

GUIDELINES FOR RECEIVING OF APPEALS & COMPLAINTS IN THE APIC (COMMISSION) AND FOR DISPOSAL OF SUCH APPEALS AND COMPLAINT

The following Guidelines have been framed in exercise of the power conferred by sub-section (4) of Section 15 of the RTI Act, 2005 for general superintendence, direction and management of the affairs of the Arunachal Pradesh Information Commission.

1. Registration or Return of Appeal or Complaint:

- (a) The Registrar or Deputy Registrar receiving an appeal filed under sub-section (3) of Section 19 of the RTI Act, 2005 or a complaint filed Under Section 18 of the Act in the office of the Arunachal Pradesh Information Commission (APIC) shall properly scrutinize all contents of such appeal or complaint, as the case may be, and shall, thereafter, register the same after being satisfied himself or herself that the appeal or the complaint, as the case may be, is properly filed in accordance with the requirements as are provided in Section 7, 8 & 9 of the Arunachal Pradesh Information Commission (Management) Regulation, 2007 and that the same is accompanied by such number(s) of service copy or copies of appeal or complaint, as the case may be, as required to be served to the necessary parties of the appeal or complaint, like - SPIO, FAA and third party, if any.
- (b) The Registry shall give separate names and serial numbers to the appeals and complaints, so that, such two separate categories of cases registered in the Commission can easily be identified under separate heads.
- (c) The Registrar or Deputy Registrar shall return such appeal or complaint which is found defective in its form or is found to have been filed not in order or in conformity with the requirement(s) as provided in the Regulation, 2007 for rectification of the defect and for re-submission in the proper form within a period of 2(two) weeks time from the date of return of the same or from the date of such communication made to the appellant or complainant about the defect of his or her appeal or complaint received in the Registry by post. And, in case of failure of appellant or complainant, as the case may be, to rectify the defect and to re-submit the appeal or complaint in the proper form within the prescribed period of time the appeal or the complaint filed by him or her shall be deemed to have been withdrawn.

2. Rejection of Appeal or Complaint:

- (a) The Registrar or Deputy Registrar may reject any such appeal or complaint at the level of Registry, if it is:
 - (i) time barred under related provision(s) of the Act;
 - (ii) inadmissible for want of jurisdiction;
 - (iii) inadmissible for non-joinder or misjoinder of parties;
 - (iv) otherwise, inadmissible, for any other reason as provided in the Regulation, 2007.

Provided that the Registrar or Deputy Registrar shall not reject such appeal or complaint without giving the appellant or the complainant a reasonable opportunity of being heard.

- (b) The appellant or the complainant of whose appeal or complaint has been rejected by the Registrar may appeal to the SCIC for restoration of the appeal or complaint. The SCIC, on receipt of such appeal or complaint, may hear and dispose of the appeal or complaint, as the case may be, by himself or herself or he may authorize any of the SICs for hearing and disposal of such appeal or complaint. The SCIC or the SIC, hearing such appeal or complaint, shall endeavor to dispose of the matter within a week time either in restoration or rejection of the same. In the event of any such rejection of appeal filed under sub-section (3) of Section 19 of the Act the SCIC or SIC(s) hearing the matter, may, at his or her discretion and for ends of justice, allow the appellant to file fresh application under Form-A before the same SPIO for seeking the same information which has or have not been furnished to him or her by the SPIO or the FAA.

3. Committing of appeal or complaint to the SCIC and SICs:

- (i) The State Chief Information Commissioner shall endorse or commit the appeals or complaints received from the Registry to the SCIC and SIC(s) for hearing and disposal of such appeals or complaints.
- (ii) An appeal or a complaint or a class or categories of appeals or complaints may be heard either by a Single Information Commissioner or a Division Bench of two Information Commissioners or a Full Bench of three or more Information Commissioners, as decided by the State Chief Information Commissioner by a Special or General order issued from time to time.

(iii) Where in the course of hearing of an appeal or complaint or other proceeding before a Single Information Commissioner, the Commissioner considers that the matter should be dealt with by the Division or Full Bench, he shall refer the matter to the SCIC, who may, thereupon, constitute such a Division or Full Bench as he may deemed necessary for hearing and disposal of such matter.

(iv) Where in the course of hearing of a matter before a Division Bench, the Bench considers that the matter should be dealt with by a Full Bench or where a Full Bench considers that the matter should be dealt with by a larger Bench it shall refer the matter to the SCIC, who may thereupon, constitute such a larger Bench for hearing and disposal of such matter.

4. Amendment of an appeal or complaint:

The Commission may in its discretion allow the appellant or the complainant, as the case may be, to make amendments of the appeal or the complaint within 15(fifteen) days from the date of first hearing of the appeal or complaint.

5. Notice to the third party of the appeal for hearing:

If the decision of the SPIO and of the FAA against which an appeal is preferred before the Commission relates to information of a third party the SCIC or SIC(s) hearing the matter shall order for issue notice to the third party for giving him or her or them an opportunity of being heard as provided under sub-section (4) of Section 19 of the Act. For the purpose of such hearing of the third party the SCIC or SIC(s) hearing the appeal may direct the appellant to furnish service copy(s) of appeal to the third party or parties.

6. Written Statement of SPIO and Rejoinder of Appellant or of Complainant:

(a) The SCIC or SIC(s) hearing the appeal or complaint may direct the SPIO or FAA against whom an appeal or complaint is filed to submit his or her written statement in his or her defense before the Commission (APIC) in affidavit form sworn-in-before any magistrate. The SCIC or SIC(s) may further allow the appellant or the complainant to file re-joinder in the affidavit form before the Commission against the defense statement of the SPIO or FAA. The SPIO and FAA filing written or defense statement and the appellant or complainant filing rejoinder shall file such numbers of service copy or copies of written statement or rejoinder, as the case may be, with the appeal or the complaint for service(s) to the respective opposite party or parties.

(b) The SCIC or SIC(s) hearing the appeal or complaint may also direct the appellant, the complainant, SPIO, including FAA to submit their written argument before the Commission for final judgment/order or for final disposal of the appeal or complaint.

7. Evidence before the Commission for deciding an appeal or complaint:

- (a) The Commission may receive oral or written evidence on oath or on affidavit form from the concerned parties, like – appellant, complainant, SPIO, FAA, third party, including from their witness(s), if any.
- (b) The Commission may also receive documentary evidence(s) from the concerned parties or from the witnesses of the either party.
- (c) The Commission may call for any independent witness as Commission witness or may peruse, inspect document or public records, etc, for just decision of the appeal or complainant.

8. Issue of summon and other appropriate action under CPC:

- (a) Summons to the parties or to the witnesses of the appeal or complaint for appearance or for giving evidence or for production of documents or records or things shall be issued by the Registrar under order of the Commission.
- (b) If such summons to the parties or to the witness are repeatedly returned unserved as not found the same may be effected through other substitute service of notices, including through publication of the notices in the local newspapers.
- (c) The Commission, on being satisfied itself that the person(s) summoned in relation to an appeal or complaint is deliberately evading the summon, may take such other appropriate steps as are provided under CPC for enforcing attendance of such person(s) or for compelling such person(s) to give oral or written evidence on oath and to produce the document or things, or for carrying out of the direction of the Commission for payment of fines or costs, etc.

9. Payment of fine and award of cost or compensation:


- (a) If the Commission hearing an appeal or complaint is satisfied itself that a reasonable fine with or without cost or compensation is required to be imposed against the SPIO as provided under sub-section (1) of Section 20 of the Act, it shall issue a show cause notice to SPIO with fixation of a date for a hearing to show cause as to why he or she shall not be imposed a reasonable penalty with or without awarding cost or compensation to the appellant or complainant as provided under first proviso to sub-section (1) of Section 20 of the RTI Act, 2005.

- (b) The Commission may impose such cost or compensation to the parties as it deems just and proper with having regards to the facts and circumstances of each case.
- (c) If the Commission, during hearing an appeal or complaint, is satisfied itself that a recommendation is required to be made for a disciplinary action against the SPIO under sub-section (2) of Section 20 of the RTI Act, 2005, it shall issue a show cause notice to such SPIO to show cause within 15 (fifteen) days from the date of receipt of the notice as to why a recommendation shall not be made for a disciplinary action against him or her in terms of the service rules governing him or her.

(Rinchen Dorjee)
State Chief Information Commissioner
Arunachal Pradesh Information Commission
Itanagar

Copy to:-

1. Shri Goto Ete, SIC, APIC, Itanagar,
2. Shri Genom Tekseng, SIC, APIC, Itanagar,
3. Shri Sonam Yudron, SIC, APIC, Itanagar,
4. Shri Gumjum Haider, SIC, APIC, Itanagar,
5. Registrar, APIC, Itanagar,
6. Dy.Registrar, APIC, Itanagar,
7. Computer Programmer, APIC, Itanagar, to upload in APIC Website,
8. Office Copy.


(Rinchen Dorjee) 25/09/2021
State Chief Information Commissioner
Arunachal Pradesh Information Commission
Itanagar