

Odisha Information Commission
Block-B-1, Toshali Bhawan,
Satyanagar,
Bhubaneswar-751007

Second Appeal No -1632/19 Decision dt- 25/02/2022

Memo No- 10589 / OIC Dt. 11.03.22

No. EO 6621/0060618

Decided
On 15/3/2022
by Speed Post
On 15/3/2022
M. K.

Copy forwarded to Gagan Bihari Rout, Plot No.484, Nayapalli, In Front of CBI Colony, Bhubaneswar, Khordha district for information.

Memo No- _____ / OIC Dt. _____

Copy forwarded to Public Information Officer, Directorate of Secondary Education, Odisha, Heads of Department Building, Bhubaneswar, Khordha district for information, necessary action and comply as directed.

Memo No- _____ / OIC Dt. _____

Copy forwarded to First Appellate Authority, Directorate of Secondary Education, Odisha, Heads of Department Building, Bhubaneswar, Khordha district for information, necessary action and comply as directed.

Memo No- _____ / OIC Dt. _____

Copy forwarded to Principal, DAV Public School, Unit-8, Bhubaneswar, Khurda district for information, necessary action and comply as directed.

Law Officer
03/03/2022

ODISHA INFORMATION COMMISSION
B H U B A N E S W A R

P R E S E N T: Shri Bikram Senapati
State Information Commissioner,
Dated the 25th February, 2022
Second Appeal No.1632/2019

Gagan Bihari Rout,
Plot No.484, Nayapalli,
In Front of CBI Colony,
Bhubaneswar,
District- Khordha.....Appellant

-Vrs-

Public Information Officer/ First Appellate Authority,
Directorate of Secondary Education, Odisha,
Heads of Department Building, Bhubaneswar,
District- Khordha.....Respondents

Decision

1. There is no physical hearing today due to COVID-19 related restrictions.
2. However, the appellant made his appearance with all Covid-19 related restrictions and filed his written submission along with documents which are taken to records.
3. The PIO-cum-Additional Director (H & S) also sent his written submission dated 17.02.2022 which is also taken to records.
4. Perused the case records.
5. From the records it is revealed that the appellant had filed Form-A application on 23.01.2019 seeking the following information:-

"1. Copies of DAV Public School, Unit-8, Bhubaneswar is registered under which Act. (If multiple registration, Please mention with evidence copies).

2. Copy of Bye-Law, Article of Association, memorandum of Association and other related documents of any, and all its amendments or alternation document copy for Registration of Society etc.
3. Copy of detail document about DAV Public School, Unit-8, Bhubaneswar, whether it is self managed/ Autonomous/ Managed by any statutory body with documentary evidence.
4. Copy of Affiliation to CBSE Tenure and latest period, and process of Renewal.
5. Copy of documents detail document, How DVA school, Unit-8 , Bhubaneswar is connect to D.A.V College Managing Committee New Delhi.
6. Copy of detail document on Rule of DAV CMC, New Delhi over this DAV Public School, Unit-, Bhubaneswar and its tenure with documentary evidence.
7. Copy of Guide line of formation/ alternation of different Managing Committee of DAV Public School, Unit-8, Bhubaneswar.
8. List of management members/dignitaries till date since inception, as per below format:-

Sl No.	Name of Management Member	Designation	Period From	Period Upto	Address	Qualification	Bio-Data Details
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9. Copy of Guideline or any procedure to involve parents in managing Committee or, SMC or LMC, Documentary evidence.
10. Copy of detailed guideline on formation/alternation of School Managing Committee, Documentary evidence.
11. Copy of detailed guideline on formation / alternation of Local Managing Committee.
12. Details of Contractual staff till date as per below format:-

Sl. No	Name	Designation	Latest Qualification for eligibility to the post	University Name	% of Marks Obtained	Bio-Data Details
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13. Copy of Guidelines if any transfer policy of Teaching in different Grade documentary evidence.

14. Copy of document on Additional Building Construction (s) and its purpose.

15. Copy of detailed document on Role and procedure of involvement of parents under CAPEX(capital Expenditure) or, its planning.
16. Copy of Details of Teachers & Staff, joined suspended dismissed, transfer with reason, Basis in form of Documentary evidence during last 10 years. (fifteen Years).
17. Copy of code of conduct of Principal & its enrolment by Documentary evidence.
18. Copies of GST Registration Copy with exemption if any with GST exemption Certificate.
19. Copy of sale GST Bill for Books Khata, (Notes Book), Tie Belt, Dress etc. sold to parents against payment from July 2017 to 31.12.2018.
20. Copies of purchase bill copies above (Sl. No.19) with total purchase & sales accounts with profit for last 10 (ten) years.
21. Copies of NOC of Govt. of Odisha for last five years.
22. Details Copies of Mandatory disclosures submitted by DAV Public School, Unit-8, Bhubaneswar & their application to get COR & NOC.
23. Recent copies of NOC & COR issued to DAV Public School, Unit-8 Bhubaneswar.
24. Affiliation copy under CBSE".

6. As the said information was not supplied the appellant filed the First Appeal on 27.03.2018 and as no order was passed in the First Appeal he filed the Second Appeal on 27.06.2019.

7. On 05.12.2019 notice was issued to the appellant to remove the defects and order of the FAA which the appellant did not comply.

8. On 09.02.2022 notice was issued to the parties to appear in the hearing of the appeal on 25.02.2022. But inspite of valid notice the respondents did not appear. However, the PIO-cum-Additional Director (H & S) has sent his written submission along with documents which were taken to records.

9. In his written submission the PIO submitted that after receipt of the RTI application of the appellant the same was transferred to the PIO, O/o the District Education Officer, Khordha vide letter dated 11.02.2019 with request to provide necessary information to the appellant directly. Since the DEO, Khordha did not supply the information the appellant filed the First Appeal. The FAA disposed of the First Appeal directing the D.E.O vide letter dated 23.05.2019 to look into the mater personally and to ensure the PIO of the office to provide the requested information to the appellant within a week.

10. In course of hearing today the appellant submitted that 8.80 acres of land was leased out by the government to the management of the D.A.V Public School for establishment of the School in Unit-8, Bhubaneswar, at a cost of Rs.1/- only, whereas the valuation of the said land is more than 100 crores. As per the decision of the Hon'ble Supreme Court, the D.A.V Public School, Unit-8 has been substantially financed and, therefore, it is a 'public authority'. The appellant is also entitled to information from the said school.

11. In the case of DAV College Trust and Management Vrs. Director of Public instructions, reported in AIR 2019, Supreme Court 4411, the Hon'ble Supreme Court has laid down the following principle:-

"in our view, "substantial" means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard-and-fast rule can be laid down in this regard. Substantial financing can be both direct and indirect. To give an example, if a land in a city is given free of cost or on heavy discount to hospitals, educational institutions or such other body, this in itself could also be substantial financing. The very establishment of such an institution, if it is dependent on the larges of the State in getting the land at a cheap price,

would mean that it is substantially financed. Merely because financial contribution of the State comes down during the actual funding, will not by itself mean that the indirect finance given is not to be taken into consideration. The value of the land will have to be evaluated not only on the date of allotment but even on the date when the question arises as to whether the said body or NGO is substantially financed".

12. From the aforesaid principle of law laid down by the Hon'ble Supreme Court it is clear that if a land in the city is given free of cost or on heavy discount to an educational institution or such other body, this in itself could also be substantial financing.

13. In the instant case since the Government has leased the land of 8.82 acres to the D.A.V. Public School for establishment of the school in Unit-8, Bhubaneswar at a cost of Rs.1/- only and the present valuation of the said land will be more than 100 cores, the Commission is of prima facie view that the said school is a public authority and the appellant is entitled to information sought for by him.

14. From the records I found that the appellant, instead of seeking information from the D.A.V. Public School itself, has filed the Form-A application before the Director of Secondary Education, Odisha, Bhubaneswar. The PIO of the said Directorate after receipt of the said application transferred the same to the PIO of the DEO, Khordha. The PIO, O/o the DEO, Khordha again wrote to the Principal of the D.A.V. Public School, Unit-8, Bhubaneswar on 23.09.2020 requesting him to supply the information sought for by the appellant.

15. In the case of **CBSE Vrs. Aditya Bandhopadhaya, reported in (2011) 8 SCC 497, para 63**, the Hon'ble Supreme Court has held that the RTI application should have been filed before an authority where the information is available and existing.

16. In the instant case though the information is available before the D.A.V. Public School, Unit-8, Bhubaneswar, but the appellant has filed the application before the Directorate of Secondary Education, Odisha, Bhubaneswar.

17. The D.A.V. Public School, Unit-8, Bhubaneswar is also not a party in the present case. Since this Commission held that the D.A.V. Public School, Unit-8, Bhubaneswar is a public authority, it is directed that if the appellant files the Form-A application before the Principal of the D.A.V. Public School, Unit-8, Bhubaneswar for information, the Principal of the said school shall supply the required information within a period of 30 days from the date of filing of the Form-A application. A copy of this judgment be sent to the Principal of the D.A.V. Public School, Unit-8, Bhubaneswar for information.

18. In view of the aforesaid observation and direction, it is held that no useful purpose will be served in keeping the appeal pending, hence, the same is closed and disposed of.

Pronounced in open proceedings

Given under the hand and seal of the Commission, this the 25th day of February, 2022.



Bikram Senapati
State Information Commissioner
25.02.2022

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