



ARUNACHAL PRADESH INFORMATION COMMISSION, (APIC)
ITANAGAR.

An Appeal Case U/S 19(3) of RTI Act, 2005
Vide Case No. APIC- 637/2023.
(Summon to appear in person)
(Or.5, R.3 of CPC)

Shri Nabam Tapak & Gyamar Hina, **APPELLANT**
Lekhi Village Naharlagun near Iconic dealer
Back side District Papum Pare AP PO/Ps Naharlagun.
PIN: 791110

Vs

The PIO, o/o the Executive Engineer (RWD), **RESPONDENT.**
Sagalee Division, District Papum Pare, A.P
PIN:791112

ORDER / SUMMONS

This is an appeal under Section 19(3) of RTI Act, 2005 received from the Appellant, Shri Nabam Tapak & Gyamar Hina for non-furnishing of information by the PIO O/o the Executive Engineer (RWD), Sagalee Division District Papum Pare, Arunachal Pradesh as sought for by them under section 6(1) (Form-A) of RTI Act, 2005 vide application dt.24.04.2023.

This appeal was heard for 5(five) times on 19.06.2024, 24.07.2024, 23.08.2024, 11.09.2024 and 04.10.2024. In the last 4(four) hearings the PIO, Er. Shri Gollo Tara, Executive Engineer (RWD), Sagalee Division failed to appear in a single hearing compelling this Commission to issue show cause notice dt.13.09.2024 under section 19(8)(b) and (c) r/w section 20 of the RTI Act, 2005 by which he was directed to appear in person on 04.09.2024 with the sought for information and also the reasons for his absence in the hearing.

As directed, the PIO appeared in the hearing on 4th Oct. 2024 along with his written explanation to the Show Cause Notice dt.13.09.24. The PIO has submitted 2(two) separate written statements (both of same dated i.e 04.10.2024), one stating the grounds under which the sought for information was not furnished to the applicant and the other showing reasons as to his absence from the 4(four) hearings.

In the course of the hearing today, one of the appellants, Shri Nabam Tapak who was also present, re-iterated his demand for the information he has sought from the PIO and also prayed this Commission for taking stringent action against PIO for denying the information to him despite lapse of more than one year since he applied for the same on 24.04.2023 and for not attending the hearings which amounted to blatant disrespect to this Commission and the RTI law.

The PIO, however, responded by saying that he did not deliberately absented from the hearings but due to his ill health and some family matter commitments for which he was outside the State on leave, he could not attend the hearings. He, thus, prayed this Commission to absolve him of action under section 20 of the RTI Act.

This Commission considered the explanation given by the PIO on his absence and found that the reasons advanced therein are, indeed, genuine ones which merit a sympathetic consideration and acceptance and as such the Show Cause Notice on his absence from the earlier hearings is hereby disposed of and closed.

This Commission also perused and considered the written statement submitted by the PIO in respect of the sought for information stating that the appeal is repetitive one which was earlier disposed of and closed by 3(three) Commissioner Bench, including the SCIC {Shri Goto Ete (SIC), Shri Gumjum Haider (SIC) and Shri Rinchin Dorjee(SCIC)} of this Commission vide order dt.21.02.2022 in APIC Case No.94 & 95 /2021(Shri Takam Dolu & Shri Gyamar Gunja Vs. Er. Tachi Totu Tara, PIO-cum-EE, RWD, Sagalee Div.). The PIO, hence, prayed that the instant appeal No.637/2023 be quashed as being repetitive appeal in line with the decision of the Central Information Commission of India in its decision dt.24.01.2017 in Appeal No.CIC/CCITB/A/2017/179437-BJ, the operative portion of which is reproduced bellow:

“On perusal of the records, the Commission noted that similar nature of queries had been raised by the Appellant in separate cases, which had been heard and decided in Appeal No.CIC/BS/A/2016/001737-BJ dated 13.06.2017 and in Appeal no.CIC/BS/A/2016/001421-BJ dated 14.03.2017. Furthermore, on a query from the Commission regarding the receipt of relevant documents in the previous occasion from the Respondent Public Authority, the Appellant replied in the affirmative but could not provide a substantive justification for seeking the additional copies of the same again from the Public Authority.”

The CIC had, thus, held that the information sought for is repetitive one as the same had already been supplied to the applicant in a separate RTI application. In deciding the appeal as above, the CIC had relied on its earlier decision in CIC/AD/A/2013/001326-SA dt.25.06.2014 wherein it was held as under:

“No scope for repeating under RTI Act.

20. The Commission infers from the above that though RTI Act, did not specifically provide as a ground of refusing the information, it is implied from the objective and various provisions of RTI Act, that right of citizen to information is limited to one and dose not extend to repetition of request for that directly or indirectly.

Citizen has no right to repeat

25. For the above reasons and based on objective of the RTI Act, its provisions, their interpretation by the Information Commissioners referred above, reading them together, this Commission observes:

a) The citizen has no right to repeat the same or similar or slightly altered information request under RTI Act, 2005, for which he already got a response.

b) Once an RTI application is answered, the applicant shall refrain themselves from filing another application against the public authority as once information is received and held by them or posted in public domain, because such information is deemed to have ceased to be 'held' by the public authority.

Repetition shall be ground for refusal

c) Such repetition of information request may be considered as reasonable ground for refusal under the RTI Act.

d) An applicant or appellant repeating the RTI application or appeal either once or multiple times, suppressing the fact of earlier application and receipt of the answer, the CPIO of public authority may reject it forthwith after intimating it along with reasons”

In adverting to the submission of the PIO for quashing of the instant appeal in view of earlier decision dt.21.02.2022 of this Commission (supra) and the CIC decision, this Commission deems it pertinent to reproduce the operative portion of the decision of this Commission which is as under:

“Accordingly, matter came up for hearing before the Commission for 9(nine) consecutive times on 26.04.2021, 21.06.2021, 09.08.2021, 24.08.2021, 21.09.2021, 18.10.2021, 25.10.2021, 17.01.2022 and 21.02.2022. In this final hearing of appeal on 21st day of February 2022, the appellant is not present.....The APIO informed to the Commission that they had submitted all the information before the Commission during the last hearing which was held on 17th January 2022 for onward handing over of information to the Appellant. According, order letter has been sent to the Appellant vide No.APIC-94/95/2021/297, dt.21.01.2022 from the APIC office Itanagar for collection of information as submitted by the PIO from the Commission office. But the Appellant did not turn up for collection of information till date, nor he has intimated any reason or submitted any letter for his absence during the hearing. It seems that the Appellant is no more interested to the said appeals.

In view of the above facts and circumstances we find this appeal fit to be disposed of and closed. And according, this appeal stands disposed of and closed for once for all.”

On a bare perusal of earlier decision of this Commission (supra), it could be easily discerned and concluded that the reliance placed thereon and the CIC decision as above by the PIO in denying the sought for information to the Applicant/Appellant is totally misplaced for the reasons that (a) the applicant/appellant in the instant case (APIC-637/2023) is not the same applicant/Appellant in APIC case No.94 &95/2021 and (b) the said APIC case No. No.94 &95/2021 was disposed of for non-prosecution by the Applicant/Appellant.

As held in various judicial pronouncements, if the appellant does not appear when the appeal is called for hearing, it can only be dismissed for non-prosecution and not on merit. Since the earlier APIC case was disposed of and closed for non-appearance of the applicant in the hearing and his failure to collect the information being furnished by the PIO, it can not be said that the said appeal was disposed of on merit.

Therefore, in the considered opinion of this Commission, the information as sought for by the applicant / appellant in the instant appeal can not be denied as being repetitive and on the basis of earlier decision of this Commission r/w the decision of the CIC because the factual positions in the present appeal and that of CIC case are totally different.

In the premises as above, this Commission, while absolving the PIO of the actions under section 20 of the RTI Act, 2005 for his absence in the hearings, directs him, in the interim, to provide the sought for information to the applicant / appellant within 4(four) weeks from the date of receipt of this order and the applicant /appellant is also directed to collect the information so provided to him by the PIO and report his satisfaction or otherwise thereon before the next date of hearing which is fixed on 1st November 2024 Friday at 2 pm.

Given under my hand and seal of this Commission on 7th Oct., 2024

NOW THEREFORE, the PIO, Er. Shri Gollo Tara, Executive Engineer (RWD), Sagalee Division, District Papum Pare (A.P) is hereby summoned to appear in the Hon'ble Court of Shri Sangyal Tsering Bappu, SIC in person or online on the above date and time without fail.

To avail online hearing facility, download "**WEBEX MEETING APP**" from Google Play store. For further technical assistance Shri Himanshu Verma, IT Consultant (Mobile no. 8319014957), maybe contacted.

Sd/-
(SANGYAL TSERING BAPPU)
State Information Commissioner,
APIC, Itanagar.

Memo No. APIC- 637/2023/ 246 Dated Itanagar, the 7 Oct.,2024

Copy to:-

1. Superintending Engineer (RWD), Govt. of A.P, Itanagar, the First Appellate Authority for information.
2. The PIO, o/o the Executive Engineer (RWD), Sagalee Division, District Papum Pare, Arunachal Pradesh for information and compliance.
3. Shri Nabam Tapak & Shri Gyamar Hina Lekhi Village, Backside of Iconic dealer, Papum Pare (A.P) PO/PS Naharlagun PIN: 791110 Mobile no. 9366534930 for information and necessary action.
4. The Computer Programmer/Computer Operator for uploading on the Website of APIC, please.
5. Office copy
6. S/copy

Registrar/ Deputy Registrar
Arunachal Pradesh
APIC, Itanagar
itnagar.