



ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR.

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

Shri Nabam Tapak & Gyamar Hina,
Lekhi Village, Iconic Back side dealer
Naharlagun.

..... **APPELLANT**

The PIO, o/o the Executive Engineer (RWD),
Sagalee Division, Sagalee.

..... **RESPONDENT.**

ORDER

This is an appeal under Section 19(3) of RTI Act, 2005 received from the Appellants, 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.

Brief facts emerging from the appeal:

Records in the appeal revealed that the appellants herein had requested the PIO, o/o the Executive Engineer (RWD) Sagalee Division for the aforesaid 36(thirty six) point information relating to construction of Yazali-Sakiang Road from 40 KM point to Pilla during the period 2015-2019. But the appellants failed to obtain the sought for information from the PIO. They, therefore, filed 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 Memo of Appeal dt.16.06.23. But having failed yet again to receive any response from the First Appellate Authority, the Appellants preferred their Second Appeal under section 19(3) of the RTI Act vide their Appeal Memo dt.12.07.2023 which had been registered in this Commission as APIC No.637/2023.

Hearing and decision:

This appeal was, accordingly, listed and heard for 8(eight) times on 19.06.2024, 24.07.2024, 23.08.2024, 11.09.2024, 04.10.2024, 01.11.2024, 27.11.2024 and 14.05.2024. But except on 04.10.2024 and 27.11.2024, the PIO did not appear in rest of the hearings. Due to his consecutive absence in the hearing, this Commission was compelled 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 04.10.2024 with the sought for information and also to explain 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. During the course of hearing the PIO 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 hearings.

In the course of the hearing on 04.10.2024, one of the appellants, Shri Nabam Tapak who was also present in person, re-iterated his demand for the sought for information 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 filing of the RTI application 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 finding the reasons advanced therein to be genuine ones, disposed of and closed the Show Cause Notice.

This Commission also perused and considered the written statement of the PIO that the appeal is repetitive one which was earlier disposed of and closed by 3(three) Commissioner Bench, including the HSCIC, Shri Rinchin Dorjee and Shri Goto Ete, HSIC and Shri Gumjum Haider, HSIC of this Commission by 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, in the above case 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 repeateting 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 the instant appeal in view of earlier decision dt. 21.02.2022 of this Commission and the CIC decision (supra), 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 accordingly, this appeal stands disposed of and closed for once for all."

This Commission perused the decision of this Commission as above whereupon it could be easily discerned and concluded that the reliance placed thereon and on the CIC decision by the PIO in denying the sought for information to the Appellants was totally misplaced for the reasons that (a) the appellants in the instant case(APIC-637/2023) were not the same applicants/Appellants 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. This Commission was, thus, of the considered opinion that the information as sought for by the applicants / appellants in the instant appeal could not have been denied as being repetitive and on the basis of earlier decision of this Commission r/w the decision of the CIC as the factual position in CIC case were 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, directed him, in the interim, vide order dt. 07.10.2024, to provide the sought for information to the appellants within 4(four) weeks from the date of receipt of the order and the appellants were also directed to collect the information so provided to them by the PIO and adjourned the hearing to 01.11.2024.

In the hearing on 01.11.2024, the PIO was again absent without any intimation nor did he furnish the sought for information to the appellants despite this Commission's order as above. One of the appellants, Shri Nabam Tapak, who was present in person, submitted that he had visited the o/o the PIO 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.

This Commission, upon hearing the appellants and taking serious view of the non-compliance of Commission's order by the PIO even after dropping the show cause notice issued to him under section 19(8)(b) and (c) r/w section 20 of the RTI Act, revived the show cause notice dt.13.09.2024 by order dt.06.11.2024 and directed him to explain, on or before 27.11.2024 as to why action as contemplated therein shall not be initiated and impose penalty of Rs.25,000.00 as provided under section 20(1) of the RTI Act, 2005.

On 27.11.2024, the PIO appeared with the sought for information and appellant was also present and was handed over the information.

Since the PIO has brought in the documents/information sought by the appellant in the hearing, the said show cause notice was closed for the 2nd time.

During the course of hearing, this Commission perused the documents brought in and furnished by the PIO to the appellant in seriatim vis-à-vis the list of points as contained in the application of the appellant. The appellant also went through the same and of the total 34 points, he was satisfied with most of the documents except the following some of which were either not furnished at all or were furnished incomplete:

- a) Sl. No. 10 (Name of final Bill Sheet against whom work has been awarded and made payment);
- b) Sl.No.11(Completion Report installation-wise);
- c) Sl. No.12 (copy of payment made to contractor and state/status of scheme);
- d) Sl. No 13 (Xerox copy of Challan of EMD);
- e) Sl. No 15 (Xerox copy of duration of contract);
- f) Sl. No.19 (remaining amount of scheme);
- g) Sl. No.20 (instalment amount already paid to the contractor);
- h) Sl. No.25 (Utilisation Certificate) and
- i) Sl. No.32 (copy of geo-tag photo)

During the course of hearing the PIO submitted that since the PMGY projects are executed in OMMAS modules and payment to the contractor is also made thereunder, the Utilisation Certificate (S/.No.25) and the cheque counter-foil/cheque leaf are not available and hence, not furnished. The appellant, however, insisted for an affidavit to that effect by the PIO.

This Commission, upon hearing the parties, directed the PIO, in the interim, to furnish the remaining information as above and also a declaration by way of an affidavit with reasons against whatever documents 'not available' or 'not applicable' as required under the Rule 5(vi) of the A.P Information Commission (Appeal Procedure) Rules, 2005 within 2(two) weeks from the date of receipt of order dt. 29.11.2024 and the appellant was also directed to go through the same and report his satisfaction or otherwise to this Commission so as to fix the date of next hearing, if required.

This Commission, however, noticed that both the PIO and the appellant remained silent about the compliance of the aforesaid order till 11.04.2025 when the appellant, Shri Nabam Tapak, vide his letter dt.11.04.2025 addressed to this Commission, informed that he did not receive the left-out documents as yet from the PIO and hence, requested for hearing the appeal.

In view of non-compliance of the direction of this Commission by the PIO, this Commission listed this appeal again on 14.05.2024 for the 8th time and summoned the PIO to appear in person but he again failed to appear. However, his representative, Er. Shri Kuma Welly, ASW, o/o the Executive Engineer (RWD), Sagalee Division brought in the left out documents after the hearing was over. The documents were handed over to the appellant on 15th May, 2025.

The appellant went through the documents/information including the affidavit containing declaration against those not available and expressed his satisfaction therewith except the "letter of undertaking" on the Completion Report (Sl. No.11) which he complained as misleading. He submitted that as per the BILL OF QUANTITY furnished by the PIO, the stipulated dateline for completion of the construction of the road is 05.01.2021. As such, the undertaking signed by the PIO which says that the work is still in progress is false and misleading. He, therefore, insisted for the completion report as demanded by him.

This Commission, on perusal of the undertaking furnished by the PIO on the "Completion Report" and contents therein and observing that as already directed such statement /declaration should be made by way of an Affidavit as has been done in respect of other points such as UC, mode of payment etc., the PIO was directed that if the Completion Report can not be furnished, a declaration to that effect by way of an affidavit citing reasons be furnished to the appellant within 1(one) week from the date of receipt of this order with intimation to this Commission. The appellant was also directed to intimate to this Commission within 1(one) week thereafter of the receipt of the same.

The appellant, Shri Nabam Tapak has now informed this Commission vide his letter dt.28.05.2025 that he has received the requested documents/information from the PIO with which he is satisfied and hence, requested for closing the appeal.

In the premises as above, this appeal stands disposed of and closed.

Given under my hand and seal of this Commission on this 3rd June, 2025.

Sd/-

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

Memo No. APIC- 637/2023/430 **Dated Itanagar, the 4, June, 2025**

Copy to:

1. Superintending Engineer (RWD), Govt. of A.P, Rural Works Circle, Itanagar, the First Appellate Authority (FAA) for information.
2. The PIO, o/o the Executive Engineer (RWD), Sagalee Division, District Papum Pare, Arunachal Pradesh for information.
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.
- ✓ 4. The Computer Programmer/Computer Operator for uploading on the Website of APIC, please.
5. Office copy
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Registrar/ Deputy Registrar
APIC, Itanagar

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