



**ARUNACHAL PRADESH INFORMATION COMMISSION, (APIC)
ITANAGAR.**

**Appeal Case U/S 19(3) of RTI Act, 2005
Vide Case No. APIC- 637/2023.**

Shri Nabam Tapak, (Gyamar Hina)
Lekhi Village back side of Iconic dealer
District Papum Pare AP PO/Ps Naharlagun.
PIN: 791110

..... APPELLANT

Vs

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

SHOW CAUSE NOOTICE

{ Section 19(8)(b) & (c) r/w section 20 of the RTI Act, 2005 }

To

Shri Gollo Tara, E.E -cum-PIO(RWD),
Sagalee Division, Papum Pare District,
Arunachal Pradesh.

- 1. WHEREAS** Shri Nabam Tapak, the appellant in the APIC case No.637/2023, vide his application dt.24.04.2023 had requested the PIO, o/o the Executive Engineer (RWD) Sagalee Division for seeking details of information on 36(thirty six) points as annexed in his application relating to construction of Yazali-Sakiang Road from 40 KM point to Pilla for period 2015-2019.
- 2. AND WHEREAS**, having failed to obtain the sought for information from the PIO, the applicant filed his 1st appeal under section 19(1) of the RTI Act, 2005 before the First Appellate Authority, the Superintending Engineer (RWD), Govt. of A.P, Vivek Vihar, Itanagar vide his Memo of Appeal dt.16.06.23. But having failed yet again to receive any response from the First Appellate Authority, the Appellant preferred his Second Appeal under section 19(3) of the RTI Act vide his Appeal Memo dt.12.07.2023 which had been registered in the State Information Commission as APIC No.637/2023 dt. 13.07.2023.
- 3. AND WHEREAS**, 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. But except on 04.10.2024, you failed to appear in a single hearing on earlier dates 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, 2025 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.

4. AND WHEREAS as directed, you appeared in the hearing on 4th Oct. 2024 along with your written explanation to the Show Cause Notice dt.13.09.24. You also 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 your absence from the 4(four) hearings.

5. AND WHEREAS during the course of the hearing, one of the appellants, Shri Nabam Tapak who was also present, re-iterated his demand for the information he has sought from you and also prayed this Commission for taking stringent action against you 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.

6. AND WHEREAS in response you submitted that you did not deliberately absented from the hearings but due to your ill health and some family matter commitments for which you were outside the State on leave, you could not attend the hearings. You have, thus, prayed this Commission to absolve you of the action under section 20 of the RTI Act.

7. AND WHEREAS this Commission, upon consideration and taking a lenient view of the explanation given by you on your absence in the hearings disposed of and closed the said show cause notice absolving you of the penalty under section 20 of the RTI Act. However, as regards the grounds for non-furnishing of the sought for information as stated in your letter, this Commission, upon perusal of the copy of the judgement passed by 3(three) Commissioner Bench of this Commission, consisting of Shri Goto Ete (SIC), Shri Gumjum Haider (SIC) and Shri Rinchin Dorjee (SCIC)} 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.)**, found that the reliance placed on earlier decision of this Commission by you is misplaced and in view thereof, this Commission, while absolving you of the actions under section 20 of the RTI Act, 2025 for absence in the hearings, directed you, 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 was also directed to collect the information so received and report his satisfaction or otherwise thereon before the next date of hearing on 01.11.2024 and summons were, accordingly, issued to you. The relevant portion of the order passed on 07.10.2024 by this Commission is re-produced hereunder:

“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 &95/2021was 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 as the factual positions in the present appeal and that of CIC case are totally different.

In the above premises, 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”.

8. AND WHEREAS in the hearing held on 01.11.2024, the appellant was present but you were again absent without any intimation nor did you furnish the sought for information to the appellant despite this Commission's order as above.

9. AND WHEREAS the appellant during the hearing informed that he had visited your office on 23.10.2024 to collect the information as directed by this Commission but the office staff present in the office could not furnish the information on the pretext that the Xerox machine is out of order.

10. AND WHEREAS this Commission is of the opinion that by not complying with the direction of this Commission, you have blatantly disrespected this Commission and the RTI regime, more so, even after this Commission had dropped the show cause notice issued to you under section 19(8)(b) and (c) r/w section 20 of the RTI Act compelling this Commission to revive the aforesaid show cause notice dt.13.09.2024.

11. NOW THEREFORE this Commission hereby revives the aforesaid closed Show Cause notice dt.13.09.2024 and directs you to explain, on or before 27.11.2024 as to why the action as contemplated therein shall not be initiated against you and impose penalty of Rs.25,000.00 as provided under section 20(1) of the RTI Act, 2005.

12. The date of hearing of this Show Cause notice is fixed on 27th November, 2024 at 2 pm.


Given under my hand and seal of this Commission on this 6th November, 2024

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

Memo No. APIC- 637/2023/ 293 Dated Itanagar, the 06 Nov., 2024

Copy to:-

1. The Commissioner/Secretary (RWD), Govt. of A.P, Itanagar, for information and necessary action in terms of paragraph 41 of the Govt. O.M No.AR-111/2008 dt. 21.08.2008 issued by the AR deptt.
2. The The Superintending Engineer (RWD), Govt. of A.P, Itanagar, the First Appellate Authority for information.
3. The PIO, o/o the Executive Engineer (RWD), Sagalee Division, District Papum Pare, Arunachal Pradesh for information.
4. 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.
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.
Registrar
Arunachal Pradesh Information Commission
Itanagar.