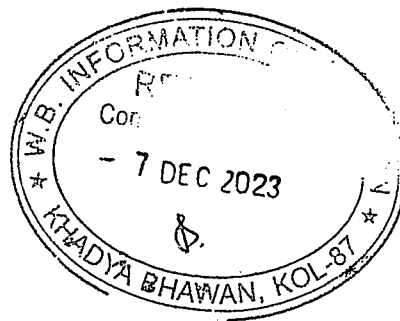


4559/(A)  
07/12/2023



**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: 29/11/2023**

**Name and Address of the appellant:**

Mostafa jahangir Alam  
vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146

**Name and Address of the CPIO:**

District Panchayat and Rural Development Officer,  
Cooch Behar

**Date of submission of RTI request: 22/07/2022**

**Date of RTI reply: 31st August, 2022**

**Name and Address of the FAA:**

District Magistrate,  
Coochbehar,  
Cooch Behar,  
West Bengal 736101

**Date of submission of FA request: 27/09/2023**

**Date of FA reply: No response received**

**Brief facts of the case:**

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

grounds:

Please provide the following information under section 2(f) and 2(j) of the RTI act:

1) A certified list of the candidates along with their qualifications, academic score, marks obtained in written and viva voce who were selected to the post of Gram Panchayat Office Executive Assistant, along with the dating list candidates.

Publication of Final Result of recruitment of PRI Bodies in G.P. and P.S., Dated: 13/12/17 (vide Employment Notification No.: PRD/918/X-1, Dated: 16/12/2016 and No.: PRD/1328/X-1, Dated: 05/12/2013)

2. However, there was an unsatisfactory response from the concerned PIO to the RTI Application.

3. The applicant then proceeded to file a First Appeal against the unsatisfactory response of the PIO.

4. However, there was no response from the concerned First Appellate Authority to the first appeal filed by the applicant.

5. Hence a Second Appeal is being filed against the unsatisfactory response of the PIO and the no response of the FAA.

### **Grounds for Prayer or Relief:**

1. As there is an unsatisfactory reply from the PIO and no reply by 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.

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 PIO has replied that the information sought by the applicant is related to third

parties. The concerned parties have already been communicated as required by

Section 11 of the RTI act. Therefore, necessary action will be taken by the authority in due course of time.

4. 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.

5. 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.

6. 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.

7. In *Kewal Singh Gautam v. State of Chhattisgarh*, AIR 2011 Chh 143, Chhattisgarh High Court held that conduct of examination by the departmental agency for promotion in Govt. department, are not private activities, but in public domain and the checking and evaluation of answer sheet by an examiner and the marks given by him upon assessment of performance has nothing to do with the privacy of either the examiner or those who are responsible for conducting the examination so Section 8 (1)(j) is not attracted.

8. CIC observed that the most important point was that the rejection in CBSE and UPSC cases was not based on any exception under Section 8(1) including (e) & (j).

CIC concluded that no such difficulty exists in the present case and the appellant was entitled to get copies of answer sheet of the four candidates who topped. [Shailendra Kumar Singh v. PIO, EPFO, CIC/EPFOG/A/2018/614958, decided on 08-06-2018]

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

10. In the present case, there has been no reply from the FAA. 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. However, when the FAA has not even bothered to send a reply and pass an appropriate order to the First Appeal, it highlights the fact that the application/appeal has been addressed in a casual and callous manner. There has been utmost disregard of the RTI Act and dereliction of duty on part of the concerned FAA. Not replying to the first appeal means that the FAA has no regard for the applicant and the process which results in extension of the agony of the appellant of having to wait indefinitely to have access to the information desired under the RTI Application.

11. However, there has been no response thereafter. 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.

12. 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.

13. 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.

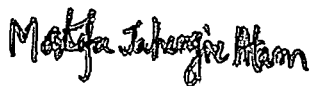
**Prayers or Relief Sought:**

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, Mostafa jahangir Alam 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



Mostafa jahangir Alam

**Enclosures:**

Annexure 1 - Copy of the original RTI Application.

Annexure 2 - Copy of the original First Appeal Application.

**Copy To,  
The Public Information Officer  
District Panchayat and Rural Development Officer,  
Cooch Behar**

উপস্থাপিত করা হল / Enrollment No. : 2900/03655/00037

To  
Mostafa Jahangir Alam  
মোস্তাফা জাহাঙ্গীর আলম  
C/O: Md. Ali Hossain Miah,  
KUSHAMARI,  
MATHABHANGA,  
VTC, Dalsuapet, PO: Kurnamari,  
District: Koch Bihar,  
State: West Bengal, PIN Code: 738148,  
Mobile: 9434442989

80279417



KF802204172FI



আপনার আধার সংখ্যা / Your Aadhaar No. :

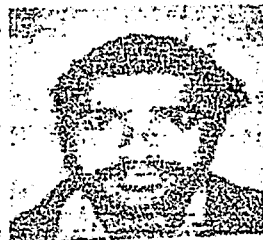
9146 0299 3355

আমার আধার, আমার পরিচয়



সংসদ সরকার  
Government of India

Issue Date: 24/01/2013



মোস্তাফা জাহাঙ্গীর আলম  
Mostafa Jahangir Alam  
সংগ্রহিত / DOB: 20/11/1978  
পুরুষ / Male

9146 0299 3355

আমার আধার, আমার পরিচয়

Self Attested  
Mostafa Jahangir  
Alam  
26/11/2023

**APPLICATION FOR CONDONATION OF DELAY UNDER SECTION 19(1) OF THE RTI ACT**

**To:**

District Magistrate,  
Coochbehar,  
Cooch Behar,  
West Bengal 736101

**Name and Address of the Appellant:**

Mostafa jahangir Alam  
vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146

**Name and address of the CPIO**

District Panchayat and Rural Development Officer,  
Cooch Behar

1. I filed an RTI application dated 22/07/2022 before the Public Information Officer
2. Being aggrieved with no response from the concerned PIO, I have preferred an appeal before the First Appellate Authority.
3. The limitation period of filing the first appeal under Section 19(1) of RTI Act expired on 21/08/2022 i.e. at the end of thirty days time period.
4. Under Section 19(1) of RTI Act, I have hereby filed this application for condoning the delay in filing of the first appeal
5. I submit that as I was busy with my work, I was not in a position to file the first appeal within the actual limitation period.
6. I submit that the delay in filing the appeal is neither intentional nor deliberate and was due to the reasons outside my control.
7. This application for condonation of delay accompanies my appeal before the



First Appellate Authority.

I hereby humbly request the First Appellate Authority to allow the aforesaid application and condone the delay and furthermore accept the first appeal filed by me.

Appellant

Mostafa jahangir Alam  
vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146

# **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

District Magistrate,  
Coochbehar,  
Cooch Behar,  
West Bengal 736101

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: Mostafa jahangir Alam

1.2 Full Address:

vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146

1.3 Phone/Cell No: 9434443989

1.4 Email ID: mjalam80@gmail.com

### **2. Details of State Public Information Officer (SPIO)**

2.1 Name/Designation: Public Information Officer

2.2 Full Address:

District Panchayat and Rural Development Officer,  
Cooch Behar

### **3. Details of RTI application to SPIO**

Date of Application: Friday, July 22nd 2022

Mailed on : 22/07/2022 by Registered Post No.: EK686210929IN

Date of receipt by SPIO: 27/07/2022

### **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:**

Please provide the following information under section 2(f) and 2(j) of the RTI act:

1) A certified list of the candidates along with their qualifications, academic score, marks obtained in written and viva voce who were selected to the post of Gram Panchayat Office Executive Assistant, along with the dating list candidates.

Publication of Final Result of recruitment of PRI Bodies in G.P. and P.S., Dated: 13/12/17 (vide Employment Notification No.: PRD/918/X-1, Dated: 16/12/2016 and No.: PRD/1328/X-1, Dated: 05/12/2013)

### **6. Particulars of Decision of SPIO:**

The PIO has replied that the information sought by the applicant is related to third parties. The concerned parties have already been communicated as required by Section 11 of the RTI act.

Therefore, necessary action will be taken by the authority in due course of time.

#### **7. Brief facts of the case:**

A certified list of the candidates along with their qualifications, academic score, marks obtained in written and viva voce who were selected to the post of Gram Panchayat Office Executive Assistant along with the dating list candidates.

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. The PIO has replied that the information sought by the applicant is related to third parties. The concerned parties have already been communicated as required by Section 11 of the RTI act.

Therefore, necessary action will be taken by the authority in due course of time.

4. 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.

5. 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.

6. 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.

7. In Kewal Singh Gautam v. State of Chhattisgarh, AIR 2011 Chh 143, Chhattisgarh High Court held that conduct of examination by the departmental agency for promotion in Govt. department, are not private activities, but in public domain and the checking and evaluation of answer sheet by an examiner and the marks given by him upon assessment of performance has nothing to do with the privacy of either the examiner or those who are responsible for conducting the examination so Section 8 (1)(j) is not attracted.

8. CIC observed that the most important point was that the rejection in CBSE and UPSC cases was not based on any exception under Section 8(1) including (e) & (j). CIC concluded that no such difficulty exists in the present case and the appellant was entitled to get copies of answer sheet of the four candidates who topped. [Shailendra Kumar Singh v. PIO, EPFO, CIC/EPFOG/A/2018/614958, decided on 08-06-2018]...

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.

## **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

A handwritten signature in black ink, appearing to read 'M. J. Alam', is written over a horizontal line.

Friday, September 29th 2023



Government of West Bengal  
OFFICE OF THE DISTRICT PANCHAYAT & RURAL DEVELOPMENT OFFICER  
COOCH BEHAR

(Panchayat & Rural Development Section)

Sagar Dighi Complex, P.O. Cooch Behar, Dist. Cooch Behar, Pin 736101, West Bengal.  
Phone: (03582)2227110# Fax: (03582)2227110# e-mail: dpdco110mr@gmail.com

Memo No. PRD/ 575

Date: 31-08-2022

To:

Mostafa Jahangir Alam  
Vill- Daluarpar & P.O - Kurshamari  
Dist- Cooch Behar  
State- West Bengal  
P.S- Mathabhanga  
Pin Code no - 736146  
Mobile No - 9434443989

Subject: Reply to your application under Right to Information Act, 2005.

With reference to your application under the RTI Act, 2005, this is to inform you that the information you sought for are related to third parties.

The concerned third parties have already been communicated as required by Section- 17 of the Act.

Therefore, necessary action will be taken by the authority in due course of time.

State Public Information Officer  
&  
Office of DP&RDO, Cooch Behar

**The Right to Information Act 2005**  
**Application for obtaining information**

**From**

Mostafa jahangir Alam  
vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146

**To**

The Public Information Officer  
District Magistrate,  
Coochbehar,  
Cooch Behar,  
West Bengal 736101

**SUB : A certified list of the candidates along with their qualifications,academic score, marks obtained in written and viva vioce who were selected to the post of Gram Panchayat Office Executive Assistant along with waiting list candidates.**

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: Mostafa Jahangir Alam  
Email: mjalam80@gmail.com  
Address: vill-Daluarpar P.O-Kurshamari P.S-Mathabhanga Dist-Coochbehar  
Pincode: 736146  
Phone: 9434443989

**2. Period to which the information relates: 2017**



### 3. Details of Information

Please provide the following information under section 2(f) and 2(j) of the RTI act:

1) A certified list of the candidates along with their qualifications, academic score, marks obtained in written and viva voce who were selected to the post of Gram Panchayat Office Executive Assistant, along with the dating list candidates.

Publication of Final Result of recruitment of PRI Bodies in G.P. and P.S., Dated: 13/12/17 (vide Employment Notification No.: PRD/918/X-1, Dated: 16/12/2016 and No.: PRD/1328/X-1, Dated: 05/12/2013)

### 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,



Friday, July 22nd 2022

GOVERNMENT OF WEST BENGAL  
OFFICE OF THE DISTRICT PANCHAYAT & RURAL DEVELOPMENT OFFICER  
COCHINBHANGA

District Panchayat & Rural Development Officer  
Main District Office, P.O. Cochinbhanga, Dist. Kochi Behar, Pin-736101, West Bengal  
Phone: 033-241117-18 Fax: 033-2411188 E-mail: dprdo@cochinbhanga.gov.in

Memo No. PRD/ 575 (A)/(10)

Date: 31.03.2022


To  
1. Mr. Masudul Karim, 2. Kunal Kar, 3. Anir Chakrabarty, 4. Krishasuda Das, 5. Ananta  
Kishore Choudhury, 6. Goutam Sarkar, 7. Ananda Singh Roy, 8. Anupam Das, 9. Dilip Kumar Ray,  
10. Sanjay Kumar, 11. Pradyumn Tewari, 12. Ayanul Haque, 13. Arind Ghosh, 14. Rajat Subhan Paul,  
15. Anir Roy, 16. Anir Paul, 17. Anir Sahajan, 18. Sojit Das, 19. Jolfini Ali Ahamed

Subject: Seeking information under Right to Information Act, 2005

This is to inform that one application under RTI Act, 2005 has been received by this Office on 05.04.2022 from Mustafa Jahangir Alam, Vill- Daburpar, P.O. Kurshamari, P.S. Mathabhanga, District- Cochin Behar, 736146.

The information sought by the applicant is list of the candidates along with their qualification, academic marks, marks obtained in written and viva voce of those selected to the post of Gram Panchayat Executive Assistant along with the waiting list candidates as per final result of recruitment of Panchayat Executive Assistant in G.P. and P.S. dated 13/12/17 (vide Employment Notification No. PRD/018X-1, Dated: 16/12/2016 and No. PRD/328/X-1, Dated: 05/12/2013).

Therefore, under Section 11 of the RTI Act, 2005, you are requested to make a submission in writing or orally, regarding whether the information or record should be disclosed to the applicant within the ten days of receipt of this letter.


  
State Public Information Officer  
&  
Office of DP&RDO, Cochin Behar

Memo No. PRD/ 575 (A)/(10)/(1)

Date: 31.03.2022

Copy forwarded for information to:

Mustafa Jahangir Alam, Vill- Daburpar, P.O. Kurshamari, P.S. Mathabhanga, District- Cochin Behar, 736146

  
State Public Information Officer  
&  
Office of DP&RDO, Cochin Behar