



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

Appeal U/S 19(3) of RTI Act, 2005  
vide No.APIC-116/2021.

**BEFORE THE HON'BLE COURT OF SHRI GOTO ETE, THE STATE  
INFORMATION COMMISSIONER**

Shri Tungam Jomoh  
G-Extension, Naharlagun,  
Arunachal Pradesh..... Appellant

- VERSUS -

Shri Tabang Jamoh  
PIO-cum-DFO, Namsai,  
Arunachal Pradesh..... Respondent

Date of Order: 24.02.2022

**ORDER**

This is an order with reference to the Show Cause Notice issued against Shri Tabang Jamoh, the PIO-cum-DFO of the Namsai Forest Division, by the Commission (APIC) in this Second Appeal vide APIC-116/2021.

Brief fact of the case is that the appellant Shri Tungam Jomoh on 06.02.2021 filed an RTI application under Form-A before the PIO, whereby, seeking information regarding issue of NOC in respect of construction of Mini Secretariat-cum-Deputy Commissioner Office, Namsai, including - 5(five) other Projects. Having not received any response from the PIO, the appellant filed the First Appeal before the First Appellate Authority-cum-PCCF, Itanagar, on 16.03.2021. Again, having not received any response from the FAA-cum-PCCF, the appellant filed the Second Appeal before the Arunachal Pradesh Information Commission (APIC), being the present appeal vide APIC-116/2021.

The appeal came up for hearing before the Commission (APIC) on 4(four) consecutive dates, i.e, on 16.09.2021, 21.10.2021, 02.12.2021 and finally on 27.01.2022. During first hearing of the appeal on 16.09.2021 Mr. Tabang Jamoh, PIO-cum-DFO, Namsai, stated before the Commission that the information sought was earlier posted to the appellant through registered A/D post. But since the same was returned unserved by the post office the information sought could not be furnished to the appellant. PIO, however, expressed his readiness to furnish the information sought to the appellant at any time and for which the Commission (APIC) asked the appellant to collect the information from the PIO within a Week from this date of the order and to intimate the Commission of his satisfaction or dissatisfaction of the information received for further hearing of the appeal on the next date fixed on 21.10.2021. The appellant, accordingly, collected the information

from the DFO's Office, Namsai, on 21.09.2021 but lodged a written complaint to the Commission (APIC) on 23.09.2021 against the PIO to the effect, inter-alia, that the PIO has wilfully furnished him misinformed (incorrect) information and requested for initiating appropriate action against the PIO. During second hearing of appeal on 21.10.2021 the PIO again furnished the 2<sup>nd</sup> set of information (replies) against RTI application dated 06.02.2021 of the appellant. During the hearing one Shri James Teli Comdir representing the appellant raised an objection that the 2<sup>nd</sup> set of information furnished were also misleading and incorrect. The Commission after hearing the parties and also after having careful considerations of the available materials on record found a prima-facie case established against the PIO liable for imposing reasonable under sub-section (1) of Section-20 of the RTI Act. However, the Commission, with intent and purpose of giving him (PIO) a reasonable opportunity of being heard on this aspect of the matter as provided in the first proviso to sub-section (1) of Section-20 of the Act, issued a Show Cause Notice against him on 21.10.2021 to explain or to show cause on 2<sup>nd</sup> of December, 2021 as to why he shall not be imposed a reasonable penalty under sub-section (1) of Section-20 of the Act. On this date fixed for hearing of the Show Cause on 02.12.2021 neither the PIO was present himself in person nor did he furnish any written replies to the Show Cause Notice. The PIO was, however, duly represented by his learned counsel Mr. H.K Jamoh, who sought for a reasonable time for taking proper instruction from his client (PIO) for furnishing replies to the Show Cause Notice aforesaid, in as much as, he was not knowing about the date on which his client (PIO) had received the RTI application dated 06.02.2021 submitted to him by the appellant. Learned counsel for the PIO, however, furnished the 3<sup>rd</sup> set of information (replies) against the same RTI application dated-06.02.2021 of the appellant recently on this 2<sup>nd</sup> day of December, 2021 fixed for hearing of the Show Cause Notice issued against the PIO and Mr. T. Gyatso learned counsel appearing for the appellant and appellant himself in person, whereupon, expressed their satisfaction as to receipt of the all information so sought. But the learned counsel for the appellant pleaded among others for appropriate action against the PIO for his failure in furnishing the information sought in time, including, for furnishing misleading information which has led to delays in furnishing of the information to him by the PIO.

Finally on 27.01.2022 learned counsel for the PIO submitted a written replies to the Show Cause Notice issued against the PIO on 21.10.2021 and was being heard in detail. I have also heard the learned counsel of the appellant including the appellant in person. Now, after hearing the learned counsels of the either side and also after having careful considerations of all available materials on record, including the contents of written replies of the show cause notice I have drawn following issues/points for determination for arriving at a just decision of the case and those are as follows:

**I. If the PIO has refused to furnish the information sought by the appellant in his RTI application submitted to the PIO on 06.02.2021:**

Mr. H.K Jamoh, the learned counsel of the PIO, pleaded both in his verbal and written submissions made in paragraph 2 & 6 of his written replies to the Show

Cause Notice issued against the PIO that the PIO had not refused to furnish the information sought by the appellant in his application dated 06.02.2021 submitted to him (PIO) under Form-A and has, thus, prayed for revocation of the Show Cause Notice issued against the PIO. In this context it is relevant to refer the related provisions of Section-7 of the RTI Act. It is provided in sub-section (1) of Section-7 that the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request for information made under Section-6 of the Act, shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fees as may be prescribed or reject the request on any of the reason specified in Section-8 and 9 of the RTI Act. In other words, the PIO receiving the RTI application or request submitted to him by any citizen under Form-A shall either provide or reject the information sought within a prescribed period of thirty days. Sub-section (2) of Section-7 reads as quoted – *“If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, **shall be deemed to have refused the request.**”* Now, it is evidently clear from this provision of the RTI Act that the PIO receiving an application or request for information under the Act, if fails to give decision on the request for information within a prescribed period of thirty days from the date of receipt of the request, **shall be deemed to have refused the request.** It is further felt required to refer the relevant contents of sub-section (1) of Section-20 which reads as quoted – *“Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or State Public Information Officer, as the case may be, without any reasonable cause, refused to receive an application for information or **has not furnished information within the time specified under sub-section (1) of Section-7** ....., it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees.”* The second proviso to sub-section (1) of Section-20 provides that the burden of proving that he acted reasonably and diligently shall be on the PIO. But in the present case it has been observed that PIO had, though responded the RTI application dated 06.02.2021 of the appellant vide his letter dated 11.05.2021 through a registered A/D post but the same appears to had been so done after a lapse of little more than 3(three) months from the date of submission of the said application to him by the appellant through speed post. In other words the said RTI response of the PIO appears to had been made through registered A/D post to the appellant after a lapse of more than 1(one) month and 25(twenty five) days of filing of the First Appeal by the appellant on 16.03.2021. But surprisingly the PIO or his learned counsel has neither disclosed anywhere in his replies to the Show Cause Notice as to when he received the RTI application of the appellant nor has he explained any such circumstance or circumstances anywhere in his verbal or written replies to the Show Cause Notice filed through his lawyer about how come he had made his response letter dated 11<sup>th</sup> May, 2021 after such a long period of more than 3(three) months of posting of the RTI application to him on 06.02.2021 through speed post. And, most importantly, it has been observed that PIO has not pleaded

anywhere either in his verbal submission or in written replies to the Show Cause Notice to the effect that he had sent his response dated 11<sup>th</sup> May, 2021 through registered A/D post within 30(thirty) days from the date of receipt of the RTI application of the appellant which had been returned to him unserved by the postal department without his fault. In such absence of which I have no escape from concluding that the PIO has failed to prove the fact that he had responded to the RTI application/request of the appellant within prescribed of 30 days from the date of receipt of the application and the PIO, as such, is deemed to have refused to furnish the information sought to the appellant as provided in sub-section (2) of Section-7 of the RTI Act. This issue is, thus, found going in favour of the appellant.

## **II. If the PIO has furnished misleading/incomplete information leading to delay in furnishing of the information sought under RTI Act:**

In this context it is plea of the appellant that the PIO had furnished him misleading/incomplete information's leading to delay of furnishing correct and complete information to him. The PIO, on his part, has denied of having furnished misleading information to the appellant. He has, however, admitted to have furnished series of information to the appellant on different occasions against the RTI application dated-06.02.2021 submitted to him by the appellant under Form-A.

I have carefully gone all available materials on record including all contents of the written replies of the PIO filed through his lawyer on 20.01.2022 against the Show Cause Notice issued against him (PIO) by the Commission on 21.10.2021. Having done so, it appears to me that the RTI queries sought by the appellant in his application dated -6.02.3021 submitted to the PIO under Form-A are direct, simple and clear. And simple and direct information sought by the appellant goes in the manner as – *'whether each of the 6(six) projects named in column No.2 of the Table to the application under Form-A falls under Namsai Forest Area or not and, if so, firstly; to answer 'Yes' in column No.3 of the Table, secondly; to furnish each copy of NOC against each of the projects in answer to column No.4 and, thirdly; to furnish the number and date of the sanction order in answer to column No.5.* In other words, if each of the project named in column No.2 falls under Namsai Forest Area the simple and direct answer the PIO ought to have been given are – (i) **'Yes'** in answer to column No.3, - (ii) to furnish copy of NOC (if available) in answer to column No.4 and (iii) to disclose the number and date of sanction order (if available) in column No.5 of the Table to the RTI application dated-06.02.2022. And if each of the said all projects does not fall under Namsai Forest Area the simple and direct answer ought to have been – (i) **'No'** in answer to column No.3, (ii) Not issued or not available in answer to column No.4 and (iii) Not known or not available in answer to column No.5. In the present case the PIO has furnished the First Set of RTI replies to the appellant against RTI application dated-06.02.2021 only on 21.09.2021 in terms of the order passed by the Commission during first hearing of this Second Appeal on 16.09.2021. It is to be pointed out herein that the PIO has answered **'No'** in column-3 of the Table to the First Set of his RTI replies which means – that all 6(six) projects named in column-2 of the Table do not fall under Namsai Forest Area. The PIO, having indicated in column-3 that all 6(six) projects aforesaid do not fall under Namsai Forest Area, has answered in column-4 of the

Table as quoted as – *“The issue of NOC by Forest Deptt. does not arise.”* His Second set of RTI replies against RTI application dated -06.02.2021 was furnished to the representative of the appellant during second hearing of the appeal on 21.10.2021 which is found contrary and not consistent with the contents of his First Set of Replies. The PIO has disclosed or indicated in this 2<sup>nd</sup> Set of his RTI replies that from amongst all 6(six) projects named in column-1 of his second RTI replies 3(three) projects namely – (1) Mini Secretariat-cum-Deputy Commissioner Office, Namsai, (2) Eastern Division Office, Namsai, and (3) Golden Pagoda, Namsai, fall under Namsai Forest Area which are contradictory to his first replies that all projects do not fall under Namsai Forest Area. Not only that the PIO, who ought to have answered regarding issue of NOC in column-3 of the Table to his second replies, has answered regarding process of proposed diversion of the projects which has no connection with the information sought by the appellant. And the 3<sup>rd</sup> Set of RTI replies of the PIO was furnished to the appellant during last hearing of the appeal on 27.01.2022. The learned counsel of the appellant and appellant himself in person had, though expressed their satisfaction as to receipt of the all information sought, this 3<sup>rd</sup> Set of RTI replies of the PIO furnished by him in answer to column-3 of the Table to this 3<sup>rd</sup> Set of his replies is found almost contrary to the answers furnished by him in column-3 of the Table to the First Set of his RTI replies furnished to the appellant, in as much as, he has answered in his 3<sup>rd</sup> Set of replies to the effect that all projects named in column-2 (indicated as 1) of the Table to his 3<sup>rd</sup> Set of replies, except, Arunachal University of Studies (AUS), Namsai, in Sl.No.4 of the Table fall under Namsai Forest Area which is contrary to his previous answer furnished as **‘No’** in column-3 of the Table to the First Set of his replies which thereby meant - that all projects named in column-2 do not fall under Namsai Forest Area. It may be clarified herein that the PIO has answered **‘No’** to the direct RTI query of the appellant as to whether the projects named in column-2 falls under Namsai Forest Area or not. But the answer of the PIO in addition to his answer **‘No’** in column-3 of the Table to his First RTI replies as *“As it is under territorial jurisdiction of Namsai Forest Division”* is irrelevant, in as much as, it is not the direct or specific information sought by the appellant in his application under Form-A. That is to say that he has not sought information from the PIO, if the Projects named aforesaid fall under territorial jurisdiction of Namsai Forest Division or not. It is also pertinent to mention herein that the answers furnished by the PIO in column-4 of the Table to the 3<sup>rd</sup> Set of his RTI replies as – *“No record regarding issuance of NOC is available in this office.”*, though give somewhat a similar meaning with that of his earlier answer furnished in his First Set of replies as – *“The issue of NOC by Forest Department does not arise”*, is not the same replies furnished by the PIO in his first replies to the RTI application dated-06.02.2022. Apart from all above it may further be mentioned herein that all information furnished by the PIO against column No.6 of this 3<sup>rd</sup> set of information have no any connection with the information sought by the appellant in his application under Form-A. It may, therefore, be reiterated that the learned counsel for the appellant and the appellant himself in person have, though expressed their satisfaction as to receipt of the all information sought in this 3<sup>rd</sup> set of information furnished by the PIO against the same RTI application dated-06.02.2021, the contents of all 3(three) sets of RTI replies furnished by the appellant on 3(three) different occasions at this belated stage of hearing of the Second Appeal against the same RTI application dated -06.02.2022 filed before him (PIO) by the appellant

under Form-A, having been found contrary and not consistent with each other, cannot be held to have acted by the PIO reasonably and diligently for furnishing of correct and complete information to the appellant. I have, therefore, no reason for disagreeing with the plea of the appellant that the PIO had furnished him incorrect or incomplete information, whereby, leading to delay in furnishing of correct information. And, therefore, this issue is also found going in favour of the appellant.

However, before arriving at a conclusion I feel it deemed necessary to refer the related provision of sub-section (1) of Section-20 of the RTI Act. In terms of this provision of Act, if the Commission at the time of deciding any complaint or appeal is of the opinion that the PIO, without any reasonable cause, has not furnished information sought within the time specified under sub-section (1) of Section-7, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees. In the present case the PIO has furnished the 3<sup>rd</sup> Set of his RTI replies against RTI application dated-06.02.2021 to the appellant on 21.01.2022 after 11months and 15days, i.e, on 350<sup>th</sup> day from the date of submission of the application and, that is how, a fine of Rs.250/- per day against the PIO from the date of receipt of the application dated 06.02.2021 till the date of furnishing of the 3<sup>rd</sup> Set of his RTI replies would have accrued to a huge total amount of fine unless such fine would not have restricted to a maximum penalty amount of Rs.25,000/- under sub-section (1) of Section-20 of the Act.

In the light of facts and circumstances as discussed aforesaid I find the replies of the Show Cause Notice furnished by the PIO as not satisfactory and, as such, find him liable for imposing reasonable penalty under sub-section (1) of Section 20 of the RTI Act with reasonable cost or compensation to the appellant. And, hence, the order as follows:

1. Shri Tabang Jamoh, PIO-cum-DFO, Namsai Forest Division, Namsai, shall pay a fine of Rs.25,000/-(rupees twenty five thousand) only for his neglect or refusal to furnish the information sought within the prescribed period of 30 days as provided in sub-section (1) read with sub-section (2) of Section-7 of the RTI Act. Payment of the fine shall be made through challan payment in favour of the Registrar of the Arunachal Pradesh Information Commission, Itanagar, in the head of account vide No.0070 within a month from the date of receipt of this order.
2. He shall pay a compensation amount of Rs.10,000/-(rupees ten thousand) only to the appellant and the payment whereof shall be made in any mode convenient to him (PIO) within a month from the date of receipt of this order.
3. He shall submit all related records or receipts of payments of fine and compensation forthwith to the Commission (APIC) for records and for further proceeding, if any, for disposal and closure of the appeal.
4. In case of default of payment in violation of any of the orders passed aforesaid the provision of sub-section (2) of Section-20 of the RTI Act, 2005 may be

invoked for a disciplinary proceeding against him under related Service Rules applicable to him.

5. The matter shall be listed after a month from this date of the order for further proceeding for final disposal or closure of the appeal.

Judgment/order pronounced in open Court of the Commission today on this 24<sup>th</sup> day of February, 2022. Each copy of this judgment/order be furnished to the parties.


Given under my hand and seal of this Commission on this 24<sup>th</sup> day of February, 2022.

Sd/-  
(GOTO ETE)

State Information Commissioner  
Arunachal Pradesh Information, Itanagar.  
Dated Itanagar the 24<sup>th</sup> day of February, 2022

Memo No.APIC-116/2021/484  
Copy to:

1. Shri Tungam Jomoh, appellant, for information.
2. Shri Tabang Jamoh, PIO, for information & necessary compliance.
3. The Computer Operator for uploading on the Website of APIC, please.
4. Office Copy.

  
Registrar/Dy.Registrar  
APIC, Itanagar.  
Arunachal Pradesh Information Commission  
Itanagar.