



**ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR**

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

No.APIC-30/2024

Dated, Itanagar the 23rd July, 2024

Appeal Under Section 19(3) RTI Act, 2005

Appellant: Shri Pema Tenba, Vill-Mandala Phudung, Po/Ps-Dirang, West Kameng District, Arunachal Pradesh, PIN-790101, (M) 98623371571/ 8259924286.

Vs

Respondent: The PIO-cum-DFO, Govt. of A.P., Department of Environment and Forests, Bomdila, West Kameng District, Arunachal Pradesh, PIN- 790001.

ORDER

1). This is an appeal under Section 19(3) of RTI Act, 2005 filed by Shri Pema Tenba, Vill-Mandala Phudung, Po/Ps-Dirang, West Kameng District, Arunachal Pradesh, for non-furnishing of information by the PIO-cum-DFO, Govt. of A.P., Department of Environment and Forests, Bomdila, West Kameng District, Arunachal Pradesh as sought by the Appellant under section 6(1) of RTI Act, 2005 vide Form-A Dated 05/09/2023 regarding projects approved under APO (Annual Plan of Operation) 2022-23 for Dirang Range of Bomdila Forest Division.

2). The 1st re-scheduled hearing is held today on 23rd July, 2024 as scheduled. The PIO-cum-DFO, Govt. of A.P., Department of Environment and Forests, Bomdila, West Kameng District, Arunachal Pradesh is found absent. The information seeker, Shri Pema Tenba is present. The Appellant has submitted that inspite of his repeated visit to the PIO's office and requests for the information, the PIO has not furnished any information. So, he had appealed to the First Appellate Authority (FAA) but till date the FAA has not summoned them for the hearing. Instead, of hearing, the FAA stated that the hearing is already over and the information can be obtained from the PIO. But, the PIO does not give any proper response to his request.

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 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. As the information sought for by the Appellant is vague and voluminous. The information sought is for **projects approved under APO (Annual Plan of Operation) 2022-23 for Dirang Range of Bomdila Forest Division.**

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"* -

8). If the Appellant does not get any response / information from the Public Authority, actually he/she should have file complaint case under section 18(1) of the RTI Act, 2005. However, in this context, it is relevant to mention below the Apex Court observations relating to procedural lack in the case of "*Chief Information Commr. & Anr vs State Of Manipur & Anr on 12 December, 2011*": -

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:*

41. It is well-known that the legislature does not waste words or say anything in vain or for no purpose. Thus a construction which leads to redundancy of a portion of the statute cannot be accepted in the absence of compelling reasons. In the instant case there is no compelling reason to accept the construction put forward by the respondents.

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.

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.

9). 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 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-30/2024 / 179

Copy to:

1. The FAA-cum-Chief Conservator of Forest, Govt. of A.P., O/o Chief Conservator of Forest Banderdewa, Department of Environment and Forests, Papum Pare District, Arunachal Pradesh, PIN- 791123, for information and necessary action please.
2. The Deputy Commissioner, Govt. of A.P., Bomdila, West Kameng District, Arunachal Pradesh, PIN- 790001, 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