



**ARUNACHAL PRADESH INFORMATION COMMISSION
ITANAGAR**

BEFORE THE COURT OF DR.JORAM BEGI, STATE CHIEF INFORMATION COMMISSIONER
No.APIC-159/2020 Dated Itanagar, the 9th March' 2021

Under Section 19(3) RTI Act, 2005

Appellant

Shri Tanga Byaling,
Sigumrijo,
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 : 9th March' 2021.

ORDER

Whereas, an appeal under Section 19(3) of RTI Act, 2005 has been received from Shri Tanga Byaling, Sigumrijo, 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 PMGSY Scheme for the road works.

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 Jumge Nyodu, Junior Engineer (RWD), Daporijo Division. The Appellant Shri Tanga Byaling attended the hearing in person. Shri Jumge Nyodu, 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 various Road Construction under PMGSY Schemes on 11/09/2020 Under Section 7(l) 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(l) 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 Tanga Byaling were present during the hearing. The PIO informed that the Commission all the information sought by the Appellant has been furnished except for the information pertaining to the 3rd party, as the 3rd party has requested not to furnish the particular information. The Appellant informed that the PIO has furnished information sought at Sl.no. I, V, & IX of the Form-A and the information are satisfactory. The Appellant also informed that the PIO has furnished simple Sanction Order copy for information sought at Sl.no. VI. The information sought is for detail of Technical Sanction Order not simple Sanction Order.

Whereas, the Commission after hearing both the parties and on cross examining found that the information sought at Sl.no.II, III, V, VII, VIII & X of the Form- A has not been furnished and the information for Sl.no. III pertains to third party. Since, the PIO informed that the 3rd party denied disclosing of information, the Commission giving reasonable opportunity to the 3rd party decided to summon the third party in the next date of hearing, the PIO was directed to furnish the name and address of the 3rd party. If the third party fails to appear in the hearing it will be presumed that the third party has no objection in furnishing of the information to the Appellant by the PIO. The PIO is directed to furnish complete, correct and authenticated information for Sl.no II, V, VII, VIII & X to the Appellant on or before 5th March'2021 and bring information for Sl.no. III, in the court. Failing which penalty of Rs. 25, 000/- (Rupees Twenty five thousand) only u/s 20(1) of the RTI Act 2005 shall be imposed on the PIO 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, the Appellant Shri Tanga Byaling and the Adv. Shri A.K. Singh representing the third party Shri Toi Ronya, M/s J.J. Enterprises, Dokum Colony, Itanagar (AP) were present during the hearing and the other third parties were found absent. The Appellant informed the Commission that the PIO has not furnished information as directed in the last hearing and brought unsatisfactory information just a day before the hearing to his residence. The PIO informed that the information was taken to the Appellant but the Appellant refused to receive the information. The PIO had brought the information in the court during the hearing. The Advocate of the third party objected that the third party information cannot be disclosed U/S 8(1) of the RTI Act 2005. As the same is personal information against which affects the right to Privacy. Further, section 8(1) says information including commercial confidence, trade secrets, or intellectual property, the disclosure of which would harm the trade secrets of third party. The Advocate appealed the Commission to direct the Appellant or the concern PIO to furnish the copy of the detail information sought in Form A- application, Memorandum of appeal U/S 19(1), of RTI Act 2005, Second appeal U/S 19(3), or any other application filed by appellant for furnishing documents of third party and also appealed the Commission to adjourn and fix another date for hearing.

Whereas, the Commission after the hearing the arguments and appeals of all the three parties, directed the PIO to furnish correct, complete and authenticated information for Sl.no. v, vii, viii and x to the Appellant free of cost within fifteen days from the date of issue of this order failing which Section 20(1) of the RTI Act shall be invoked in the next hearing. The Commission also directed this Registry to furnish all the information as sought by the learned Adv. A.K. Singh vide his letter No. NIL Dated 24.02.2021. Except for Shri Toi Ronya, M/s J.J. Enterprises, Dokum Colony, Itanagar (AP), other third party did not turn up, therefore it is presumed that all the absentee third parties do not have any objection on furnishing of their information to the Appellant by the PIO. The Commission also asked the Appellant to receive the information and convey his satisfaction or dissatisfaction in the next date of hearing.

The next date of hearing is fixed on 6th 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 persons on the scheduled date and time without fail.

Sd/-

(Dr.Joram Begi)

State Chief Information Commissioner
Arunachal Pradesh Information Commission

Itanagar

Dated, Itanagar the 10 March'2021

Memo No.APIC-159/2020 /192
Copy to:

1. The Chief Engineer (RWD), Govt. of A.P. Bank Tinali, Itanagar for information and necessary action,
2. The Superintendent Engineer (RWD), Ziro Circle, Govt. of A.P. Ziro, Lower Subansiri District, for information and necessary action,
3. Shri Taluk Rai, the PIO-cum-Executive Engineer(RWD), Daporijo Division, Upper Subansiri District , Arunachal Pradesh,
4. Shri Tanga Byaling, Sigumrijo, Po/Ps Daporijo, Upper Subansiri District, Arunachal Pradesh, Computer Programmer, APIC, Itanagar, to upload in APIC Website,
5. Shri Toi Ronya, M/s J.J. Enterprises, Dokum Colony, Itanagar (AP), (m)9402249397,
6. Shri Porsa Lote, M/s Sonia Enterprises, Daporijo(A.P.) (m) 9436054003,
7. Shri Rohit More, M/S ATW (India)PVT. LTD, Dibrugarh, Assam (m)943503561,
8. Dr. Samson Borang, M/s Sedi Allied Agency, PO/PS, Pasighat, District East Siang, A.P, (m)943648339,
9. Shri Ponga Gongo, M/S P.G Construction & Consultancy, Daporijo (m) 943643740,
10. M/s Tayo Enterprises, Rending Complex Barapani, Naharlagun, PO/PS, Naharalagun, District Papum Pare, A.P.
11. M/S R.T.T Enterprise, Itanagar, Papum Pare District, A.P.
12. Computer Programmer, APIC, Itanagar, to upload in APIC Website,
13. Case file.

Registrar / Dy. Registrar,
Arunachal Pradesh Information Commission
Itanagar