTI Act.
4. The PIO has just replied that the Information is not available in this office.

Merely replying that the information is not available will not absolve the PIO of its responsibility to ensure that the desired information forming part of public records ought to be provided to the applicant. If the PIO is not the concerned authority to reply to the RTI application, he/ she should have transferred the same to the appropriate PIO/ Public Authority within 5 days as prescribed under Section 6(3) of the RTI Act. By not doing so, the PIO has failed to discharge his/ her duties and obligations under the law.

5. Once the applicant makes an application, it is the duty of the concerned authority to make all efforts to facilitate the provision of information requested which includes transferring the application u/s 6(3) to the concerned department. The act of the PIO to respond that the information is not available with the department highlights the casual approach being adopted while dealing with the application.

6. The incomplete response of the PIO highlights that the manner in which the said RTI application has been dealt with is not in consonance with the provisions and the purpose for which the RTI Act was enacted and fails the mandate of good governance. Under Section 5(3) of the RTI Act, it is incumbent on every PIO to render reasonable assistance to all persons seeking information. To this end, the PIO has failed in his duties to assist the applicant in obtaining the information available with the Authority in whatever manner it is held.

7. The denial of information by the PIO is in violation of the provisions of the RTI Act, tantamounting to deemed refusal in terms of Section 7(1) of the RTI Act which makes the PIO liable for penal action under Section 20(1) of the RTI Act. The PIO has clearly failed to discharge its duties and obligations in the letter and spirit of the Act.

8. The concerned public authorities have ignored the definition of information under Section 2(f) of RTI Act which clearly states that information includes any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data, material held in any electronic form by a public authority, including information relating to any private body which can be accessed by a public authority under any other law for the time being in force. The information requested for by the applicant clearly falls within the category of Section 2(f) as it forms part of the documents and records maintained by the public authority.

9. The information sought by the applicant in the RTI Application is very much a part of the information maintained by the concerned public authority falling under the definition of section 2(f) of the RTI Act and the PIO and FAA have no reasons whatsoever, of refusing to provide the information. In fact, the way in which the application has been dealt with highlights the negligent and apathetic manner and attitude.

10. The PIO has failed to discharge its duties and obligations and has adopted an arbitrary and lackadaisical approach towards dealing with the concerned RTI application. The PIO has also further failed to inform the applicant as to why this information has not been disclosed to the applicant and its reasons thereof. Section 4(1) (d) of the RTI Act clearly lays down that every public authority shall have to disclose the reasons for its decisions to the affected persons.

11. In the present case the FAA has replied that no such information is available on record. It is the duty and obligation of the Appellate Authority, being a higher authority in the hierarchy, to make all possible efforts and take all appropriate steps to ensure that the application is addressed in a proper manner.

12. It is evident from the conduct of the public authority that it has failed to perform its duties and obligations under the RTI Act and failed to provide a response to the RTI Application. The PIO as well as the FAA have failed to provide a reply to the applicant amounting to a no response from the authorities.

13. Various orders have been passed by the Hon'ble Central Information Commission to the effect that a no response from the PIO and the FAA calls for strict action against the concerned officer along with directions to be issued for the disclosure of the information sought at the earliest.

14. As the application of the applicant/appellant has not been handled properly and even the first appeal has not been disposed off accordingly, the concerned PIO is liable to face penal action. The applicant has suffered detriment, mental agony and harassment for not receiving timely and complete information and deserves to be compensated u/s 19(8)(b) of the RTI Act.

15. In the judgment of MINISTRY OF RAILWAYS vs. GIRISH MITTAL, W.P.(C) 6088/2014 & CM Nos.14799/2014, 14800/2014 & 14801/2014, the following has been laid down:

"Plainly, Section 18 of the Act enjoins the CIC to inter alia inquire into a

complaint from any person who has been refused access to any information requested under the Act. In view of the unambiguous language of the provisions of the Act, the contention that CIC lacks the jurisdiction to impose a penalty on a complaint is *ex facie* without merit. The plain language of Section 20(1) of the Act indicates that it is not necessary that the penalty be imposed by the CIC only while considering an appeal; penalty can also be imposed by the CIC if on inquiry made pursuant to a complaint, it is found that a CPIO has not furnished the information in time or has knowingly given incorrect or incomplete information. Therefore, in my view, the jurisdiction exercised by CIC cannot be faulted."

The judgment lays down the provisions regarding imposing of penalties against the PIO who err in their obligations and duties. Under Section 20 of the RTI Act, keeping in mind the lackadaisical approach adopted by the authorities in dealing with the RTI Application, the PIO is liable for penal action.

Prayers or Relief Sought:

I appeal to you to kindly direct the concerned PIO to provide the correct and relevant information to the undersigned at the earliest, that is complete in all respects. I also humbly appeal to the Hon'ble Commission to levy penal/punitive action against the concerned officer for failing to provide a timely response and compensating the undersigned/appellant for the detriment caused for the reasons mentioned in the appeal above. The Hon'ble Commission may also pass any other or further orders in the interest of justice.

Verification:

I, Jiwalal Sharma hereby state that the information and particulars given above are true to the best of my knowledge and belief. I also declare that this matter is not previously filed with this commission nor is pending with any Court or tribunal or authority

Yours sincerely

Jiwalal Sharma

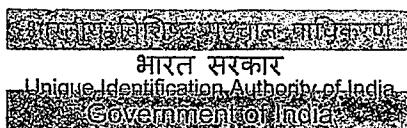
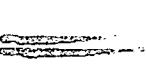
Jiwalall Sharma

Enclosures:

Annexure 1 - Copy of the original RTI Application.

Annexure 2 - Copy of the original First Appeal Application.

Copy To,
The Public Information Officer
The Public Information Officer,
Siliguri Police Commissionerate.
Siliguri,
West Bengal,
PIN- 734 001



प्रमाण पत्र / Enrollment No. : 1215/90802/00677

To
Jiwalal Sharma
जीवलल शर्मा
B.R.I. COLONY
BEHIND POST OFFICE
SILIGURI JUNCTION
SILIGURI (M. Corp.)
Pradhan Nagar, Darjeeling
West Bengal - 734003
9334106643

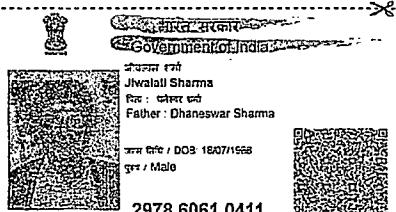
25/05/2016



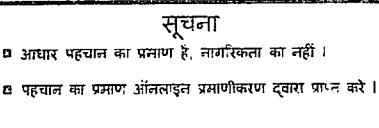
आपका आधार क्रमांक / Your Aadhaar No. :

2978 6061 0411

आधार - आम आदमी का अधिकार



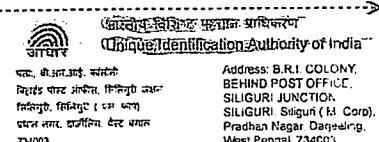
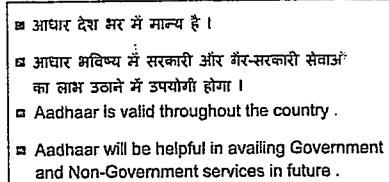
आधार - आम आदमी का अधिकार



■ आधार पहचान का प्रमाण है, नागरिकता का नहीं।
■ पहचान का प्रमाण ऑनलाइन प्रमाणीकरण द्वारा प्राप्त करे।

INFORMATION

■ Aadhaar is proof of identity, not of citizenship.
■ To establish identity, authenticate online.



Address: B.R.I. COLONY,
BEHIND POST OFFICE,
SILIGURI JUNCTION,
SILIGURI (M. Corp.),
Pradhan Nagar, Darjeeling,
West Bengal, 734003

2978 6061 0411

1800 202 1947 <http://aadaar.gov.in> [www.uidai.gov.in](http://uidai.gov.in)

Jiwalal Sharma

The Right to Information Act, 2005

First Appeal for State Government

I.D No _____ Date:_____ [For office use]

To,

The First Appellate Authority under RTI Act

Siliguri Police Commissionerate.
Siliguri,
West Bengal,
PIN- 734 001

Sir,

As I am aggrieved by decision of State Public Information Officer, I hereby file this appeal for your kind decision.

1. Details of appellant

1.1 Full Name: Jiwalall Sharma

1.2 Full Address:

B. R. I. COLONY,
Near Rly. Power House,
Post: Pradhan Nagar,
Siliguri
Pincode: 734003

1.3 Phone/Cell No: 8016002381

1.4 Email ID: exploitationinsiliguri01@gmail.com

2. Details of State Public Information Officer (SPIO)

2.1 Name/Designation: Public Information Officer

2.2 Full Address:

The Public Information Officer,
Siliguri Police Commissionerate.
Siliguri,
West Bengal,
PIN- 734 001

3. Details of RTI application to SPIO

Date of Application: Saturday, December 23rd 2023

Mailed on : 23/12/2023 by Registered Post No.: ED504525360IN

Date of receipt by SPIO: 28/12/2023

4. Particulars of payment of filing fee:

Paid Rs.10/- by bank draft/pay slip/IPO No: By Court Fee Stamp

5. Details of information sought:

BACKGROUND:

I am Jiwalall Sharma, son of Dhaneshwar Sharma, residing in B. R. I. Colony, Near Rly. Power House, Pradhan Nagar, Siliguri, Pin Code: 734003.

I am a 100% disabled individual. In 2003, I was granted a license by Indian Oil and the West Bengal Government to distribute PDS kerosene oil to Bijanbari in the Pul Bazar Police Station area of Darjeeling. Due to the absence of my own tanker truck, I opted to rent one until I could acquire my own. I chose a tanker operator named Kajal Sarkar for this purpose in 2003.

Unfortunately, my decision to engage Kajal Sarkar for tanker hire in 2003

turned out to be a grave mistake. Kajal, through threats and intimidation, continued to exploit my business until December 2022.

The kerosene oil business is susceptible to black market activities, and Kajal Sarkar, over the last two decades, has amassed illicit wealth exceeding Rs 500 crore. Despite having a license from Indian Oil, I find myself in abject poverty, contemplating nothing but suicide.

In December 2022, I was compelled to surrender my license to Indian Oil. Since then, I have been reaching out to government and non-government officials, both state and central, political leaders, and the State Human Rights Commission. I have detailed the harrowing exploitation by Kajal Sarkar for the past two decades in numerous emails, sending multiple reminders to each officer. Regrettably, no one has exhibited the courage to investigate the atrocities committed against me.

In August 2022, I submitted my first request via email to the Siliguri Police Commissionerate to register an FIR regarding Kajal Sarkar's exploitation. Given the exceptional nature of this case, where an unauthorized individual has looted a disabled person and amassed over Rs. 500 crores in black money for twenty years, I have sent several reminders to the DG Police, Kolkata.

I shared my ordeal with the police administrations through the following two email addresses:

- a. exploitationinsiliguri01@gmail.com
- b. exploitationinsiliguri@gmail.com

Please provide the following information regarding the action taken against Kajal Sarkar by the police administration on the FIR filed by me:

1. Certified copy of the actions taken on my multiple requests through email to the police administration to register an FIR against Kajal Sarkar.
- 2) If an FIR has been registered against Kajal Sarkar, what is the FIR number, date of FIR and what is the current status of the case diary?
- 3) If for any reason the FIR has not yet been filed against Kajal Sarkar based on my application, please specify the reasons.

6. Particulars of Decision of SPIO:

The PIO has replied that no such recorded information is available in this matter.

7. Brief facts of the case:

Certified copy of the actions taken on my multiple requests through email to the police administration to register an FIR against Kajal Sarkar.

The copy of the RTI application has been attached herewith as Annexure 1.

8. Reasons/grounds for this appeal:

1. As the response from the PIO regarding the information as requested in the RTI application is unsatisfactory and amounts to denial of information, an appeal is preferred against the order of the concerned Public Information Officer under the section 19(1) of the Right to Information Act, 2005.
2. It is clear from the response of the PIO that it is indeed the relevant and concerned public authority which is best equipped to deal and answer the queries of the RTI Applicant.
3. Under the RTI Act, 2005, a PIO is obliged to provide access to information to a citizen unless as stipulated by Section 7(1), furnishing of such information is covered by one of the exemptions provided under Section 8 or Section 9 of the RTI Act. The PIO has failed to discharge its duties and obligations by refusing to provide the information and failing to state the reasons for doing so under the law.
4. The PIO has just replied that the Information is not available in this office. Merely replying that the information is not available will not absolve the PIO of its responsibility to ensure that the desired information forming part of public records ought to be provided to the applicant. If the PIO is not the concerned authority to reply to the RTI application, he/ she should have transferred the same to the appropriate PIO/ Public Authority within 5 days as prescribed under Section 6(3) of the RTI Act. By not doing so, the PIO has failed to discharge his/ her duties and obligations under the law.

5. Once the applicant makes an application, it is the duty of the concerned authority to make all efforts to facilitate the provision of information requested which includes transferring the application u/s 6(3) to the concerned department. The act of the PIO to respond that the information is not available with the department highlights the casual approach being adopted while dealing with the application.
6. The incomplete response of the PIO highlights that the manner in which the said RTI application has been dealt with is not in consonance with the provisions and the purpose for which the RTI Act was enacted and fails the mandate of good governance. Under Section 5(3) of the RTI Act, it is incumbent on every PIO to render reasonable assistance to all persons seeking information. To this end, the PIO has failed in his duties to assist the applicant in obtaining the information available with the Authority in whatever manner it is held.
7. The meaning of information under Section 2(f) of RTI Act clearly states that it includes any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. The information requested for by the applicant clearly falls under the category of Section 2(f) of RTI Act. Thus according to the meaning provided under the RTI Act, it is obligatory upon the PIO to disclose the entire set of information requested for by the applicant.
8. The PIO has failed to discharge its duties and obligations and has adopted an arbitrary and lackadaisical approach towards dealing with the concerned RTI application. The PIO has also further failed to inform the applicant as to why this information has not been disclosed to the applicant and its reasons thereof. Section 4(1) (d) of the RTI Act clearly lays down that every public authority shall have to disclose the reasons for its decisions to the affected persons.

9 Any other information in support of appeal:

No

10 Prayer/relief sought for:

Kindly direct the PIO concerned to provide the requested information to the undersigned at the earliest or provide legal reasons for denial of information if it intends to reject the application.

11. Personal Presence at hearing: NO

12. Enclosures:

Photocopies of original RTI application with its enclosures, postal proof of mailing

13. Declaration:

I hereby state that the information and particulars given above are true to the best of my knowledge and belief. I also declare that this matter is not previously filed with any information commission nor is pending with any Court or tribunal or authority.

Signature of appellant



Wednesday, February 14th 2024

The Right to Information Act 2005
Application for obtaining information

From

Jiwalall Sharma
B. R. I. COLONY,
Near Rly. Power House,
Post: Pradhan Nagar,
Siliguri
Pincode: 734003

To

The Public Information Officer
The Public Information Officer,
Siliguri Police Commissionerate.
Siliguri,
West Bengal,
PIN- 734 001

SUB : The actions taken on my multiple requests through email to the police administration to register an FIR against Kajal Sarkar.

Dear Public Information Officer:

Under the Right to Information Act 2005,Section 6, I need some information. The details of the information are as follows

1. Details of the applicant

Name: Jiwalall Sharma
Email: exploitationinsiliguri01@gmail.com
Address: B. R. I. COLONY, Near Rly. Power House, Post: Pradhan Nagar, Siliguri
Pincode: 734003
Phone: 8016002381

2. Period to which the information relates: 2022-2023

3. Details of Information

BACKGROUND:

I am Jiwalall Sharma, son of Dhaneshwar Sharma, residing in B. R. I. Colony, Near Rly. Power House, Pradhan Nagar, Siliguri, Pin Code: 734003.

I am a 100% disabled individual. In 2003, I was granted a license by Indian Oil and the West Bengal Government to distribute PDS kerosene oil to Bijanbari in the Pul Bazar Police Station area of Darjeeling. Due to the absence of my own tanker truck, I opted to rent one until I could acquire my own. I chose a tanker operator named Kajal Sarkar for this purpose in 2003.

Unfortunately, my decision to engage Kajal Sarkar for tanker hire in 2003 turned out to be a grave mistake. Kajal, through threats and intimidation, continued to exploit my business until December 2022.

The kerosene oil business is susceptible to black market activities, and Kajal Sarkar, over the last two decades, has amassed illicit wealth exceeding Rs 500 crore. Despite having a license from Indian Oil, I find myself in abject poverty, contemplating nothing but suicide.

In December 2022, I was compelled to surrender my license to Indian Oil. Since then, I have been reaching out to government and non-government officials, both state and central, political leaders, and the State Human Rights Commission. I have detailed the harrowing exploitation by Kajal Sarkar for the past two decades in numerous emails, sending multiple reminders to each officer. Regrettably, no one has exhibited the courage to investigate the atrocities committed against me.

In August 2022, I submitted my first request via email to the Siliguri Police Commissionerate to register an FIR regarding Kajal Sarkar's exploitation. Given the exceptional nature of this case, where an unauthorized individual has looted a disabled person and amassed over Rs. 500 crores in black money for twenty years, I have sent several reminders to the DG Police, Kolkata.

I shared my ordeal with the police administrations through the following two email addresses:

- a. exploitationinsiliguri01@gmail.com
- b. exploitationinsiliguri@gmail.com

Please provide the following information regarding the action taken against Kajal Sarkar by the police administration on the FIR filed by me:

1. Certified copy of the actions taken on my multiple requests through email to the police administration to register an FIR against Kajal Sarkar.
- 2) If an FIR has been registered against Kajal Sarkar, what is the FIR number, date of FIR and what is the current status of the case diary?
- 3) If for any reason the FIR has not yet been filed against Kajal Sarkar based on my application, please specify the reasons.

4. Application fee details

Encl. Application Fee of Rs 10/- By Court Fee Stamp

5. Below Items are for your kind information and consideration

- a. As per section 6(3) of the RTI Act 2005, In case, the requested information is held by another public authority,I request the PIO to transfer the application or part of it within FIVE days and immediately inform me about such transfer.
- b. As per section 7(3) of the RTI Act 2005, In case, there are further fee required to provide the requested information, I request the PIO to inform me of the additional fee amount along with the calculations made to arrive at the amount.
- c. As per section 7(8)(iii) and 7(3)(ii) of the RTI Act 2005, I request the PIO to inform me of the particulars of First Appellate Authority.

6. Declaration

I declare that I am a citizen of India.

Yours faithfully,

Jivdhan Sharma

Friday, December 22nd 2023



Govt. of West Bengal
Office of the Commissioner of Police
Siliguri Police Commissionerate

Memo No. 29/POL/RTI/Ccl/SPC

Dated 16/01/2024

FROM : The Deputy Commissioner of Police (HQ)
& SPIO, Siliguri Police Commissionerate

Mr. Jayalalit Sharma
S/O Dhanshuwar Sharma
B.R.I. Colony
Near Rly. Power House
Pradhan Nagar
Siliguri-734003

RE: RTI application dated 23/12/2023 regarding information on an action taken against one Kajal Sarkar relating to FIR filed by him.

SUBJECT: Information sought for under RTI Act, 2005

With reference to the above, no such recorded information is available in this matter.

Deputy Commissioner of Police (HQ),
& SPIO, Siliguri Police Commissionerate

Dy. Commissioner of Police (HQ)
& State Public Information Officer
Siliguri Metropolitan Police



Govt. of West Bengal
Office of the Commissioner of Police,
Siliguri Police Commissionerate.

Memo No. 140 /RTI Cell/SPC

Dated. 19 /03/2024

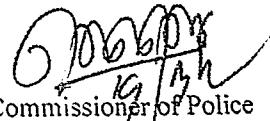
From : The Commissioner of Police
(First Appellate Authority)
Siliguri Police Commissionerate

To : Mr.Jiwalall Sharma
B.R.I. Colony
Near Rly. Power House
P.O.-Pradhannagar
Siliguri-734003

Ref : First appeal dated 14.02.2024 relating to this office earlier Memo No.29/RTI Cell/SPC
dt.16.01.2024.

Sub : Information on action taken against one Kajal Sarkar relating to FIR filed by the appellant.

With reference to the above, no such information is available on record. Apart from that the
appellant may submit specific complaint in details to the concerned Police Station in this regard.


Commissioner of Police
(First Appellate Authority)
Siliguri Police Commissionerate
COMMISSIONER OF POLICE
SILIGURI POLICE COMMISSIONERATE

HEARING ON 28-01-2026**State Chief Information Commissioner West Bengal < scic-wb@nic.in >**

Tue, 30 Dec 2025 3:33:17 PM +0530

To "sdo siliguri"<sdo.siliguri@gmail.com>

Cc "exploitationinsiliguri01"<exploitationinsiliguri01@gmail.com>

Please find the attachment, for further details visit our website

West Bengal Information Commission

1 Attachment(s)

WBIC-RTI-A-100511-1399-202...

15.9 KB