सत्यमेव जयते

सूचना का अधिकार
RIGHT TO INFORMATION

ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR.

An Appeal Case U/S 19(3) of RTI Act, 2005
Case No. APIC-215/2025.

APPELLANT : Shri Tamchi Gungte, near KV-II School Itanagar.
RESPONDENT : (a) The PIO, o/o the Director of TRIHMS, Naharlagun Papum Pare district, (A.P)
(b) The PIO, o/o the E.E (PWD), Naharlagun Division, Naharlagun.

ORDER

This is an appeal under Section 19(3) of RTI Act, 2005 received from Shri Tamchi Gungte for non-furnishing of below mentioned information by the PIO, o/o the Director of TRIHMS, Naharlagun, Papum Pare District, as sought for by him under section 6(1) (Form-A) of RTI Act, 2005 vide his application dated 03.10.2024.

Particular of information: C/o " Establishment of New Medical College attached with District/Referral hospital (Tomo Riba Institute of Health & Medical Science, Naharlagun)."

1. Certified Sanction Order copy.
2. Certified LOC copy.
3. Certified copy of utilization certificate.
4. Certified copy of Notice Inviting Tender (NIT)
5. Certified copy of Progress report of the projects in physical and Financial section till date.
6. Certified copy of Completion certificate of the project.
7. Certified copy of newspaper in which NIT was published (At least 3 news paper name (one national & 2 Local) along with date of publication of news paper, as per government approved order.
8. Certified design and scope of work in the projects.
9. Certified copy of work specification of the projects.
10. Certified Copy of documents submitted by Tender participant for Technical Bid.
11. Name of Firms who won the Tender Work.
12. Name of Officers and their designation at the time of monitoring the work.
13. Certified copy of Contractor Registration, Pass work completion, Contractor enlistment update reports, of tender participant and winning Firm.
14. Certified copy of EMD and Security money deposited by all the tender participant.
15. Certified Integrity Pact submitted by the tender participant.
16. Certified copy of an Affidavit copy sworn before a competent Magistrate by the Contractor, to the effect that he does not have two or more incomplete ongoing commitments (project / contract to execute) at the time of bidding by the tender participant and winning firm. (as per rule SPWD/W-66/2012 dtd. 01.08.2018)
17. Certified documents submitted by tender participant and winning firm, i.e. copy of completed three similar work each of value not less than 40% of the estimate cost or completed two similar work each of value not less then60% of the estimated cost or completed one similar work of value not less than 80 % of the estimated cost in the last 5 years ending last day of the month previous to the one in which the tenders are invited.

18.Certified copy of Acceptance letter for Tender Work by the Executing Agency to the tender winning farm.

19.Certified copy of Work Order given to the Contractor by the Executing Department.

20.Certified copy of modes adopted for the execution of work through EPC mode by the Dept.

Brief facts emerging from the appeal :

Records emerging from the appeal disclose that the Appellant, Shri Tamchi Gungte had requested the PIO for the aforementioned information/documents but failed to obtain the same which prompted him to appeal before the Director of TRIHMS, Naharlagun, B-sector, Papum Pare District Govt. of Arunachal Pradesh, the First Appellate Authority (FAA) under Section 19 (1) of the RTI Act, 2005 vide Memo of Appeal Dated 18.11.2024. However, the appellant having failed yet again to obtain the information preferred 2nd appeal before this Commission under Section 19 (3) of the RTI Act. 2005 vide Memo of Appeal dated 18.02.2025.

Hearing and decision:

This appeal has been heard for 4(four) times on 11.06.2025, 11.07.2025, 25.07.2025 and 03.09.2025.

On 11th June, 2025, wherein the appellant, Shri Tamchi Gungte and Dr. Shri Rajen Kombo, OSD (Project), TRIHMS –cum- the APIO were present in person, this Commission, after hearing the parties and had passed the following direction:

"*This Commission also holds that in order to implement the intent and objective of the RTI regime, the requested documents, unless exempted under the RTI Act, ought to be furnished to the appellant and this Commission observes that those left out documents are not covered by the exemption provisions under section 8 or under section 9 of the RTI Act. However, if some of the documents are not available with the o/o the PIO but are available with the o/o the EE (PWD), Naharlagun Division, as submitted by the APIO, such documents shall be collected from that public authority and furnish to the appellant. The EE(PWD), Naharlagun Division shall also, in terms of sub-section(5) of section 5 of RTI Act, 2005, provide those documents available with his Division to the PIO, TRIHMS for onward furnishing to the appellant.*

During the course of hearing the APIO expressed his inability to comprehend the exact information requested by the appellant at Sl.20 (the mode adopted for execution of the project) and requested the appellant for clarification. The Appellant assured the PIO that he will produce relevant papers regarding the exact demand/ query within this week.

The PIO, o/o the TRIHMS and the EE(PWD), Naharlagun Division are directed to comply with the above direction within 1(one) month from the date of receipt of this order and in any case before 11th July, 2025 (Friday) at 2pm, the next date of hearing wherein the PIO, o/o the EE(PWD), Naharlagun Division, shall also be present."

On 11.07.2025 both the PIO and the appellant were present in person but the appellant submitted that he did not bring the case files and, therefore, pleaded for adjournment of the hearing to an appropriate date.

As noticed in the hearing on 11.06.2025 and recorded in the order since the information / documents against most of the appellant's queries were stated to be

available with the o/o the EE(PWD), Naharlagun Division, the PIO, o/o EE (PWD) Naharlagun was also directed to provide those documents being held by his office and was also directed to be present in the next hearing. But neither the PIO, o/o the E.E(PWD) nor his APIO or any representative appeared.

The hearing of this appeal was, thus, adjourned to 25.07.2025 with direction to the PIO, o/o the EE(PWD), Naharlagun Division to be present to clarify and confirm the submission of the o/o the PIO, TRIHMS. But the EE(PWD) did not appear nor deputed any of his representative. However, the PIO, TRIHMS, Dr. Rajen Kombo was present with a letter dt.23.07.2025 from the E.E (PWD), Naharlagun Division enclosing therewith a copy of replies /clarification on 10(ten) queries signed by the EE-cum-PIO, PWD, Naharlagun Division and the Director-cum-PIO, TRIHMS.

The appellant who was present with the documents/replies received from the PIO complained that most of the replies furnished by the PIO are vague and not satisfactory. He particularly mentioned the replies furnished to the following queries:

a. Copy of LOC;
b. Scope of Work;
c. Documents submitted by the tender participants for technical bid;
d. Contractor enlistment certificate of one of the joint venture partner firms;
e. Affidavit submitted by the tender participant firms on incomplete ongoing works and
f. Method /mode adopted for execution of the project.

The clarification/replies furnished in the statement signed by the EE-cum-PIO, PWD and the Director-cum-PIO, TRIHMS are as under:

a. LOC : *"TRIHMS Society is and Autonomous body of the Government. No LOC System for TRIHMS for making payment. The Payment are being made by the society as per the fund availability."*
b. Scope of work : *" Enclosed"*
c. Documents submitted for technical bids: *" The documents of participants are third party documents. The documents consisting of financial details of the third party. No third party documents will be issued without consent of the party concern."*
d. Contractor enlistment: *" Enclosed."*
   Affidavit on incomplete ongoing works: *"The project falls under 'national Building Category' and Arunachal Pradesh District based entrepreneurs and professional incentive and development and promotional amendment 2020 is not applicable for it."*
e. Method /mode adopted for execution of the project: *" Enclosed."*

The APIO, Dr. Kombo, while reiterating the above replies /explanation, submitted that the appellant, if not satisfied with the explanation as above, could visit the o/o the PIO, as demanded by the appellant, for inspection of the documents, more particularly, the documents on the scope of work. The APIO also reiterated that the replies to the queries on documents submitted for technical bids, contractor enlistment and mode adopted in execution of project could be available with the o/o the EE(PWD), Naharlagun Division. He also submitted that as regards the LOC, more detailed clarification could be given by the Finance Section of the TRIHMS.

This Commission also perused the replies/explanations furnished by the PIO, particularly, on LOC and the documents for technical bids. This Commission was not able to comprehend as to why o/o the PIO could not furnish any other documents/orders in lieu of LOC by which expenditure of the grants- in-aide fund had been incurred.

The mere explanation that '*the Payment are being made by the society as per the fund availability*' did not give specific reply/information, rather it was a vague and incomplete reply.

The ground of 'third party documents' cited by the PIO in the explanation against documents for technical bids was also misplaced. As has been held in number of judicial pronouncements, once the tendering process is complete and works allotted to the firm winning the tender, the documents can be disclosed. Moreover, in terms of the exclusion provisions contained under the relevant exemption clause themselves viz, clause (d) (e) and (j) of section 8(1), if larger public interest warrants disclosure of the requested information or if the disclosure of the requested information/documents has relationship to public activity, the PIO has to furnish the documents. The submission made in the explanation/reply was, therefore, not made out for strong ground for denial of the information.

The ground cited by the PIO against the affidavit on incomplete ongoing projects was also not convincing, rather it appeared to be misleading in as much as the PIO did not elaborate as to which provision under the A.P District Based Entrepreneurs and Professionals (Incentives, Development and Promotional) Rules, 2015 exempts or excludes from its purview a project which falls under the 'National Bidding Category'. As such, this explanation also required further elaboration/clarification by the PIO.

This Commission, in the premises as above, deemed it appropriate to hear the appeal again and accordingly, directed that in the next hearing the PIO, o/o the EE(PWD), Naharlagun Division must be present to explain the technical points which the o/o the PIO, TRIHMS was not able explain. *It was also made clear that his non-appearance will constrain this Commission to issue warrant of arrest to enforce his attendance as empowered under sub-section(3) of section 18 of the RTI Act, 2005*.

Further, in view of the submission of the APIO that the Finance Section of the TRIHMS could give more detailed clarification in respect of the query on LOC, this Commission directed the Finance Officer i/c of the Finance section to appear in the next hearing. The PIO was also directed, in the meantime, to allow the appellant to inspect the records/documents in his office as requested by the appellant and agreed to by the APIO so as to enable him to get the correct picture of the replies on his queries, more particularly, on the Scope of work and the LOC.

The further hearing of the appeal for clarification on the incomplete information was, thus, fixed today on 03.09.2025 wherein Dr. Shri Rajen Kombo now the PIO (TRIHMS), and Er. Shri Nabam Zomleen, A.E-cum-APIO, Naharlagun PWD Sub-Division and the appellant, Shri Tamchi Gungte are present in person.

Heard the parties.

As regards the LOC, the APIO(PWD) explained that as already submitted by the PIO, TRIHMS, the LOC system is not followed in the implementation of the projects but the expenditure is incurred on the basis of sanction order from the competent authority i.e the Secy/Commissioner (Health & Family Welfare) -cum-Chairman, EC TRIHMS. In this regard the PIO had produced some copies of such sanction orders which the appellant shall go through and intimate his satisfaction therewith to the appellant and this Commission.

With respect to the Scope of work, the PIO submitted that the appellant had visited the o/o the PIO and inspected the DPR documents which contains the details of scope of work. The appellant, however, contended that other than for the Academic Block for 100 admissions, the PIO did not furnish the scope of work for rest of the projects being implemented by the TRIHMS. He, therefore, demanded that the item-wise scope of work for rest of the project, similar to that of Academic Block, should also be furnished to him which the PIO (TRIHMS) assured to trace out from the records and furnish.

With respect to Documents for technical bids, the APIO (PWD) reiterated earlier statement that the documents of participants are third party documents consisting of financial details of the third party and that no third party documents will be issued without consent of the party concerned. However, the APIO (PWD), on being convinced of the fact that the procedure prescribed under section 11 of the RTI Act in respect of 3rd party information were not followed either by the o/o the PIO, TRIHMS or by the PIO, o/o PWD, Naharlagun, Division, assured to find out the available documents in the o/o the PIO (PWD) and hand over to the PIO(TRIHMS) for furnishing to the appellant.

As regards contractor enlistment the appellant accepted the Contractor Registration Certificate furnished to him earlier in lieu of Enlistment Certificate and did not press for the same.

With respect to Affidavit on incomplete ongoing works the APIO reiterated the earlier contention that since the project falls under 'national Building Category', the Arunachal Pradesh District Based Entrepreneurs and Professional (Incentive Development and Promotional) Rules, 2015 which prescribes such affidavit as one of the criteria for election of District based Entrepreneurs, is not applicable to the TRIHMS project. However, the PIO could not produce any specific rules or guidelines thereof. But since, admittedly, no such affidavit was obtained from the contractors, the o/o public authority concerned who conducted the tender, shall have to furnish a specific reply that 'no such certificate was obtained from the contractors in the tendering process.

With respect to method /mode adopted for execution of the project, the APIO (PWD) explained to the appellant the mode adopted in the implementation of the TRIHMS project. However, the APIO shall furnish in writing, mentioning specifically, the mode adopted w.r.t to the CPWD guidelines dt. 09.05.2017.

The PIO (TRIHMS) and the PIO (PWD) shall comply with the above direction within 1(one) month from the date of receipt of this order and report compliance thereof to this Commission. The appellant is also directed to intimate to this Commission within one week from the date of receipt of the documents failing which this appeal shall stand closed without further notice/order.

Given under my hand and seal of this Commission on this 03.09.2025.

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

Memo No. APIC-215/2025/813 Dated Itanagar, the 5 Sept., 2025

Copy to:

1. The Director (TRIHMS), the First Appellate Authority (FAA), for information and ensuring compliance by the PIO.
2. The PIO, o/o the Director of TRIHMS, Naharlagun PIN – 791110 for information and compliance.
3. The PIO, o/o the EE(PWD), Govt. of A.P, Naharlagun Division for information and compliance.
4. Shri Tamchi Gungte, Near KV-II School Chimpu, Po/PS Chimpu, Dist :Papum Pare, 791113, A.P. Mobile No. 9233567279 for information.
5. The Computer Programmer/Computer Operator for uploading on the Website of APIC, please.
6. Office copy.
7. S/Copy.

Registrar/ Deputy Registrar
APIC, Itanagar.

Deputy Registrar
Arunachal Pradesh Information Commission
Itanagar