



**ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR**

BEFORE THE COURT OF DR.JORAM BEGI, STATE CHIEF INFORMATION COMMISSIONER
No.APIC-158/2020 Dated Itanagar, the 6th April' 2021

Under Section 19(3) RTI Act, 2005

Appellant

**Shri Raju Kyamdo,
Polo Colony, Daporijo,
Po/Ps Daporijo,
Upper Subansiri District,
Arunachal Pradesh,**

Vs

Respondent

**Shri Taluk Rai,
The PIO-cum-EE (RWD),
Daporijo Division,
Upper Subansiri District ,
Arunachal Pradesh.**

Dated of hearing held on : 6thApril' 2021.

ORDER

Whereas, an appeal under Section 19(3) of RTI Act, 2005 has been received from Shri Raju Kyamdo, Polo Colony, Daporijo, Po/Ps Daporijo, Upper Subansiri District, Arunachal Pradesh, for non-furnishing of information, by Public Information Officer, Executive Engineer(RWD), Daporijo Division, Upper Subansiri District , Arunachal Pradesh, as sought, by the Appellant under section 6(1) of RTI Act, 2005 on 11/09/2020 regarding C/o LO28-Kojin Nallah to Rungba (Stage-I & II).

Whereas, the 1st hearing was held on 5th January'2021. Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division, was found absent. The PIO was represented by Shri JumgeNyodu, Junior Engineer (RWD), Daporijo Division. The Appellant Shri Raju Kyamdo attended the hearing in person. Shri JumgeNyodu, Junior Engineer informed the Commission that the PIO is attending the meeting with Chief Engineer at Itanagar, so the PIO is not able to attend the Court hearing. The Junior Engineer brought the information in the court and the same was handed over to the Appellant. The Junior Engineer also informed that due to some technical problem information could not be furnished to the Appellant within the prescribed stipulated period.

Whereas, from the record available in the commission it has been found that the Appellant submitted his application for the information regarding Road Construction under PMGSY Schemes on 11/09/2020 Under Section 7(I) of the RTI Act 2005. The PIO should have furnished the information within 30 days from the date of receipt of the application but he kept quiet. The Appellant Under Section 19(I) of the Act submitted his appeal to the First Appellate Authority (FAA) on 13/10/2020. The FAA also did not take any action on the matter.

Therefore, the Commission viewed the absence of the PIO and deliberately evading the statutory duty very seriously. If the PIO is found absent in the next date of hearing Arrest Warrant U/s 18(3)(a) of the RTI Act 2005 will be issued to enforce the attendance of the PIO and If the information furnished to the Appellant are found to be incomplete or misleading or incorrect, U/s 20(1) of the RTI Act, penalty of Rs. 25, 000/- (Rupees twenty five thousand) only will be imposed on the PIO. Also, U/s 20(2) of the RTI Act disciplinary action against the PIO under the service rules will be recommended to the Chief Secretary, Govt. of Arunachal Pradesh. The Commission asked the Appellant to go through the information and convey his satisfaction or dissatisfaction in the next date of hearing.

Whereas, the 2nd hearing was held on 9th February'2021. Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division, and the Appellant Shri Raju Kyamdo were present during the hearing. The PIO informed the Commission that due to review meeting with Chief Engineer he could not attend the 1st hearing. The PIO also informed that the Application of the

Appellant has not been received by him and there is no RTI Application by the name Shri Raju Kyamdo in his office. The Appellant produced the proof of submission of the Application in the court; the Application was received by the Head Assistant on 11/09/ 2020. The PIO said that the application might have been misplaced. The PIO asked the Appellant to furnish him a copy of the Form-A so that he can furnish the Appellant information sought by him in the Form-A. A Xerox copy of the Form-A was furnished to the PIO during the hearing by the Appellant.

Whereas, the Commission, made it clear to the PIO that statutory duty has to be given preference over other administrative activity. The Commission giving reasonable opportunity asked the PIO to explain, why the penalty u/s 20(1) of the RTI Act 2005 should not be imposed on him for misleading the court and not furnishing the information to the Appellant within the stipulated period of time despite receiving the Application by his office on 11/09/2020, this amount to denying the information to the Appellant. The PIO could not give any reasonable answer, instead he accepted to pay the penalty. So, the Commission u/s 20(1) of the RTI Act 2005 impose penalty of Rs. 25, 000/- (Rupees twenty five thousand) only on Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division. The PIO has been directed to deposit the said penalty amount in favour of the Registrar, Arunachal Pradesh Information Commission, Itanagar through Treasury Challan in the Head of Account "0070-Other Administrative Charge". The penalty has to be deposited within one week from the date of issue of this order and has to send a copy of treasury challan to the Commission. The PIO also has to furnish complete, correct authenticated information to the Appellant within twenty days from the date of issue of this order and to produce the proof of depositing the amount through treasury challan at the time of next date of hearing failing which additional action shall be taken under Section 20(2) of the Act i.e. recommendation for disciplinary action to the Chief Secretary, Govt. of Arunachal Pradesh. The Commission asked the Appellant to receive the information go through and convey his satisfaction or dissatisfaction in the next date of hearing.

Whereas, the 3rd hearing was held on 9th March'2021. Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division, and the Appellant Shri Raju Kyamdo were present during the hearing. The PIO submitted a copy of Treasury Challan amounting to Rs. 25,000/- (Rupees twenty five thousand) only being penalty u/s 20(1) of the RTI Act 2005. The Appellant informed the Commission that the PIO has not furnished information for Sl.no. i, i.e. Details of Executing agency / contractor with name of representatives; Sl.no. iii, i.e. Details of Performance security BANK Guarantee (PBG) ; Sl.no. iv, i.e. Details of Payment made to Executing agency / Contractor with copy of PFMS till date; Sl.no. viii, i.e. Detail of Start and end Points of road along with via villages as per DPR and Sl.no. x, i.e. Details of Bills submitted by the Executing agency / contractor for road work as above. The PIO informed that the information for the Sl.no i, has been furnished; information for Sl.no. iii, could not be furnished as it is of third party information; the information for Sl.no. iv, has given, the total amount was of Rs. 5.55 crore and given in four installments, i.e. Rs. 2 crore, Rs. 2 core, R.s 0.90 lakhs and Rs. 1 crore; the information for sl.no. viii has been furnished an is also available in the public domain and the information for Sl.no. x has not been furnished as it also pertains to third party. The PIO also informed that the third party is Shri Porsa Lote, proprietor of the M/s Sonia Enterprises, Daporijo, Arunachal Pradesh.

Whereas, the Commission after hearing the arguments of both the parties and cross examining the information furnished to the Appellant, the Commission directed the PIO to furnish proper & detail information for the Sl.no. i,iv,viii & x as sought by the Appellant in the Form-A, and bring information for Sl.no. iii in court. Since, the information for the Sl.no. iii is of third party, the Commission decided to summon the third party Shri Porsa Lote, proprietor of the M/s Sonia Enterprises, Daporijo, Arunachal Pradesh. If the third party fails to appear in the next date of hearing, it shall be presumed that the third party has no objection on furnishing of the information by the PIO to the Appellant. The Commission asked the Appellant to receive the information and convey his satisfaction or dissatisfaction in the next date of hearing.

Whereas, the 4th hearing was held on 6th April'2021 before the full Bench Court of the Information Commission. Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division, the Appellant Shri Raju Kyamdo and the Adv. A.K. Sing representing the third party were present in the hearing. The PIO informed the Commission that the complete information has been furnished as directed by the Commission in the last hearing. The Appellant informed that the PIO has furnished the information in the night just before the hearing. He told to the court that the information furnished for Sl.no. i, & iii are satisfied, but the information furnished for **Sl.no. iv, & x** are not legible and detail of bills are incomplete. The Adv.A .K. Singh representing the third party objected the furnishing of information for Sl.no. iii as sought by the Appellant in the Form-A. The learned Adv. Quoted the exemption section **8(1)(d)& (j)** and said that the Bank Account No. if furnished may be misused and the Account has lots of personal transactions. So, this particular information cannot be furnished to the Appellant by the PIO.

Whereas, the Commission after hearing the arguments of all the parties and going through the exemption section as quoted by the Advocate representing the third party found that the information for Sl.no. x i.e. detail of bills are complete but is not legible. The objection of the third party is overruled, as the information is not treated as confidential **u/s 11(1) of the RTI Act 2005** by the third party himself, the information does not have any commercial confidence, trade secrets or is not an intellectual property, furnishing of the information does not harm the Competitive position of the third party **u/s 8(1)(d) of the Act** and the information sought is although private, has very much relationship with public activities, **u/s 8(1)(j) of the Act**. So, the Commission directed the PIO to **furnish once again the legible information for Sl.no. iv & x** and complete and legible information for **Sl.no. iii** within ten days from the date of issue of this order i.e. on or before 16th April'2021 to the Appellant. The Commission also asked the Appellant to receive the information go through and convey his satisfaction or dissatisfaction in the next date of the hearing.

The next date of hearing is fixed on 20th April' 2021 at 10:30 hrs.

Therefore, Shri Taluk Rai, the PIO-cum-Executive Engineer (RWD), Daporijo Division, Upper Subansiri District, Arunachal Pradesh, is hereby summoned to appear before this Court in person on the scheduled date and time without fail.

Sd/-

(Dr.Joram Begi)

State Chief Information Commissioner
Arunachal Pradesh Information Commission
Itanagar

Memo No.APIC-158/2020 /285

Dated, Itanagar the 7 April'2021

Copy to:

1. Shri Taluk Rai, the PIO-cum-Executive Engineer(RWD), Daporijo Division, Upper Subansiri District , Arunachal Pradesh,
2. Shri Raju Kyamdo, Polo Colony, Daporijo, Po/Ps Daporijo, Upper Subansiri District, Arunachal Pradesh,
3. Shri Porsa Lote, M/s Sonia Enterprises, Po/Ps Daporijo, Upper Subansiri, (A.P.) (m) 9436054003,
4. Computer Programmer, APIC, Itanagar, to upload in APIC Website,
5. Case file.

Deputy Registrar
Anunachal Pradesh Information Commission
Itanagar
Registrar / Dy. Registrar,
Arunachal Pradesh Information Commission
Itanagar