सत्यमेव जयते

सूचना का अधिकार
RIGHT TO INFORMATION

ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR

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

No.APIC-57/2024 Dated, Itanagar the **2nd July, 2024**

Appeal Under Section 19(3) RTI Act, 2005

Appellant: Adv. Mamu Sono, Shri Deni Yangfo, and Shri Rabo Lochung, Sood Village, PO/PS-Naharlagun, Papum Pare District, Arunachal Pradesh, PIN-791110, (M) 9436215521.

Vs

Respondent: The Public Information Officer (PIO), Govt. of A.P., O/o the District Panchayat Development Officer (DPDO), Bomdila, West Kameng District, Arunachal Pradesh, PIN-792120.

ORDER

1). This is an appeal under Section 19(3) of RTI Act, 2005 filed by Shri Mamu Sono, Sood Village, PO/PS-Naharlagun, Papum Pare District, Arunachal Pradesh, for non-furnishing of information by the Public Information Officer (PIO), Govt. of A.P., O/o the District Panchayat Development Officer (DPDO), Bomdila, West Kameng District, Arunachal Pradesh, as sought by the Appellant under section 6(1) of RTI Act, 2005 vide Form-A Dated 14/11/2023 regarding the 14th Finance Commission in the year 2018-19 and 2019-20.

2). **The 1st hearing is held today on 2nd June, 2024 as scheduled.** The Public Information Officer (PIO), Govt. of A.P., O/o the District Panchayat Development Officer (DPDO), Bomdila, West Kameng District, Arunachal Pradesh is represented by the APIO, Shri Shyuani Dususoo, PTA-cum-DNO. The Appellant Shri Mamu Sono is present.

3). The APIO has brought a bundle of information and handed over to the Appellant. The Appellant received the same. The Appellant was directed by the Commission to seek information for only one financial year, the Appellant agreed to seek for only financial year 2019-20.

4). 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 for the 14th Finance Commission in the year 2018-19 and 2019-20.
3. The matter has not been heard by the First Appellate Authority (FAA),

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The Division Bench also held that under Section 18 of the Act the State Information Commissioner is not empowered to pass a direction to the State Information Officer for furnishing the information sought for by the complainant.

29. If we look at Section 18 of the Act it appears that the powers under Section 18 have been categorized under clauses (a) to (f) of Section 18(1). Under clauses (a) to (f) of Section 18(1) of the Act the Central Information Commission or the State Information Commission, as the case may be, may receive and inquire into complaint of any person who has been refused access to any information requested under this Act [Section 18(1)(b)] or has been given incomplete, misleading or false information under the Act [Section 18(1)(e)] or has not been given a response to a request for information or access to information within time limits specified under the Act [Section 18(1)(c). We are not concerned with provision of Section 18(1)(a) or 18(1)(d) of the Act. Here we are concerned with the residuary provision under Section 18(1)(f) of the Act.

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:

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44. This Court, therefore, directs the appellants to file appeals under Section 19 of the Act in respect of two requests by them for obtaining information vide applications dated 9.2.2007 and 19.5.2007 within a period of four weeks from today. ***If such an appeal is filed following the statutory procedure by the appellants, the same should be considered on merits by the appellate authority without insisting on the period of limitation.***

7). In view of above and pre-pages, the Commission decides to remand the case to the FAA for appropriate adjudication and passing order on merit in speaking order. The liberty is on the Applicant to apply a fresh application under section 19(3) of the RTI Act, 2005, if he is not satisfied with the decision of the FAA.

N.B: - PIO and Appellant can avail online mode of hearing by downloading **"Webex App"** from Google Play store. May contact **Shri Himanshu Verma**, IT Consultant-cum-Computer Programmer at **Mob:- 8319014957** for further technical assistance at least one day prior of the hearing.

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-57/2024 /166 **Dated, Itanagar the** 4 **July,2024**

Copy to:

1. The Director (Panchayati Raj) , Govt. of A.P., O/o Directorate of Panchayati Raj, Itanagar, Arunachal Pradesh, PIN-791111 for information and necessary action please.
2. The Deputy Commissioner, Govt. of A.P., Bomdila, West Kameng District, Arunachal Pradesh, PIN-792120 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