



सत्यमेव जयते



सूचना का
अधिकार
RIGHT TO
INFORMATION

ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR.

An Appeal Case U/S 19(3) of RTI Act, 2005
Case No. APIC-360 /2024.

APPELLANT : Shri Shoney Pertin, PO/PS Pasighat, East Siang District(A.P).

RESPONDENT : The PIO, o/o the Executive Engineer, Pasighat Smart City
Development Corporation Ltd., Pasighat, East Siang District (A.P)

ORDER

This is an appeal under Section 19(3) of RTI Act, 2005 received from Shri Shoney Pertin for non-furnishing of below mentioned information by the PIO, o/o the Executive Engineer Pasighat Smart City Development Corporation Ltd., Pasighat, East Siang District, Arunachal Pradesh as sought for by him under section 6(1) (Form-A) of RTI Act, 2005 vide his application dated 02.07.2024:

1. **Particulars of information**: Market area upgradation Phase-I.
2. **Details of information**:
 - (i) Certified copy of DPR and sanction order;
 - (ii) Certified of acceptance letter and NIT copy;
 - (iii) Certified copy of agreement and
 - (iv) Certified copy of Drawing and Designing.
3. **Period for which information is required**: 2022 to till date.

This Commission, upon hearing the parties on 07.02.2025 passed the following interim order issued on 10.02.2025:

"Heard the parties.

The appellant submitted that the PIO had furnished to him the information relating to the Phase-II of the project but the PIO has denied the information relating to Phase-I citing various exemption provisions under section 8 and 11 of the RTI Act which can not be accepted. On the other hand, the Ld. Counsel for the PIO submitted that there are judicial pronouncements by the Apex Court and high Courts according to which the particular information(s) as sought for by the appellant are exempted and therefore, that the PIO had rightly denied those information. The Ld. Counsel, however, could not produce any of the High Court/Supreme Court ruling / judgment on the question to support his contention during the hearing today.

This Commission, therefore, decides to adjourn the hearing of this appeal to 19 March, 2025 (Wednesday) at 10.30 am and directs the Counsel or the PIO to produce on that day the copies of relevant supreme Court and High Court orders/rulings on the subjects for perusal of this Commission. The appellant is also directed to attend the hearing on that day physically to make his submissions.”

This Commission, accordingly, heard this appeal on 19.03.2025 wherein the appellant, Shri Shoney Pertin and Advocate, Shri T.Marngar, the Counsel for the PIO on behalf of the PIO were present.

Heard the parties.

The appellant, reiterating his demand for the left out documents such as the copy of DPR, copy of Agreement and the copies of drawing and design for the Market Area upgradation Phase-I, produced the copies of such documents provided to him in respect of other projects undertaken by the Pasighat Smart City Development Corporation Ltd..

Also heard the Ld. Counsel for the PIO, who was directed to produce the copies of Apex Court/High Court rulings in support of his contention that the documents, more particularly, the DPR and Agreements are exempted from disclosure under section 8(1)(j) of the RTI Act. The Ld. Counsel did not produce the any of the copies of Apex Court and H/Court rulings on the subject but produced the copies of CIC decision dt. 29.11.2022 in CIC/PGCIL/A/2022/106036 (Liyit Panor Vs CPIO, Power Grid Corporation of India Ltd.) and decision dt.01.09.2016 in CIC/SS/A/2014/000197, (198) & (212)-YA (Bharat Jhunjhunwala Vs. Central Electricity Authority).

This Commission, on perusal of the CIC decision dt.29.11.2022, observed that the CIC had refused to order furnishing the copy of the revised DPR on the premises that the revised DPR was yet to be finalized and approved and that the execution of work is under way. It is seen that the CIC, while refusing to grant relief to the appellant, had relied on the observation of the Madras High Court contained in judgement dt.09.07.2021 in W.P (MD) No.14645,15631,15632 and 15634 of 2016 in a similar issue, the relevant portion of which is reproduced hereunder:

“13. Therefore, the NHAI should not be providing any information to anyone under the RTI Act till the DPR is finalized and approved by the Central Govt. and a Notification is issued under the Act. If information is provided, in the manner in which it has appened in the present case, obviously, the acquisition proceedings will be stalled and persons will start knocking the doors of this Court even before the Notification is published. It is therefore, made very clear that NHAI should not be divulging information when the project is at the preparatory stage.”

In the case of Bharat Jhunjhunwala Vs. Central Electricity Authority case, the CIC found the existence of fiduciary relationship between the Central Electricity Authority (CEA) (the Public Authority) and the respective private developers (the third parties) by operation of law i.e regulation 11 of the Central Electricity Authority (Furnishing of Statistics, Returns and Information) Regulation, 2007 and hence, found the plea of exemption under section 8(1)(e) of the CEA (Public Authority) untenable and accordingly refused to grant relief to the appellant. The provisions of regulation 11 of the Central Electricity Authority (Furnishing of Statistics, Returns and Information) Regulation, 2007 is reproduced hereunder for reference:

“11. Restriction on publication of these information and returns-(1) No information, no individual return and no part thereof with respect to any particular individual or commercial concern, given for the purpose of these regulation shall, without the previous consent in writing of the owner for the time being of the industrial or commercial concern in relation to which the information revealing the commercial and technical confidentiality, be published in such manner as would enable any particulars to be identified as referring to a particular concern.

(2) Except for the purpose of these regulation, no person who is not engaged in the collection of statistics under these regulations shall be permitted to see any information or individual return referred to in sub-section (1)”

The Ld. Counsel for the PIO, relying on the observations of the CIC as contained in the above decisions, submitted that the left out informations / documents such as the copies of DPR, Agreement and the Drawing and Design of the project in question can not be furnished to the appellant. This Commission is, however, not inclined to accept the submission of the Ld. Counsel for the following reasons:

- (a) That the CIC decision dt. 29.11.2022 in CIC/PGCIL/A/2022/106036 (Liyit Panor Vs CPIO, P.G.C.I Ltd.) is in respect of a *draft DPR which was yet to be finalized and approved* by the competent authority while in the case on hand, the DPR is already finalized one as per which the execution of project in question had commenced and admittedly, the project is already complete and awaiting inauguration:
- (b) That the CIC decision dt.01.09.2016 in CIC/SS/A/2014/000197, (198) & (212)-YA (Bharat Jhunjhunwala Vs. Central Electricity Authority) exempting the disclosure of the DPR under section 8(1)(e) is based on existence of fiduciary relationship between the Public Authority and the third parties by operation of law namely, the Central Electricity Authority (Furnishing of Statistics, Returns and Information) Regulation, 2007 while in the instant case no such relationship has been shown/claimed.

In the premises above, this Commission to the considered view that neither of the above two decision of the CIC as above of applicable in the present appeal and as such the PIO is directed to furnish the copy of DPR with the copies of drawing and design to the appellant as were furnished in respect of other projects. The PIO is also directed to provide the copy of agreement between the Pasighat Smart City Development Corporation Ltd. and the contractors minus the portion on ‘Non-disclosure Clause’, if any, contained in the agreement.

The PIO shall comply with the above direction and report compliance thereof to this Commission within 4(four) weeks from the date of receipt of this order. The appellant shall also intimate his acknowledgement of the receipt of the documents within the said period failing which the appeal shall be closed presuming that he had received the sought for information and it satisfied therewith.

Given under my hand and seal of this commission on this 20th March, 2025.

Sd/-

(S. TSERING BAPPU)

State Information Commissioner,

APIC, Itanagar.

Memo No. APIC- 360/2024/488 Dated Itanagar, the 21 March, 2025

Copy to:

1. The First Appellate Authority (FAA), the Chief Executive Officer, Pasighat Smart City Development Corporation Ltd. Pasighat, East Siang District, Arunachal Pradesh for information and ensuring compliance of this order by the PIO concerned.
2. The PIO, o/o the Executive Engineer, Pasighat Smart City Development Corporation Ltd. Pasighat, East Siang District, A.P.(PIN : 791102) for information and compliance.
3. Shri Shoney Pertin PO/PS Pasighat, East Siang District Arunachal Pradesh (PIN : 791102) Mobile No. 8974216125 for information.
4. The Computer Programmer/Computer Operator for uploading on the Website of APIC please.
5. Office copy.
6. S/Copy.


Registrar/ Deputy Registrar
APIC, Itanagar

Registrar
Arunachal Pradesh Information Commission
Itanagar