

STATE ELECTION COMMISSION
ARUNACHAL PRADESH :: ITANAGAR

NO. AP/SEC-345/2013

Dated Itanagar the 15th July' 2013

To

Shri Lissing Perme
Gauhati High Court,
Itanagar Permanent Bench
Naharlagun, A.P.

Sub : **Appeal under section 19(1) of RTI Act, 2005.**

Ref : Your appeal under section 19(1) of RTI Act, 2005 Dated 1.7.2013.

Sir,

After careful examination of your arguments and the decision of the PIO vis-a-vis the relevant provisions of law, I am of the opinion that the election law has kept certain materials as 'confidential', 'secret' and 'restricted' which can only be opened under the orders of the 'competent court'. The marked copy of the electoral rolls is one under this category. In view of this provision, neither the State Election Commission nor the District Election Officers has the authority to inspect the Marked copies of Electoral Rolls or allow inspection or produce it before any person except under the order of "competent" court which in the present case is the Hon,ble Election Tribunal.

The election law being statutory in nature must be strictly complied with. The careful examination of the provisions of Election Law and the RTI Act makes it clear that the prohibition to reveal the desired information, except under the orders of the competent court as provided in the clause (d) of sub rule (1) of Rule 65 of the Arunachal Pradesh Panchayat Raj (Conduct of election) Rules, 2001 can be reasonably interpreted to be covered under provision (b) of sub section 1 of Section 8 of RTI Act. I am of the opinion that if the desired information is provided without the specific direction of the competent court, it amounts to intrusion in the jurisdiction of the court and constitutes contempt to court.

Under Section 2(j) of the RTI Act, "Right to information" means the right to information accessible under this Act which is held or under the control of any public authority. As per clause (d) of sub rule (1) of Rule 65 of the



Arunachal Pradesh Panchayat Raj (Conduct of election) Rules, 2001, although the concerned papers are in the "custody" of the District Election Officers but it cannot be exactly deemed either to be fully held by the District Election Officers or under their complete control but are instead under the control of the "competent court".

The RTI Act, 2005 exempt the disclosure of information of this nature under provision (b) of sub section 1 of Section 8 of RTI Act itself but the clause (d) of sub rule (1) of Rule 65 of the Arunachal Pradesh Panchayat Raj (Conduct of election) Rules, 2001 does not deny access to the information sought but lays down the procedure for obtaining the same.

There is no hesitation or reluctance shown by the PIO, to provide to you the information that is permissible under the provisions of law. Therefore, I hold that the information sought i.e the marked copy of the electoral roll of Mayum village which contains the names of persons who voted in the Panchayat Election 2013 cannot be provided and the orders of PIO dated 19th June'2013 is upheld and as a result, the appeal is dismissed. You may approach the Hon,ble Election Tribunal for providing the information sought as it is the authority to order such disclosure.

Yours Faithfully,

(Kanto Danggen)
Secretary

Appellate Authority, RTI
State Election Commission (A.P), Itanagar

MEMO.NO. SEC/AP/2013

Dated Itanagar the 15th July' 2013

Copy to :

1. The PIO, State Election Commission, A.P, Itanagar.
2. Office copy.

Appellate Authority, RTI
State Election Commission (A.P), Itanagar