



**ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR**

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

No.APIC-1035/2023

Dated, Itanagar the 23rd July, 2024

Appeal Under Section 19(3) RTI Act, 2005

Appellant: Shri Dongru Tania, Near Takar Complex, Po/Ps Naharlagun, Papum Pare District, Arunachal Pradesh, PIN-791110, (M) 7005481022.

Vs

Respondent: The PIO-cum-DDMO, Govt. of A.P., O/o the District Disaster Management, Changlang, Changlang District, Arunachal Pradesh, PIN-792120.

ORDER

1). This is an appeal under Section 19(3) of RTI Act, 2005 filed by Shri Dongru Tania, Near Takar Complex, Po/Ps Naharlagun, Papum Pare District, Arunachal Pradesh, for non-furnishing of information by the PIO-cum-DDMO, Govt. of A.P., O/o the District Disaster Management, Changlang, Changlang District, Arunachal Pradesh, as sought by the Appellant under section 6(1) of RTI Act, 2005 vide Form-A Dated 29/08/2023 regarding COVID-19 Pandemic of Tirap District for the period 2019-2023.

2). The re-scheduled 1st hearing is held today on 23rd July, 2024. The PIO-cum-DDMO, Govt. of A.P., O/o the District Disaster Management, Changlang, Changlang District, Arunachal Pradesh appeared before the Commission through online video conferencing (Hybrid mode). The information seeker, Shri Dogru Tania is absent. The PIO has submitted that the applicant has sought information for the Tirap District, which is not under his purview. So, to confirm the PIO has written to the applicant for the clarification, but the applicant has not responded till date.

3). The Commission after perusing the records available and in observance of section 6(1)(b) and Section 7(9) of the RTI Act, 2005 directs 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. The information sought for by the Appellant is vague and voluminous. Also, the information sought is for **COVID-19 Pandemic of Tirap District for the period 2019-2023**. The Appellant is directed to confirm, whether he is seeking information for Changlang District or Tirap District.

4). 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*" -

28. The question which falls for decision in this case is the jurisdiction, if any, of the Information Commissioner under Section 18 in directing disclosure of information. In the impugned judgment of the Division Bench, the High Court held that the Chief Information Commissioner acted beyond his jurisdiction by passing the impugned decision dated 30th May, 2007 and 14th August, 2007.

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:

In that view of the matter this Court does not find any error in the impugned judgment of the Division Bench. In the penultimate paragraph the Division Bench has directed the Information Commissioner, Manipur to dispose of the complaints of the respondent no.2 in accordance with law as expeditiously as possible.

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.

8). In view of above and pre-pages, the Commission for the benefit of the information seeker decides to remand the case to the FAA for appropriate adjudication by giving equal opportunities of being heard in the interest of principal of natural justice and passing order on merit in speaking order. The liberty is on the Applicant to file 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 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

Dated, Itanagar the 25 July, 2024

Memo No.APIC-1035/2023 1184

Copy to:

1. The Deputy Commissioner, Govt. of A.P. Changlang, Changlang District, Arunachal Pradesh, PIN-792120, for information and necessary action please.
2. Computer Programmer, APIC, Itanagar, to upload in APIC Website & send mail to all the parties.
3. Case file.

Registrar/ Dy. Registrar
Arunachal Pradesh Information Commission

Itanagar
Deputy Registrar
Arunachal Pradesh Information Commission
Itanagar