



ARUNACHAL PRADESH INFORMATION COMMISSION, APIC
ITANAGAR

An Complaint case U/S 18(1) of RTI Act, 2005
Vide Case No. Appeal-885/2023,

BEFORE THE COURT OF SHRI KHOPEY THALEY, STATE INFORMATION COMMISSIONER

(Summon to appear in person)
(Or. 5, R.3 of CPC)

Shri Nikam Dabu.....

Appellant

Versus

PIO-cum- EE (PWD), Daporijo Division

Respondent

Date of hearing : 23/09/2024

Date of decision/Judgment : 30/10/2024

INFORMATION COMMISSIONER : Shri Khopey Thaley

Relevant facts emerging from Appeal:

RTI application file on : 24/07/2023
PIO replied on : 04/08/2023
First appeal file on :
First Appellate Authority's order :
2nd Appeal dated : 23/09/2024

Information sought :

The appellant file an RTI Application dated 10/11/2023 seeking Details regarding Expenditure and implementation C/o Road from Daporijo to BRTF Road to Power Grid '0' point via Sigamrijo Dildi Coloney-4.00 km in Lower Subansiri District.

As per the case record, PIO has rejected the RTI Application filed by the appellant.

Feeling aggrieved and dissatisfied, appellant approached the Commission with instant Second Complain dated 11/09/2023.

The following were present.

Appellant : Shri Nikam Dabu present in person.

Respondent : PIO-cum-EE(PWD), Daporijo Division attended through VC.


30/10/24

Contd..2/

State Information Commissioner
Arunachal Pradesh Information Commission
Itanagar.

JUDGEMENT / ORDER

This is a complaint filed under Sub-section (1) of the Section 18 of the RTI Act, 2005. Brief fact of the case is that the complainant Shri Nikam Dabu on 24.07.2023 filed an RTI application in Form-A to the PIO cum EE (PWD) Daporijo Division Upper Subansiri District A.P, whereby, seeking various information as quoted in Form-A application. Complainant being rejected his RTI application, filed this complaint to the Arunachal Pradesh Information Commission on 11.09.2023, and Registry of the Commission (APIC), on receipt of the complaint, registered it as APIC-No. 885/2023 (Complaint) and processed the same for its inquiry / hearing and disposal.

Accordingly, this matter came up for hearing before the Commission for 2 (two) time dated 23/09/2024 and 30/10/2024. In this hearing of the complaint on 30.10.2024 the PIO-Cum- EE PWD Daporijo Division Upper Subansiri District A.P has attended hearing through Video Conference and the complainant Shri Nikam Dabu present in person before the Commission.

Heard the PIO.

PIO submits that the RTI application was rejected as the applicant has submitted BPL certificate of some other person to avail information documents free of cost. He states that rejection of application was made within prescribed time limit period otherwise information could have been provided on remittance of prescribed fee.

In the instant case it is Complaint under Section 18 (1) of RTI Act 2005. Under this section the commission shall receive and inquire into a complaint from any person:

- (a) Who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
- (b) Who has been refused access to any information requested under this Act;
- (c) Who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- (d) Who has been required to pay an amount of fee which he or she considers unreasonable;


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(e) Contd..3/
(f)

- (g) Who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (h) In respect of any other matter relating to requesting or obtaining access to records under this Act.

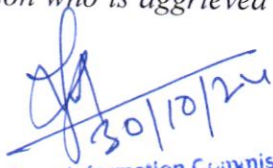
In conjunction with above grounds it is seen that-

- (a) The complainant has been able to submit the RTI application in Form-A to the PIO.
- (b) The complainant has not been specifically refused access to information requested.
- (c) The PIO has initially given response to the complainant.
- (d) There is no unreasonable fee charged. The applicant is required to produce a BPL certificate / card in his name from the competent authority.
- (e) No evidence of incomplete, misleading or false information.
- (f) No other matter other than rejection of RTI application by PIO.

In the complaint case, the Commission cannot direct the public authority to furnish information. As such power is not conferred on the Commission under section-18 of the Act. The Supreme Court has exhaustively explained the provision in the case of "Chief Information Commr. & Anr vs State of Manipur & Anr on 12, December, 2011" -

"42. Apart from that the procedure under Section 19 of the Act, when compared to Section 18, has several safeguards for protecting the interest of the person who has been refused the information he has sought. Section 19(5), in this connection, may be referred to. Section 19(5) puts the onus to justify the denial of request on the information officer. Therefore, it is for the officer to justify the denial. There is on such safeguard in Section 18. Apart from that the procedure under Section 19 is a time bound one but no limit is prescribed under Section 18. So out of the two procedures, between Section 18 and Section 19, the one under Section 19 is more beneficial to a person who has been denied access to information.

43. There is another aspect also. The procedure under Section 19 is an appellate procedure. A right of appeal is always a creature of statute. A right of appeal is a right of entering a superior forum for invoking its aid and interposition to correct errors of the inferior forum. It is a very valuable right. Therefore, when the statute confers such a right of appeal that must be exercised by a person who is aggrieved by reason of refusal to be furnished with the information.


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Dissemination

Contd..4/-

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."

The Commission observes that the complaint was filed under Section 18 of the RTI Act, 2005 where the Commission was only required to ascertain if the information has been denied with a mala fide intent or due to an unreasonable cause or under any other clause of Section 18 of RTI Act. Since records of the case do not indicate any such deliberate denial or concealment of information on the part of the PIO, the Commission concluded that there was no cause of action would necessitate action under the provisions of the Section 20 (1) of the RTI Act, 2005 in the instant complaint.

The Complaint is dismissed accordingly.

Judgement / Order pronounced in the Open Court of this Commission today this 30th day of October, 2024. Each copy of the Judgement / Order be furnished to the parties.

Given under my hand and seal of this Commission / Court on this 30th day of October, 2024.

(Khohey thaley)
State Information Commissioner
APIC, Itanagar

Memo No.APIC-885/2023/ 429

Dated Itanagar the... November, 2024.

Copy to:

1. The PIO cum EE PWD Daporijo Division Upper Subansiri District A.P Pin: 791122.
2. Shri Nikam Dabu C/o BBB Enterprises, H- Sector Itanagar Papumpare District A.P Pin: 791111 (M) 7640082060
3. Computer Programmer, Itanagar, APIC to upload in APIC website and mailed to concerned department email.
4. Office copy

(Khohey thaley)
State Information Commissioner
APIC, Itanagar

Information Commissioner
Arunachal Pradesh Information Commission
Itanagar.