

To

The Appellate Authority,
State Election Commission,
Arunachal Pradesh,
Itanagar,

Full Name of Applicant :- Lissing Perme

Address with Mobile No. :- Gauhati High Court Itanagar Permanent Bench,
Naharlagun, Arunachal Pradesh.
9402655138

Particulars of PIO :- Public Information officer,
State Election Commission, Arunachal Pradesh,
Itanagar.

Date of receipt of order
appeal against :- 21/06/2013

Last date for filling Appeal : - 21/07/2013

The Reasons for appeal :- AGGRIEVED BY A DECISION OF PIO

Brief facts leading to the First Appeal

1. That, this Appellant submitted a RTI application dated 13/06/2013 under RTI Act 2005. The information sought by this appellant vide this appellant RTI application is reiterating below for your honour ready reference;

- (i) Please provide me the certified copy of the Marked Electoral Roll of Mayum Village (under 25-Mayum-Bishing-Kopu-Bona Anchal Samiti) in Panchayat Election-2013.i.e give me the certified copy of the Electoral Roll marked by the Polling Officer on the day of voting to ascertain the total persons who vote on the day.

A copy of this appellant RTI application dated 13/06/2013 is Annexed here as ANNEXURE No.-1.

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2. That, in response to aforesaid application, this appellant received a letter dated 21/06/2013 from the PIO, sent vide letter No. AP/SEC-241/2008 dated 19/06/2013. The needed para of the PIO letter is reiterating below for your honour ready reference.

“ While referring to your letter dated 13/06/2013, It is to state that the information as required by you cannot be supplied because the marked copies of Electoral Roll used at the Polling Station during election is sealed under provision of Rule-43 of APPR (Conduct of Election) Rules, 2001 by the Presiding Officer and under Rule 65 of APPR (Conduct of Election) Rules 2001 It shall not be opened and their contents shall not be inspected by or produced before any person or authority except under orders of a competent court.”

A Xerox copy of letter No. AP/SEC-241/2008 dated 19/06/2013 is annexed here as ANNEXURE No.-II.

3. That, it can be seen from the reply of the PIO that he had out rightly denied this appellant sought information under the pretext of an unjustified reason without mentioning any provisions/sections of RTI Act 2005 under which this appellant sought information* has been denied.

So this appeal is being made.

The Submissions in support of Grounds of Appeal:

1. That, it can be seen from reply of the PIO that the sole ground for rejection of the appellant sought information is 'Rule 65 of APPR (Conduct of Election) Rules 2001'. Here it is to submit that the Rule cited by the PIO can't be ground for deny of information to the RTI applicant for following grounds.
 - (i) That, the RTI Act 2005 is consummate act thereby there are specific sections/provisions under which the information can be denied to the information seeker. It is only under sections 8 & 9 of the RTI Act, a information can be denied to the information seeker.

- (ii) That, the Rule 65 of APPR (Conduct of Election) Rules 2001 being the pre-RTI Act 2005 Rule can't come in the way of implementation of RTI Act 2005. Moreover, in this regard the section 22 of RTI Act 2005 in specific and intelligible manner provides that RTI Act 2005 shall have overriding effect over such rules or laws. The Section 22 of RTI Act 2005 is quoted below for your honour ready reference.

22. Act to have overriding effect.-The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act,1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

2. That, even if the PIO really believed in Rule 65 of APPR (Conduct of Election) Rules 2001 and sure that Mark Electoral Rolls are no more within the authority of the State Election Commission, then also the PIO should have out rightly transferred the RTI application of this appellant to the Competent Court under Section 6 (3) of RTI Act 2005, within 5 days of this appellant RTI application. Instead of invoking section 6 (3) of RTI Act 2005 or instead of transferring this appellant RTI application to Competent Court under whose authority the Mark Electoral Rolls are now, the PIO has wrongly deny the information and that too without invoking any clause of Section 8 or 9 of RTI Act 2005.

SPECIAL NOTE:

1. That, it is to submit that under section 19 (1) of RTI Act 2005 your honour being senior in rank to concerned PIO has authority to entertain and decided this appeal.
2. That, it is to submit that your honour function under section 19(1) of RTI Act 2005 is a Quasi-Judicial function. Thereby this appellant could like to bring notice of your honour to the guideline issued by the Govt. of India Ministry of Personal, P.G. and Pensions, Department of Personal & Training, vide O.M. No. 1/3/2008-IR dated 25/04/2008. Specifically the Para 38 of the aforesaid guideline, wherein the necessary guidance to be followed by the First Appeal Authority while deciding the First Appeal is described. The Para 38 of aforesaid guideline is reproduced below;

