



ARUNACHAL PRADESH INFORMATION COMMISSION, APIC
ITANAGAR

An Appeal Case U/S 19(3) of RTI Act, 2005.
Vide Case No. APIC-139/2024

Shri Pem Dondup Thongkhar & -V/S- PIO-Cum- EE, PWD, Dirang Division, W/Kameng
Shri Khandu Thongkhar District

Order

WHEREAS, in connection with the APIC-No. 139/2024. The 3rd hearing held on 24th September, 2024. The Appellants Shri Pem Dondup Thongkhar and Shri Khandu Thongkhar present during the hearing but the PIO found absent consecutively for two hearings i.e on 20.06.2024 and 24.09.2024 without intimating to the Commission the reason for his inability to attend the hearing, which is unbecoming on the part of the PIO, who has to be reminded that, the PIO besides public duties, also has to attend Court hearings when an appeal is preferred against him as per the provisions of the RTI, Act, 2005, which is a statutory duty binding upon the PIO.

The PIO though absent in the hearings consecutively has submitted a letter bearing NO DD/W-13/2024-25/256 dated 12/08/2024 to the Commission, stating that "there is no such Scheme" under his division, for which the Appellants have applied for information(s) under RTI Act 2005.

Heard the Appellants.

The Appellants stated before the Commission that till date they have not received any of the information from the PIO as sought in their form 'A' application despite the order passed by this Court/Commission twice on dated 09.05.2024 and 20.06.2024, the Appellants further stated that, initially they had applied for the information(s) from the PIO-cum-Additional Deputy Commissioner (ADC), Dirang, West Kameng District but, the Additional Deputy Commissioner (ADC), Dirang, West Kameng District had transferred the RTI application to the O/o the Executive Engineer (EE), PWD Dirang Division, according to the provisions of Section 6 (3) (i) (ii) of the RTI Act. But despite the transfer of the application from the office of the ADC, Dirang, West Kameng District to the instant PIO in this appeal, the PIO has not provided them the information(s) sought.

After hearing the Appellants and going through the letter submitted by the PIO, the Commission observed;

- (i) The PIO is misreading the provisions of the RTI Act, 2005 and the letter which the PIO has submitted to the Commission is not acceptable as he simply

mentioned that “no such scheme under PWD Division, Dirang”. If that be the fact, then the PIO should have stated it in the first hearing of this appeal, on 9th May, 2024, when he was present in the Court. Now after two hearings, the statement given by the PIO is found to be misleading and insincere on the part of the PIO and it is to be highlighted that in the attempt to mislead the Commission, the PIO is wasting the precious time of this Court/Commission as well as of the Appellants.

- (ii) That, the PIO’s repeated absence from the hearing is drawn as a clear contempt of this Court and an act qualifying to be taken action as per the provisions of section 25 (5) of the RTI Act, 2005.
- (iii) Moreover, on the date fixed for the 3rd hearing of this appeal the APIO-Cum-AE, Mr. Tapi Mali reached the Court after the Court of the Commission was over and closed for the day with an authority letter to represent the PIO though.

The Commission after prudent observation found that the PIO is deemed fit to be initiated action as per the provisions of Section 25(5) of the RTI Act, 2005;

- (i) The provisions of RTI Act, Section 25 Sub-section 5 states that, “if it appear to the Central Information Commission or State information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity”. Concomitant upon the contempt of the PIO to this Commission’s orders compels the Commission to advise the competent higher authority of the PIO to initiate action against the PIO under the provisions of Section 25(5) upon which the apex Court of the Country, the Supreme Court also has ordered; in the Supreme Court of India, Civil Original Jurisdiction writ petition (CIVIL) No. 990 of 2021. Kishan Chand Jain ...PETITIONER(S) -Versus- Union of India & Ors. ...RESPONDENT(S);

“Apart from the obligation of monitoring and reporting, the Central and State Information Commissioners are also given the power to recommend steps which the public authority ought to take in implementing the Act. Sub-Section (5) of Section 25 is in the following terms: “(5) If it appears the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.”

25. Having examined the Right to Information established by the statute under Section 3 in the context of the obligations of public authorities under Section 4, we are of the opinion that the purpose and object of the statute will be accomplished only if the principle of accountability governs the relationship between 'right holders' and 'duty bearers'. The Central and State Information Commissions have a prominent place, having a statutory recognition under Chapters III and IV of the Act and their powers and functions all enumerated in detail in Section 18 of the Act. *We have also noted the special power of 'Monitoring and Reporting' conferred on the Central and State Information Commissioners which must be exercised keeping in mind the purpose and object of the Act, i.e., 'to promote transparency and accountability in working of every public authority' (sic).*

And therefore this Court orders;

- (I) *The principal Secretary PWD, Govt. of Arunachal Pradesh, who is the controlling authority of the PIO in this appeal: to secure the presence of the PIO in this appeal, who is serving as an Executive Engineer under PWD under Dirang Division, Govt. of A.P, in the next date of hearing which is fixed on 14th November, 2024.*
- (II) *The action taken by the principal Secretary PWD, Govt. of A.P. for securing the attendance of the PIO be initiated at the earliest and the copy of the order for action taken, be intimated to this commission, before the next date fixed for the hearing which is on dated ; 14th November, 2024 at 10.30 AM.*

The Court ordered;

The next date of hearing be fixed on 14th November, 2024 at 10:30 AM (Morning)

N.B:- To avail online hearing, please notify or get in touch one day prior to the hearing, by downloading " **WEBEX MEETING APP**" from Google Play store. For further technical assistance may contact Shri Himanshu Verma, IT Consultant (Mobile no. 831.9014957).

It is so ordered this 24th day of September, 2024 at 4:30 PM.

Sd/-
(Vijay Taram)
State Information Commissioner
APIC, Itanagar.


Memo. No. APIC-139/2024

Copy to:

Dated Itanagar, the.....Oct., 2024

1. The Principal Secretary PWD, Govt. of Arunachal Pradesh, A.P. Civil Secretariat, Itanagar for information and necessary action please.
2. The Deputy Commissioner, Govt. of Arunachal Pradesh, West Kameng District, Bomdila **PIN-790001** to ensure attendance of the PIO-cum-EE, PWD, Govt. of A.P. Dirang Division, West Kameng District, Arunachal Pradesh, before the Hon'ble Court of State Information Commissioner, Arunachal Pradesh Information Commission, Itanagar.

3. PIO-cum- EE, PWD, Dirang Division, West kameng District Govt. of Arunachal Pradesh for information and necessary action please. **PIN- 790101.**
4. Shri Pem Dondup Thongkhar and Shri Khandu Thongkhar , Dirang West Kameng District, Arunachal Pradesh for information Please. **Contact No. -8414332277.**
5. The Computer Operator, for uploading on the website of APIC, please.
6. Office Copy.


Registrar/Dy. Registrar
- APIC Itanagar

Deputy Registrar
Arunachal Pradesh Information Commission
Itanagar