



ARUNACHAL PRADESH INFORMATION COMMISSION

ITANAGAR.

**An Appeal Case U/S 19(3) of RTI Act, 2005
Case No. APIC-417/2025.**

**APPELLANT
RESPONDENT**

**:Shri Khya Changrang
:The PIO, o/o the Chief Engineer CSQ (PWD),
Itanagar**

ORDER

This is an appeal under Section 19(3) of RTI Act, 2005 received from Shri Khya Changrang for non-furnishing of below mentioned information by the PIO, o/o the Chief Engineer, CSQ (PWD), Itanagar as sought for by him under section 6(1) (Form-A) of RTI Act, 2005 vide his application dated 05.12.2024.

A) Particular of information: M/s Zee Engineering & construction, NO. CEAP (D&P) /PLG- 48/ 2008-09/ 1/ 62 dt. 16/ 10/ 2008, application & documents submitted for revalidation/Contractor Enlistment.

B) Details of information required:

1. CTC of application form duly filled & signed by the applicant/contractor.
2. CTC of Constitution.
3. CTC of power of attorney, if submitted.
4. CTC of proforma of certificate for work done / client certificate.
5. CTC of work order / LoA last 5 years experience of completed work.
6. CTC of completion report last 5 years for work experience of completed work.
7. CTC of affidavit of No.-Litigation.
8. CTC of affidavit of No. close relative of Govt. employee in a position to influence.
9. CTC of list of technical staff.
10. CTC of experience certificate of each technical staff.
11. CTC of Degree / diploma of the technical staffs.
12. CTC of declaration from technical staff employed with the applicant.
13. CTC of EPF details of the employees.
14. CTC of list of Machinery, T & P
15. CTC of purchase/lease documents of machinery, T & P
16. CTC of trading license
17. CTC of Income Tax return / income tax exemption certificate.
18. CTC of annual turnover and balance sheet of last 3 years.
19. CTC of electric bill
20. CTC of police verification copy.
21. No retired gazette officer/engineer
22. No dismissed government servants.

C) Period for which information is sought for : 2019 to 2024.

Brief facts emerging from the appeal:

Records emerging from the appeal disclose that the Appellant, Shri Khya Changrang had requested the PIO for the aforementioned information / documents but failed to obtain the same which prompted him to appeal before the Chief Engineer, Public Work Department, CSQ, Itanagar, Govt. of A.P, Itanagar, the First Appellate Authority (FAA) under Section 19 (1) of RTI Act, 2005 vide his Appeal dt. 03-02-2025. However, the appellant having failed yet again to obtain the information preferred his second appeal before this Commission under Section 19 (3) of the RTI Act, 2005 vide memo of appeal dated 23.05.2025.

Records further reveal that the FAA, the Chief Engineer (CSQ), after scheduling the hearing for 2(two) times on 18.02.2025 and 26.03.2025, passed the following order dt.09.04.2025 :

"ORDER"

1. *The fact of the case is that vide No. Nil dated 05/12/2024 and received in this office on 10/12/2024, the appellant Shri Khya Changrang sought some information pertaining to firm namely as M/s Zee Engineering & Constructions.*
2. *Not satisfied with the information / communication furnished by the PIO, the appellant vide No. Nil dated 03/02/2025 and received in this office on 04/02/2025 appealed to the First Appellate Authority under Section 19(1) of the RTI Act 2005.*
3. *The applicant is seeking to be provided with some documents submitted by the concerned firm in this office. |*
4. *This office is of the view that the PIO should provide information / furnish relevant documents to the Appellant except those covered under section 8 (1) (d), 8 (1) (g), 8 (1) (j) and 11(2) of the RTI Act, 2005.*
5. *As such, PIO under section 8 (1) (j) of the RTI Act 2005, is Of opinion that the documents sought by the RTI applicant doesn't serve any larger public interest and has therefore decided not to disclose documents sought to the RTI applicant without the consent of the third party. However the information regarding Enlistment Order and Application Form is available for disclosure on website www.aruanchalpwd.org which is in public domain.*
6. *However, the Appellant is at liberty to further appeal to the State Information Commissioner if not satisfied with this order.*
With this, the Appeal stands disposed off.

By Order

Sd/-

FAA cum Chief Engineer (CSQ)
PWD, AP, Itanagar."

Dissatisfied with the order of the FAA as above, the appellant has, hence, preferred his 2nd appeal which is heard on 10.09.2025.

Hearing and decision:

This Commission heard both the PIO, Er. Shri Y.P. Singh and the appellant, Shri Khya Changrang who were present in person.

The PIO submitted that since the documents/information sought for by the appellant pertain to third party i.e M/S Zee Engineering and Construction, the said third party was issued notice of the RTI application received from the appellant as required under section-11(1) of the RTI Act but the said third party vide their letter dt.04.02.2025, had conveyed their refusal to provide the requested documents/information.

The appellant, on the other hand, reiterating his demand for the requested documents submitted the following written statement citing thereunder some relevant decisions of the Hon'ble Supreme Court:

" (a) Definition of information & Public Records:

As per CBSE v. Aditya Bandopadhyay, (2011), para 11, the term information under Section 2(f) is very wide and includes all records, documents, and papers held by public authorities. Contractor enlistment/revalidation records are public records maintained by the PWD for regulating public contracts, and cannot be equated with private or personal information.

(b) Fiduciary Relationship:

The PIO has no fiduciary duty towards the contractor. In RBI v. Jayantilal N. Mistry, (2015), para 60, the Court held that RBI is not in a fiduciary relationship with banks, since its duty is to the public at large. Similarly, PWD holds contractor documents in discharge of statutory functions, not in trust for contractors. Hence, fiduciary exemption under Section 8(1)(e) does not apply.

(c) Personal Information Section 8(1)(j):

In Girish Ramchandra Deshpande v. CIC, (2013), para 13-14, the Supreme Court held that personal information refers to service records, performance evaluation, property returns, and similar records, disclosure of which has no public interest. Contractor enlistment documents are not personal life records; they are public documents concerning eligibility and compliance for public works contracts. When public funds and procurement transparency are involved, disclosure cannot be denied as personal information.

(d) Third Party Information - Section 11(2):

In RK. Jain v. Union of India, (2013), para 13, the Court clarified that third party procedure under Section 11 does not grant an absolute veto. The PIO must apply independent mind to assess whether the information falls under Section 8 exemptions and whether public interest outweighs any harm.

Thus, the mere objection of M/s Zee Engineering & Construction cannot bar disclosure. The PIO's reliance solely on third-party objection amounts to procedural violation.

(e) Commercial Confidence - Section 8(1)(d):

In Institute of Chartered Accountants of India v. ShannakfH. Satya, (2011), para 10,11,12, the Supreme Court held that commercial confidence is limited to trade secrets, or sensitive business details, and even then, disclosure is required if public interest outweighs the harm. Contractor enlistment records (affidavits, eligibility documents, revalidation papers) do not contain trade secrets. They are mandatory submissions to obtain public contracts and therefore part of public accountability.

(f) Physical Safety - Section 8(1)(g):

In CBSE v. Aditya Bandopadhyay, (2011), para 28, the Supreme Court held that Section 8(1)(g) applies only if disclosure would cause a real and imminent danger to the life or safety of a person.

Routine contractor documents cannot endanger life or physical safety. Hence, Section 8(1)(g) is wrongly invoked.

(g) Public Interest and Conflict of Interest:

M/s Zee Engineering & Construction is owned by the spouse of a serving Superintendent Engineer, RWD. The firm has undertaken multiple works in the RWD Department where the said officer has been in senior position.

This creates a potential conflict of interest in the award and execution of contracts.

For instance, the PMGSY Road from BRTF Road to Kano, valued at approx. 57 crores, was sanctioned in 2019 for completion in 2021 with a 5-year maintenance period. As per records of the EE, Anini Division, 42 crores have already been paid, yet the project remains incomplete in 2025.

This raises serious questions of transparency and accountability in use of public funds. Under RBI v. Jayantilal N. Mistry, (2015), para 75, transparency in governance and avoidance of conflict of interest are fundamental to democracy. Therefore, even if exemptions under Section 8 are claimed, Section 8(2) mandates disclosure where public interest outweighs possible harm.

(h) Larger Objective of RTI Act:

As per CBSE v. Aditya Bandopadhyay, (2011), para 37, democracy requires informed citizenry and transparency of information to contain corruption and hold governments accountable.

Further, in RBI v. Jayantilal N. Mistry, (2015), the Court emphasized that RTI overrides older secrecy laws (RBI Act, Banking Regulation Act, Official Secrets Act), except for the limited exemptions in Section 8.

(ii) Reliefs Sought:

- 1. Set aside the denial of information by PIO and FAA.*
- 2. Direct disclosure of certified copies of enlistment/revalidation records of M/s Zee Engineering & Construction from 2019-2025.*
- 3. Hold that Sections 8(1)(d), (g), (j), and 11(2) do not apply in this case, as public interest outweighs any claim of confidentiality."*

As already stated above, the request of the appellant for the certified copies of documents submitted by the third party, M/s Zee Engineering & Construction for enlistment/revalidation from 2019-2025 was denied by the PIO vide his order dt.09.04.2025. The FAA also upheld the decision of the PIO citing various exemption clauses of section 8(1) of the RTI Act such as clauses (d), (g) and (j) and section 11(2).

During the course of hearing the PIO explained that the 3rd party documents requested by the appellant are those documents which a contractor has to submit along with the application for enlistment in the State of Arunachal Pradesh which form the essential eligibility conditions for being enlisted under the Arunachal Pradesh Enlistment of Contractors in Works Department Rules, 2008.

Before advertng to the order of the FAA vis-à-vis the written submission of the appellant as extracted above, it was felt appropriate to point out that this Commission in earlier two similar cases, had passed directed the PIO of the same public authority, the Chief Engineer, Public Works Department (CSQ), Govt. of A.P, Itanagar to furnish the documents submitted by 3rd party for enlistment as contractor in the works department. The cases are:

- 1. APIC Case No.59/2021 (Shri Takar.Goi & two Ors Vs. Er. Shri Rimar Tasso, PIO-cum-SE(CSQ), PWD, Govt. of A.P) along with 11(eleven) appeals wherein the full Bench of this Commission, by its order dt. 08.03.2022, had directed the PIO to disclose the information sought by the appellant which was upheld by the Itanagar Permanent Bench of the Hon'ble Gauhati High Court vide order dt.09.09.2022 in IA (C) 127(AP) 2022 in WP(C) No.149(AP) and order dt.29.09.2022 in WA-33/2022 (Y.P Enterprise & 5 Ors. Vs. A.P. State Information Commission and 4 Ors.)and*

2. APIC Case No. APIC-44/2025 (Shri Godak Tama, Niti Vihar, PO Itanagar Vs. the PIO, o/o the Chief Engineer, (CSQ), PWD, Itanagar.

This Commission, upon consideration of the submission made by the appellant and also taking into account the earlier decisions of this Commission in the above two cases, endorsed the contention of the appellant and directed the PIO to furnish the requested documents submitted by the third party concerned for enlistment including the Enlistment Certificate except the following which stand exempted from disclosure under clause(j) of section 8(1) of RTI Act as the disclosure has no direct relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of the individuals as held in number of judicial pronouncements by the Apex Court and High Courts, including in the Girish Ramachandra Deshpande Vs. CIC & ors. case (Apex Court) and the documents which were also not pressed by the appellant, during the course of hearing are:

1. Certified copies of experience certificate of each technical staff;
2. Certified copies declaration form technical staff employed with the applicant;
1. Certified copies of EPF details of the employees;
2. Certified copies of purchased / least documents of machineries, T & P;
3. Income tax return / income tax exemption certificate;
4. Annual turn over and balance sheet of last 3 years;
5. Police verification copy.

It was, however, made clear that the PIO may not furnish the following documents, if these were not obtained from the contractor:

- a) Certified copy of constitution;
- b) Certified copy of power of Attorney;
- c) Certified copy of power of Attorney;
- d) Copies of declaration of No retired gazette officer/engineer;
- e) Certified copies of declaration of no dismissed government servants.

The PIO was also directed to furnish declaration in specific terms that these documents were not obtained from the contractor concerned.

Barring the above documents/information, the PIO was directed to furnish the replies/documents against rest of the points to the appellant within 1(one) week from the date of receipt of the order dt.10.09.2025. This appeal was, accordingly disposed of.

The appellant, vide letter dt. 10.08.2025, however, complained that the PIO has neither furnished the information as directed by the Commission in its order dt. 10.09.2025 nor any declaration to the effect that the documents are not available with them/ not obtained from the contractor. The appellant had mentioned, particularly, the following documents as remained unfurnished:

1. Complete application form for enlistment/revalidation with all Annexure duly filled and signed by the contractor M/s Zee Engineering & construction.
2. Constitution documents.
3. Proforma of certificate for work done/client certificate.
4. Work orders/ LoA for the last five years completed work
5. Work completion reports for the last five years completed works
6. Power of Attorney.

In the premises as above, the PIO was directed vide order dt. 21.10.2025 to furnish the abovementioned documents/information and, as already directed earlier, furnish the declaration by way of an affidavit in respect of those documents which are not available in his office or were not obtained from the contractor and report compliance on 19.11.2025, the next date of hearing so as not to constrain this Commission to invoke the penal provision of section 20 of the RTI Act, 2005.

This appeal was, thus heard again on 19.11.2025 wherein both the appellant, Shri Khya Changrang and the APIO, Er. Shri Y.P. Singh, with the left out documents, are present in person.

The appellant expressing his disappointment over the delay on the part of the PIO in furnishing the left out documents, pleaded for penal action against the PIO/APIO. The APIO, on the other hand, submitted that he was out of station for almost one month for which the left out information could not be furnished to the appellant.

This Commission upon perusal of the left out documents brought in by the APIO concludes that the o/o the PIO has now furnished the requested information/documents to the appellant complete and satisfactorily warranting no further adjudication by this Commission. Resultantly, this appeal now stands closed for once and for all.

Given under my hand and seal of this Commission on this 19.11.2025

Sd/-
(S. TSERING BAPPU)
State Information Commissioner,
APIC, Itanagar

Memo No. APIC- 417/2025 / 983 Dated Itanagar, the 20 Nov., 2025

Copy to:

- 1, The PIO, o/o the Chief Engineer (CSQ), (PWD) Itanagar, PIN:791111 for information.
2. Shri Khya Changrang, Niti Vihar, Itanagar, Papum Pare District PIN: 791111 Mobile No. 6909447588 for information.
- ✓ 3. The Computer Programmer/Computer Operator for uploading on the Website of APIC, please.
4. Office copy.
5. S/Copy.


Registrar/ Deputy Registrar
APIC, Itanagar.

Deputy Registrar
Arunachal Pradesh Information Commission
Itanagar