



ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR.

An Appeal Case U/S 19(3) of RTI Act, 2005
Case No. APIC-85/2025.

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

APPELLANT

:Shri Tamchi Gungte, near KV-II School Chimpu.

RESPONDENT

: The PIO, o/o the Executive Engineer (PWD),
Pasighat Division, East Siang District (A.P)

ORDER/SUMMONS

This is an appeal under Section 19(3) of RTI Act, 2005 received from Shri Tamchi Gungte for non-furnishing of 28(twenty eight) point information pertaining to C/o Extension and improvement of road from Seram to Bijari under East Siang during the financial year 2022-23 by the PIO o/o the Executive Engineer (PWD), Pasighat Division, East Siang as sought for by him under section 6(1) (Form-A) of RTI Act, 2005 vide his application dated 23.10.2024.

This appeal is heard for the 2nd time today on 20.08.2025, the 1st time being on 18.07.2025. The appellant had then submitted that the o/o the PIO, vide forwarding letter dt.21.01.2025, had furnished the requested information to him and that he is satisfied with the most of the information/replies furnished by the PIO but complained that the following replies had not been furnished or furnished incomplete:

- 1) Sl. No (4) (U.C) : incomplete;
- 2) Sl. No (8) (Notice of NIT published in N/paper with date) : not furnished;
- 3) Sl. No (16) (copy of security money deposit) : not furnished,
- 4) Sl. No (17) (integrity pact) : not furnished;
- 5) Sl.No (18) (affidavit on incomplete projects) : not furnished;
- 6) Sl. No (19) (experience certificate of executed projects) : not furnished;
- 7) Sl. No (23, 24 and 25) : incomplete and not clear.

Since the PIO was absent in the hearing the correctness of the appellant's complain could not be confirmed then. As such the hearing was adjourned to 20.08.2025 with direction to the PIO that he or his representative must be physically present in the hearing along with the left out documents/replies to explain to the appellant the shortcomings complained by him.

Today on 20.08.2025, Er.Smti Tuli Jamoh, J.E -cum-APIO and the appellant, Shri Tamchi Gungte are present in person.

Heard the parties.

The appellant, reiterating his complaint, pleaded for appropriate direction to the PIO and also necessary penal action against him for not furnishing the requested information correctly and in complete form.

On the other hand the APIO reiterated the submission of the PIO in his earlier letter dt.21.01.2025 to the appellant that in terms of Govt. Memo dt. 07.07.2023 issued by the o/o the CE (CSQ), PWD, the APPWD registered contractors are exempted from submitting the eligibility documents at Sl. No 17(integrity pact), 18(affidavit on incomplete projects) and 19 (experience certificate) in participating in the tendering process. The copy of said Govt.Memo as produced by the APIO during the course of hearing is reproduced hereunder:

“ OFFICE MEMORANDUM

*To have a uniform tendering procedure in the state of Arunachal Pradesh and to exempt the APPWD Registered Contractors from submitting eligibility document like similar nature of Works experience, Tools & Plants and Technical Staffs at par with CPWD Works Manual — 2022 and Standard Operating Procedures for CPWD Works Manual 2022, all the Engineering Departments under State of Arunachal Pradesh who are involved in execution of Civil Construction Works are directed to implement and comply with the provisions outlined in SOP No. 4/8 and 4/9 of the Standard Operating Procedure for CPWD Works Manual 2022 while inviting tenders and refer Annexure 21 (CPWD - 6 For E-tendering) of Standard Operating Procedure for CPWD Works Manual 2022 for details. Also, Clause 3.1.3 of CPWD Works Manual 2022 and Annexure — 6 of Standard Operating Procedure for CPWD Works Manual - 2022 may be referred for specialized jobs. **This memo is issued without prejudice to the mandatory eligibility criteria compliance** by bidders as required under the Arunachal Pradesh District Based Entrepreneurs and Professionals(Incentive, Development and Promotional) Rules, 2015.*

This issues with the approval of the competent authority.

Sd/-

Principal Secretary(PWD)
Govt. of A.P Itanagar.”

The relevant portion of the Arunachal Pradesh District Based Entrepreneurs and Professionals (Incentive, Development and Promotional) Rules, 2015 is reproduced hereunder:

“(ii)The Contractors/Entrepreneurs before participating in the tenders must satisfy the following conditions:

- (a) The District Based Entrepreneurs and Professionals must be duly registered under the Arunachal Pradesh Contractors Enlistment Rules, 2008 in the appropriate class of category and that the Registration is must be valid on the date of participation of tender a copy of which must be submitted to the tendering authority.*
- (b) If the District based Entrepreneurs and Professionals who have their firm already got registered as contractors under Arunachal Pradesh Contractors Enlistment Rules, 2008 have the address different from their domiciled territorial jurisdiction, they shall be allowed to participate in the tender on production of proof of permanent resident certificate in support of their claim.**
- (c) The contractors who has been awarded the work by call of tender shall not sub-let his work, falling which the authority shall be competent to rescind the Contract and take Suitable course of action.*
- (d) The Categories -IV and V contractors shall be exempted from requirement for producing proof of completion of works similar type in last five years to qualify for-participation in a tender.*

- (e) *In the larger interest of the public and for equitable distribution of developmental works amongst eligible contractors and also to ensure effective management and quality of works, a contractor shall be allowed to have only 2 (two) works in hand in any of departments under Government of Arunachal Pradesh at a time and for which he shall make a declaration to be executed in an Affidavit that he is not engaged in more than two any tenders works under the State Government. He shall also, for participation in any tender be required to submit completion certificate issued by the Engineer-in-charge duly counter- signed by the concerned Superintending Engineer and Chief Engineer.*
- (f) *In the event of inadequate response to a tender invited at block level/Assembly Constituency level, the eligible contractor of adjacent block/Assembly Constituency Within the district shall be eligible to participate in the subsequent call of that tender.*
- (g) *In the event of inadequate response to a tender invited at District level tender for an amount of Rs. 5 crore to Rs.10 crore, all eligible indigenous of Arunachali contractor domiciled and registered under Arunachal Pradesh Contractor Enlistment Rule, 2008 shall be eligible to participate in the subsequent call of that tender and if the cost of works is above-10 crore, all the registered contractors in Class-I and contractors shall be eligible to participate."*

This Commission noticed that as per the aforesaid Govt. Memorandum, the APPWD Registered Contractors are to be exempted from submitting eligibility document mentioned therein while inviting tenders in the State of Arunachal Pradesh. It is, however, pertinent to note that the memorandum, in the last sentence, at the same time lays down that the memo is issued **without prejudice to the mandatory eligibility criteria compliance by the bidders** as required under the Arunachal Pradesh District Based Entrepreneurs and Professionals(Incentive, Development and Promotional) Rules, 2015.

The implication of the memorandum in question, specially from the sentence, **'without prejudice.....'** is that while inviting tenders from the contractors the eligibility criteria prescribed by the APDBE&P(ID & P) Rules, 2015, more particularly the criteria at (e), can not be superseded or by-passed. As such this Commission is not in a position to accept the contention of the PIO/APIO that the bidders were exempted from submitting the requested information pertaining to Sl. Nos. 17,18 and 19 in pursuance of the said Govt. Memorandum. In any case, the said APDBE&P(ID & P) Rules, 2015, being a statutory rule framed under an Act of Legislature, can not be overridden or jumped over by such a Memorandum which is an executive order in nature. It is a settled principle of law that a However, the requested documents, admittedly having not obtained from the contractors in the tendering process, the PIO shall declare by way of any affidavit that those documents were not obtained in terms of the said Govt. Memo.

This Commission also noticed that the UC furnished by the PIO was for Rs.100.00 lakh as against the payment of Rs. 520.00 lakh made to the contractor. Besides, the other left out documents are the proof of Security Money deposit, Notice of NIT published in the news paper, clear and legible photograph of the project and the Cheque details.

This Commission holds that since the information requested by the appellant are not covered by any of the exemption clauses under the RTI Act, the appellant has to be provided the same in complete and satisfactory form.

In the premises as above, the PIO is directed to provide the left out information to the appellant, as assured by the APIO, including a declaration, with reason, by way of an affidavit against those not available within 2(two) weeks from the date of this order and any case before the next date of hearing which is fixed on 5th September, 2025.

Given under my hand and seal of this Commission on this 20th August, 2025.

NOW THEREFORE, you are hereby summoned to appear in person in the Hon'ble Court of Shri Sangyal Tsering Bappu, **SIC on the 5th September, 2025, (Friday) at 2 pm** to answer the claims, and you are directed to produce on that day all the documents upon which you intend to rely in support of your claims/defense.

Take notice that, in default of your appearance, on the day above- mentioned, the matter will be heard and determined in your absence.

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

Memo No. APIC- 85/2025 *1593* **Dated Itanagar, the 22 Aug., 2025**

Copy to:-

1. The Chief Engineer (PWD), Govt of A.P. Central Zone-B, Pasighat, the First Appellate Authority (FAA) PIN: 791102 for information and ensuring compliance by the PIO.
2. The PIO, o/o the Executive Engineer (PWD), Govt. of Arunachal Pradesh Pasighat Division, East Siang District PIN: 791102 for information and compliance.
3. Shri Tamchi Gungte, Near KV-II School Chimpu, Po/PS Chimpu, PIN: 791113, A.P. Mobile No. 9233567279 for information.
4. The Computer Programmer/Computer Operator for uploading on the Website of APIC, please.
5. Office copy.
6. S/Copy

P. Singh
Registrar/ Deputy Registrar
APIC, Itanagar.

Deputy Registrar
Arunachal Pradesh Information Commission
Itanagar