



**ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR**

**BEFORE THE HON'BLE COURT OF SHRI RINCHEN DORJEE, STATE CHIEF
INFORMATION COMMISSIONER**

No.APIC-1142/2023

Dated, Itanagar the 20th June, 2024

Appeal Under Section 19(3) RTI Act, 2005

Appellant: Shri Tania June, E-Sector, Naharlagun, Papum Pare District, Arunachal Pradesh, PIN-791110, (M) 8131848230.

Vs

Respondent: Dr. Kirto Loyi, the PIO-cum- District Horticulture Officer (DHO), Govt. of A.P., Department of Horticulture, Basar, Lepa Rada District, Arunachal Pradesh, PIN-791101.

ORDER

This is an appeal under Section 19(3) of RTI Act, 2005 filed by Shri Tania June, E-Sector, Naharlagun, Papum Pare District, Arunachal Pradesh, for non-furnishing of information by the PIO-cum- District Horticulture Officer (DHO), Govt. of A.P., Department of Horticulture, Basar, Lepa Rada District, Arunachal Pradesh, as sought by the Appellant under section 6(1) of RTI Act, 2005 vide Form-A Dated 05/08/2023 regarding appointment of Group B/ Group C/ UDC/LDC/PEON/DRIVER/ all MTS post entire lepa Rada District.

The 1st hearing is held today on 20th June, 2024 as scheduled. Dr. Kirto Loyi, the PIO-cum-District Horticulture Officer (DHO), Govt. of A.P., Department of Horticulture, Basar, Lepa Rada District, Arunachal Pradesh, and Shri Tania June are present. The PIO has submitted that he has furnished all the available information through postal services on 8th May, 2024. The Appellant did not deny about receipt of the information. But, he seemed to be not satisfied.

However, the Commission, after going through the records and submission of both the parties it is found that: -

1. The information sought are vague and voluminous,
2. The information is sought from 2017 onwards, i.e. of six years,
3. The matter has not been heard by the First Appellate Authority (FAA),

The Commission in observance of section 6(1)(b) and Section 7(9) of the RTI Act, 2005 directed the Appellant to seek specific information, i.e. detail of information for one specific work of one financial year in one application, so that the public authority can furnish information within prescribed time period, without disproportionately diverting the resources. In this context, it is relevant to mention observation of the Central Information Commission in the case of "*Ashok Kumar vs Department Of Higher Education on 3 January, 2020 CIC/DHEDU/A/2018/145972/02526 File no.: CIC/ DHEDU /A/ 2018 / 145972*" -

"From a perusal of the relevant case records, it is noted that the information sought by the appellant relates to all the IITs and Sec 6(3) transfer by the CPIO, MHRD to all the IITs was not practicably possible. Moreover, it is pertinent to mention here that the sought for information is voluminous and direction for disclosure would disproportionately divert the resources of the public authorities. It is relevant to mention below the Apex Court observations relating to impractical demands of the appellants in the case of CBSE vs Aditya Bandopadhyay & Ors on 9 August, 2011, Civil Appeal No.6454 of 2011[Arising File no.: CIC/DHEDU/A/2018/145972 -

Under Section 18(3) of the Act the Central Information Commission or State Information Commission, as the case may be, while inquiring into any matter in this Section has the same powers as are vested in a civil court while trying a suit in respect of certain matters specified in Section 18(3)(a) to (f). Under Section 18(4) which is a non-obstante clause, the Central Information Commission or the State Information Commission, as the case may be, may examine any record to which the Act applies and which is under the control of the public authority and such records cannot be withheld from it on any ground.

30. It has been contended before us by the respondent that under Section 18 of the Act the Central Information Commission or the State Information Commission has no power to provide access to the information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commission or the State Information Commission, as the case may be, under Section 18 is an order of penalty provided under Section 20.

However, before such order is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide.

31. We uphold the said contention and do not find any error in the impugned judgment of the High court whereby it has been held that the Commissioner while entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information.

32. In the facts of the case, the appellant after having applied for information under Section 6 and then not having received any reply thereto, it must be deemed that he has been refused the information. The said situation is covered by Section 7 of the Act. The remedy for such a person who has been refused the information is provided under Section 19 of the Act. A reading of Section 19(1) of the Act makes it clear. Section 19(1) of the Act is set out below:

"19. Appeal. - (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."

33. A second appeal is also provided under sub-section (3) of Section 19. Section 19(3) is also set out below:

"(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."

35. The procedure for hearing the appeals have been framed in exercise of power under clauses (e) and (f) of sub-section (2) of Section 27 of the Act. They are called the Central Information Commission (Appeal Procedure) Rules, 2005. The procedure of deciding the appeals is laid down in Rule 5 of the said Rules.

N.B: - PIO and Appellant can avail online mode of hearing by downloading "Webex App" from Google Play store, may contact **Shri Himanshu Verma** at **Mob:- 8878891768** for further technical assistance.

Therefore, the case is hereby closed and disposed of.

Order copies be issued to all the parties.

Sd/-

(Rinchen Dorjee)

State Chief Information Commissioner
Arunachal Pradesh Information Commission

Itanagar

Memo No.APIC-1142/2023

Dated, Itanagar the 24 June,2024

Copy to:

1. The FAA-cum- Director (Horticulture) , Govt. of A.P., O/o Directorate of Horticulture, Chimpu, Itanagar, Arunachal Pradesh, PIN-791111 for information and necessary action please.
2. The Deputy Commissioner, Govt. of A.P., Basar, Lepara Rada District, Arunachal Pradesh, PIN-791101 for information and necessary action please.
3. Computer Programmer, APIC, Itanagar, to upload in APIC Website& send mail to all the parties.
4. Case file.

Registrar/ Dy. Registrar

Arunachal Pradesh Information Commission

Itanagar

Deputy Registrar

Arunachal Pradesh Information Commission
Itanagar