



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/327/2015

SHRI GYAMAR TACHUNG
S/O LATE GYAMAR BONGHI, WORKING AS DEPUTY DIRECTOR, URBAN
DEVELOPMENT and HOUSING CUM PIO CAPITAL COMPLEX DIVISION,
ITANAGAR, AP

VERSUS

THE CHIEF INFORMATION COMMISSIONER AND ANR.
ARUNACHAL PRADESH INFORMATION COMMISSION, HOTEL BOMDILA
COMPLEX, GOHPUR TINALI, ITANAGAR, AP

2:SHRI YUKAR TARA

Age: 0
Occupation :
C/O YUKAR TAPOK
UPPER C-SECTOR
ITANAGAR
NEAR ASHOK HOTEL
PO/PS ITANAGAR
DIST. PAPUM PARE
A

Advocate for the Petitioner : Mr. P. Taffo,

Advocate for the Respondent : Mr. R. Saikia, S/C APIC

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 16.07.2024

Heard Mr. P. Taffo, learned counsel for the petitioner. Also heard Mr. R. Saikia, learned Standing counsel for the Arunachal Pradesh Information Commission representing the respondent No. 1. None has appeared for the respondent No. 2.

2. The petitioner, by way of instituting the present proceeding has presented a challenge to orders dated 19.05.2015 and 09.06.2015 passed by the Arunachal Pradesh Information Commission in an appeal preferred before it under Section 19 of the RTI Act, 2005 by the respondent No. 2, herein. The petitioner, who is the Public Information Officer of Urban Development and Housing Department, Itanagar, was arrayed as a respondent in the said appeal as filed by the respondent No. 2 before the Arunachal Pradesh Information Commission.

3. The perusal of the materials brought on record would reveal that on the said appeal being filed, a plea was taken by the Department concerned that the information as sought for by the respondent No. 2, herein, was not in a position to be furnished as inasmuch as an enquiry into the issue involved was pending. The orders brought on record of the Commission reveals that the Commission had also accepted the said position. However, the order dated 31.03.2015 reveals that the Commission basing on the Official noting made in the file by the Superintending Engineer, PWD, Coordination Training & Vigilance, had drawn a

conclusion that the enquiry involved would be completed by 20.04.2015 and accordingly, the petitioner herein was directed to comply with the directions of the Commission for release of the information involved after conclusion of the said enquiry. Thereafter, vide an order dated 19.05.2015, the Commission having noticed that the information as was required to be so furnished by the petitioner herein, after 20.04.2015 not having been so furnished, proceeded to hold the petitioner guilty of non-compliance of directions passed by the Commission and for the said default impose a penalty of Rs. 25,000/- (Twenty Five Thousand Only) on the petitioner, herein, under the provisions of Section 20 (1) of the RTI Act, 2005.

4. The petitioner being aggrieved, approached this Court by way of instituting WP(C) No. 275(AP)2015. However, in view of the development taking place before the Information Commission in the appeal pending before it, the said writ petition was prayed to be permitted to be withdrawn and this Court vide order dated 13.08.2015 was pleased to allow the petitioner to withdraw the said writ petition with liberty to file a fresh writ petition, if so necessitated. It is seen that the petitioner, thereafter, had submitted an application praying for recall of the order dated 19.05.2015. The matter thereafter, was heard by the Commission on 09.06.2015 and upon hearing the parties to the proceedings including the petitioner herein, proceeded to maintain its directions issued vide the order dated 19.05.2015.

5. The petitioner in the present proceeding has contended that the order dated 19.05.2015 was so passed without giving him an opportunity of hearing in the matter and it was only after passing of the order dated 19.05.2015 that the

petitioner had entered into the proceedings of the said appeal and the first time he was so heard was on 09.06.2015, which was after the order dated 19.05.2015 was so passed.

6. Mr. R. Saikia, learned counsel appearing for the Information Commission has also, in view of the said undisputed facts coming on record in the matter, contended that the penalty as imposed upon the petitioner was so imposed without first affording to him an opportunity of hearing and accordingly, the order dated 19.05.2015 to that extent has been fairly contended to be bad by Mr. Sakia.

7. In view of the above position, this Court holds that the order dated 19.05.2015 to the extent it imposes a penalty upon the petitioner is bad in view of the fact that the petitioner was not given an opportunity of hearing in the matter and accordingly, the order dated 19.05.2015 and 09.06.2015 to the extent the same imposes a penalty upon the petitioner stands interfered with.

8. Mr. Taffo, learned counsel for the petitioner at this stage submits that the enquiry as involved in the matter has already been completed and the enquiry reports has been received.

9. In view of the above, the petitioner is directed to submit the enquiry report in question, before the Commission in the appeal Case No. APIC-05 of 2015, within a period of 15 (fifteen) days from today. The Commission shall thereafter, proceed with the matter in accordance with the provision of RTI Act, 2005 and conclude the same after hearing the parties to the proceeding.

10. With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant