

100877/(A)
08/08/2024

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: 25/07/2024

Name and Address of the appellant:

Shankar Sadhukhan
C/O Dulal Sadhukhan
Akra Krishna Nagar (Kolu Para),
Maheshtala,
Kolkata 700140

Name and Address of the CPIO:

Addl. District Magistrate (LR),
Office of the District Magistrate &
Collector, South 24 Parganas,
Administrative Building,
Kolkata - 700027

Date of submission of RTI request: 05/04/2024

Date of RTI reply: NA

Name and Address of the FAA:

Office of the District magistrate,
New Administrative Building,
Alipore South 24-Parganas
Kolkata - 700 027

Date of submission of FA request: 26/05/2024

Date of FA reply: NA



Brief facts of the case:

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

Information Regarding - Mutation update procedure

2. However, there was no response from the concerned Public Information Officer (PIO) of the Public Authority to the RTI Application within the mandatory period of 30 days from the date of receipt of the application.

3. The Applicant, then proceeded to file a First Appeal u/s 19 of the Right to Information Act against the no-response of the PIO to the application. RTI was transferred to SPIO office of District Land & Land Reform officer.

4. However, there was no response from the concerned First Appellate Authority (FAA) of the Public Authority to the First Appeal and as well as no response from SPIO office of District Land & Land Reform officer

Grounds for Prayer or Relief:

1. As there is no reply from the PIO within 30 days from the date of the RTI Application and also no reply from the First Appellate Authority within 30 days from the date of the First Appeal, a second appeal is being filed under section 19(3) of the Right to Information Act within the mandatory time period of 90 days. The copy of the RTI application and first appeal have been annexed herewith as Annexure 1 and Annexure 2.

The applicant has not been provided with any response/reply from the concerned PIO. The present appeal is a case of No Response to the RTI. The applicant has not been provided with any response/reply from the concerned FAA. The present appeal is a case of No Response to the First Appeal. As there has been no response from the concerned PIO and FAA, the question of the acknowledgment copy/proof does not arise as the applicant has not been provided with one by the concerned authorities. The applicant has duly filed the RTI application through speed post having India Post tracking number ED649494197IN and First Appeal through speed post having India Post tracking number ED668812763IN.

2. The failure of the PIO as well as the FAA to respond to the application within

the specific time frames as provided under the Act 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 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.

4. 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, their failure to even reply to the application highlights the fact that the application has been dealt with in a negligent and apathetic manner.

5. 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.

6. In the CIC decision of F.No.CIC/SS/A/2014/000013-Y and F.No.CIC/YA/A/2014/000349 in the case of Shri M. Ramanathan versus Social Welfare Dept. dated 27.01.2015, it was directed to the concerned department to disclose the information to the applicant as there was no reply from the PIO and also no order was passed by the First Appellate Authority. The following observations had been made in the aforementioned CIC decision:

"In file nos. CIC/SS/A/2014/000013-YA and CIC/YA/A/2014/000349, the PIO/ Director, O/o Directorate of Social Welfare, Puducherry is directed to furnish information to the appellant in response to his RTI applications dated 30.07.2013 & 13.09.2013, within three weeks of receipt of this order, under intimation to the Commission. The information shall be provided as is available on record and as per the provisions of the RTI Act. Secretary to Government (Welfare – Social Welfare), Puducherry is directed to take note that the PIO and the FAA have not dealt with the above RTI applications at all. This is for information and necessary action as deemed fit. Show cause notice is issued to the present PIO/Director, O/o Directorate of Social Welfare, Puducherry for not providing information to the appellant within prescribed time. He is further directed to send a copy of this

order to the erstwhile PIO/Director, O/o Directorate of Social Welfare, Puducherry, who did not provide information to the appellant within prescribed time in response to the RTI applications.”

7. In the matter titled Pankaj Bansal vs CPIO, Railway Board bearing no.CIC/CC/A/2016/000546-AB, the Central Information Commission has observed that:

“On perusal of the case record, it was seen that there is no reply from the public authority concerned. The cryptic remarks of the CPIO “that the matter referred to ESO/CRB” has no meaning under the provisions of the RTI Act. There is no proof that the said RTI application was transferred u/s 6(3) of the RTI Act. In the absence of such documentary evidence, it was concluded that it is a straight case of non-compliance of the RTI Act on the part of the CPIO concerned. The Commission notes that the appellant’s RTI applications had not been handled properly and even the first appeal had not been disposed of due to which he had not received complete and timely information. For the detriment caused he deserves to be compensated, therefore in exercise of the powers vested in the Commission under section 19(8) (b) of the RTI Act, the Commission directs the department to compensate the appellant by an amount of Rs.5000/- for the inconvenience and detriment caused to him.”

In the above mentioned order passed by the CIC on 22.05.2017, it has been clearly observed that in cases where no response has been provided by the PIO and FAA, it is an act of gross negligence on the part of the concerned officers towards the implementation of the RTI Act.

8. Furthermore, in terms of the above mentioned order, in the present case, the PIO is liable to provide the information sought by the applicant/appellant, free of cost and complete in all respects.

9. 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.

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, Shankar Sadhukhan 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



Shankar Sadhukhan

Enclosures:

Annexure 1 - Copy of the original RTI Application.

Annexure 2 - Copy of the original First Appeal Application.

**Copy To,
The Public Information Officer
Addl. District Magistrate (LR),
Office of the District Magistrate &
Collector, South 24 Parganas,
Administrative Building,
Kolkata - 700027**

1239272

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

Office of the District magistrate,
New Administrative Building ,
Alipore South 24-Parganas
Kolkata - 700 027

Sir,

As I am aggrieved by no decision of State Public Information Officer, I hereby file this appeal for your kind decision.

1. Details of appellant

1.1 Full Name: Shankar Sadhukhan

1.2 Full Address:

C/O Dulal Sadhukhan
Akra Krishna Nagar (Kolu Para),
Maheshtala,
Kolkata 700140

1.3 Phone/Cell No: 8442922399

1.4 Email ID: satyajit9830@gmail.com

2. Details of State Public Information Officer (SPIO)

2.1 Name/Designation: Public Information Officer

2.2 Full Address:

Addl.District Magistrate (LR),
Office of the District Magistrate &
Collector, South 24 Parganas,
Administrative Building,
Kolkata - 700027

3. Details of RTI application to SPIO

Date of Application: Friday, April 5th 2024

Mailed on : 05/04/2024 by Registered Post No.: ED649494197IN

Date of receipt by SPIO: 10/04/2024

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:

My name is Shankar Sadhukhan, and I am writing to seek guidance and information regarding the mutation process for a property located at Akra Krishna Nagar, Maheshtala, South 24 Paraganas, West Bengal, with Plot Number: 712 and Khatiyon Number: 3583. The property was purchased by our four brothers, namely

- 1) Sital Sadhukhan (Unfortunately, we do not possess the death certificate for Sital Sadhukhan, who passed away 25 years ago.),
- 2) Dulal Sadhukhan,
- 3) Vola Nath Sadhukhan, and
- 4) Shankar Sadhukhan,

through a registered deed dated 5/2/1982.

We recently became aware that the property's mutation has not been updated in our favor. Additionally, we discovered that the property mutation record has been transferred to the son of the previous owner, Devendra Nath Sadhukhan, named Mathur Sadhukhan. It's important to note that both Devendra Nath Sadhukhan and Mathur Sadhukhan are deceased.

In the light of the above mentioned background, please provide the following information U/s 2(f), 2(j) and 6(1) of RTI Act, 2005:

1. The correct procedure and documentation required for the mutation of the property in favor of our three brothers (excluding Sital Sadhukhan), taking into account the demise of the previous owner and his son.

2. Any specific forms or applications that need to be submitted for initiating the mutation process.

3. Any additional documents or information required from our end to facilitate the mutation process, particularly in light of Sital Sadhukhan's demise for which we do not possess a death certificate.

4. Any other relevant information or guidance regarding the mutation process that may assist us in resolving this matter efficiently.

6. Particulars of Decision of SPIO:

No response received.

7. Brief facts of the case:

The applicant filed the RTI application for Information Regarding - Mutation update procedure but till date there has been no response from the PIO. Hence, the applicant is filing this First Appeal.

8. Reasons/grounds for this appeal:

1. As there was no reply from the Public Information Officer, to the RTI application dated 05/04/2024 within 30 days, an appeal is preferred before the First Appellate Authority under the Section 19 (1) of the Right to Information Act, 2005.
2. 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.
3. The PIO has failed to discharge its duties and obligations and has adopted a lackadaisical approach towards dealing with the RTI application by not responding within 30 days of the application.
4. The PIO has 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.
5. It is obligatory upon the PIO to disclose the information as requested by the applicant. The request of the applicant squarely falls within the definition of right to information under Section 2 (j) of RTI Act read with Section 2 (f) and 2 (i) relating to the definition of information and record. The applicant in his RTI application has clearly enumerated the information which he desires and there is no ground whatsoever for the PIO to not to provide him the complete information.

9 Any other information in support of appeal:

NA

10 Prayer/relief sought for:

The PIO may be directed to furnish information requested in the RTI application as available in the files/records and made available to the applicant.

This First Appeal is accompanied by an application for condonation of delay in filing the First Appeal within the stipulated time as prescribed in Section 19 (1) of the RTI Act, 2005 at Annexure 2.

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



Thursday, May 23rd 2024

The Right to Information Act 2005
Application for obtaining information

From

Shankar Sadhukhan
C/O Dulal Sadhukhan
Akra Krishna Nagar (Kolu Para),
Maheshtala,
Kolkata 700140

To

The Public Information Officer
Addl. District Magistrate (LR),
Office of the District Magistrate &
Collector, South 24 Parganas,
Administrative Building,
Kolkata - 700027

SUB : Information Regarding - Mutation update procedure

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: Shankar Sadhukhan
Email: satyajit9830@gmail.com
Address: C/O Dulal Sadhukhan Akra Krishna Nagar (Kolu Para), Maheshtala,
Kolkata 700140
Phone: 8442922399

2. Period to which the information relates: latest

3. Details of Information

BACKGROUND:

My name is Shankar Sadhukhan, and I am writing to seek guidance and information regarding the mutation process for a property located at Akra Krishna Nagar, Maheshtala, South 24 Paraganas, West Bengal, with Plot Number: 712 and Khatiyon Number: 3583. The property was purchased by our four brothers, namely

- 1) Sital Sadhukhan (Unfortunately, we do not possess the death certificate for Sital Sadhukhan, who passed away 25 years ago.),
- 2) Dulal Sadhukhan,
- 3) Vola Nath Sadhukhan, and
- 4) Shankar Sadhukhan,

through a registered deed dated 5/2/1982.

We recently became aware that the property's mutation has not been updated in our favor. Additionally, we discovered that the property mutation record has been transferred to the son of the previous owner, Devendra Nath Sadhukhan, named Mathur Sadhukhan. It's important to note that both Devendra Nath Sadhukhan and Mathur Sadhukhan are deceased.

In the light of the above mentioned background, please provide the following information U/s 2(f), 2(j) and 6(1) of RTI Act, 2005:

1. The correct procedure and documentation required for the mutation of the property in favor of our three brothers (excluding Sital Sadhukhan), taking into account the demise of the previous owner and his son.
2. Any specific forms or applications that need to be submitted for initiating the mutation process.
3. Any additional documents or information required from our end to facilitate the mutation process, particularly in light of Sital Sadhukhan's demise for which we do not possess a death certificate.
4. Any other relevant information or guidance regarding the mutation process

that may assist us in resolving this matter efficiently.

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,

Shankar

Thursday, April 4th 2024



Death Certificate

11/07/2012

Form - 6 (Rule 3 of the West Bengal rules 2000) of the Government of West Bengal, Department of Health & Family Welfare, West Bengal, India. (Municipality) Name of the Organization: West Bengal Municipal Corporation, West Bengal, India.



No. 20020125/104/2012

This is to certify that the person's information has been given from the original record of death which has been submitted to the Registrar of Births and Deaths, West Bengal, India.

Name of the deceased: MANJURE CHANDRA SARDHUKHAR... Date of Birth: 23/07/2012... Sex: Male... Cause of death: ...



Signature of the Registrar of Births and Deaths... Date: 26/07/2012

Signature of issuing authority with date, address & seal... Health Officer, West Bengal Municipal Corporation

Handwritten text at the top of the page, possibly a header or title, including the name 'S. R. Sankar'.

Main body of handwritten text in Odia script, consisting of several paragraphs of prose.

Handwritten text at the bottom left, possibly a date or location.

Handwritten signature and name 'S. R. Sankar' at the bottom right.

