

GAHC040011562018



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

Case No. : WP(C) 398/2018

1:SHRI BAMANG TAGUNG
S/O SHRI BAMANG TAYUM, R/O ABOTANI COLONY, IG PARK NEAR
POWER HOUSE, ITANAGAR, PO/PS ITANAGAR,D IST. PAPUM PARE, AP.
CONTACT NO. 9402060609

VERSUS

1:THE ARUNACHAL PRADESH INFORMATION COMMISSIONER
REPRESENTED THROUGH THE CHIEF INFORMATION COMMISSIONER,
PO/PS ITANAGAR, AP.

2:THE SUPERINTENDENT OF ENGINEER CUM FIRST APPELLATE
AUTHORITY
YACHULI CIVIL CIRCLE PWD CAMP NAHARLAGUN
PO/PS NAHARLAGUN
AP.

3:THE EXECUTIVE ENGINEER CUM PUBLIC INFORMATION OFFICER
PWD SANGRAM DIVISION
PO/PS SANGRAM
KURUNG KUMEY DISTRICT
AP

Advocate for the Petitioner : MR.T Shiva

Advocate for the Respondent : MrR Saikia

**BEFORE
HONBLE MR. JUSTICE PRASANTA KUMAR DEKA**

JUDGMENT

Date : 04-12-2019

Heard Mr. T. Shiva, learned counsel for the petitioner also heard Mr. R. Saikia, learned counsel for the respondent No. 1 and Ms. T. Wangmo, learned Government Advocate for the respondent Nos. 2 & 3.

The petitioner is aggrieved by the order dated 18.12.2017 passed by the Information Commissioner (APIC), Itanagar, in Appeal No. APIC-145/2017 under Section 19 of the RTI Act 2005.

The petitioner by an application under "form A" on 05.05.2017 requested for furnishing certain information from the Public Information Officer of the office of the Executive Engineer-Cum-Public Information Officer PWD, Sangram Division. On the basis of the said application, it is the contention of the learned counsel for the petitioner that leaving aside the payment list for the year 2016-2017, rest of the documents sought for were supplied. Being aggrieved for such non furnishing of information the petitioner filed Appeal No. APIC-145/2017 under Section 19 of the RTI Act 2005 before the Information Officer at Itanagar. Finally, this appeal was disposed of after hearing on 18.12.2017 and the order was passed under Memo No. APIC-145/2017/608 dated 29.12.2017. In the said impugned order, the appellate authority recorded that the appellant (petitioner) was satisfied with the documents furnished by the concerned Public Information Officer. However, on the claim made by the petitioner a sum of Rs 10,157/-(Rupees ten thousand one hundred fifty seven) was allowed to be compensated to the petitioner. Being aggrieved by the said order, this writ petition is filed thereby seeking for a direction to furnish the left out information as per the application dated 05.05.2017 and also for setting aside the impugned order dated 18.12.2017.

Mr. R. Saikia, responding to the contention made by the learned counsel for the petitioner that he was not present nor was heard on 18.12.2017 refers to Annexure A in the writ petition which is an order passed on 14.11.2017 whereby, the presence of the present petitioner as the appellant therein was shown. The next date i.e 18.12.2017 was fixed in

presence of the present petitioner if the order dated 14.11.2017, passed in APIC-145/2017 is considered.

Submitting that the petitioner was fully aware the next date fixed and he was very much present and the appellate authority rightly recorded that the appellant (petitioner) was satisfied with the document furnished by the concerned Public Information Officer. The petitioner cannot approbate and reprobate at the sametime inasmuch as the absence of the appellant (petitioner) while passing the impugned order dated 18.12.2017 could not be dislodged by the petitioner and as such it is the contention of Mr. R. Saikia, that this writ petition has no merit. The stand of Mr. Saikia is supported by Ms. T. Wangmo.

I have considered the submissions of the learned counsel the petitioner is aggrieved because of non furnishing of the information sought for from the concerned office as mentioned in the application dated 05.05.2017. The petitioner fairly submits that on the basis of the said application some of the documents leaving aside the payment list were furnished.

The grievance of the petitioner is that the appellate authority in order to deny the claim of the present petitioner, in his absence passed order dated 18.12.2017 and recorded that the petitioner was satisfied with the document furnished by the concerned Public Information Officer. As pointed out by Mr. R. Saikia the petitioner failed to satisfy this Court in respect of his non presence on 18.12.2017 as the petitioner did not raise any objection against such wrong findings recording his presence on 18.12.2017 before the appellate authority immediately when it came to his knowledge. The law is settled that when a competent authority passes an order and records, any wrong submissions made by one of the party in the proceeding, the affected party must inform the said competent authority instantly about the disagreement of such reading either filing review application or bringing it to the notice of the competent authority by filing any application.

In the present case, I am unable to accept the contention of the learned counsel for the petitioner keeping in view that on 14.11.2017, on which date, the next date 18.12.2017 was fixed, the writ petitioner was fully aware and upon such preponderance of probability coupled with the recordings in the impugned order I am not inclined to interfere with the order dated 18.12.2017 as I do not find any merit in this writ petition. The petitioner however

is given the liberty to file appropriate application before the competent authority, if so advised.

JUDGE

Comparing Assistant