

NAGALAND INFORMATION COMMISSION

Officers' Hill, below Raj Bhavan,

Post Box No. 148

Nagaland, Kohima - 797001.

Tel: 0370-2242398, Fax: 0370-2242368

Email: cic.nagaland@gmail.com, Website: www.nlsic.nagaland.gov.in

Facebook: Nagaland Information Commission | Twitter: nlsic_nagaland



No. NIC/Appeal-11/2017-18

Dated Kohima, the 16th November, 2018.

Appellant : Shri. Devinder Sharma,
AIII, Investigator & Loss Assessor,
Krishna Cottage, 27-D,
Dayal Bagh, Ambala Cantt – 133001,
Haryana,
Mobile No. 9876140198,
email: sharmadevinder1953@gmail.com

Respondents : (i) Transport Commissioner & First Appellate Authority,
Transport & Motor Vehicles Department,
Nagaland, Kohima.

(ii) District Transport Officer & PIO,
Tuensang.

Public Authority : Office of the District Transport Officer,
Tuensang, Nagaland.

Date of first hearing : 12.09.2017 at 12:30 PM.
Date of first Decision : 21.09.2017.

Date of second hearing : 24.04.2018 at 2:00 P.M
Date of second Decision : 30.04.2018

Date of third hearing : 05.0.2018 at 12:00 PM.
Date of third Decision : 13.07.2018.

Date of fourth hearing : 13.11.2018 at 12:00 PM.
Date of fourth Decision : 16.11.2018.

Present:

1. Smti. Keneingunuo Clara, Deputy Transport Commissioner, Transport & Motor Vehicles Department, Solidary Park, New Secretariat Area, Nagaland, Kohima, Mobile No. 9436010384, in place of Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Transport & Motor Vehicles Department.
2. Shri. Tsuknungmeren, District Transport Officer & PIO, Motor Vehicles Department, Tuensang, Nagaland, Mobile No. 9436002514.

The applicant (now appellant), Shri. Devinder Sharma, Krishna Cottage, 27-D, Dayal Bagh, Ambala Cantt. 133001 (HR), Mobile No. 9876140198, email: sharmadevinder1953@gmail.com **did not appear** for the hearing.

FACT OF THE CASE

The Commission had, after hearing the second appeal dated 29.05.2017 for the third time on 05.07.2018 at 12:00 P.M., passed its decision dated 13.07.2018 wherein the Transport Commissioner & FAA was allowed to search the Notification dated 01.08.2009 and furnish it to the applicant (now appellant), with a copy to the Commission within twenty (20) days from the date of receipt of the decision.

In compliance to the decision of the Commission dated 13.07.2018, Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority had, vide letter No.TC/Estt-RTI/Appeal/302/2014 (163)/1989-90 dated 01.08.2018 stated that he had already informed the applicant (now appellant) vide his regret letter No.TC/Estt-RTI/Appeal/302/2014(163)/1482-83 dated 24.05.2018 about his inability to provide the said Notification dated 01.08.2009 as the said Notification could not be traced out. He also stated that the Public Notice dated 18.12.2017 was intimated to the applicant (now appellant) vide letter No.TC/Estt-RTI/Appeal/302/Devinder Sharma/2017(171) 292-93 dated 16.02.2018. Further, he stated that the applicant must have mistaken the Notification dated 01.08.2009 with another Notification dated 04.08.2009 which was very near to the Notification dated 01.08.2009 and had furnished to the applicant (now appellant) for his reference.

The Transport Commissioner & FAA had requested the applicant (now appellant) to send a copy of the said Notification dated 01.08.2009 if available with him since there was no such Notification with the date 01.08.2009 as claimed by the applicant (now appellant).

The Transport Commissioner & FAA also stated that his Office do not hide any information in its possession and that in spite of some shortcomings, it is constantly attempting to ensure that the Department and the Office functions very well in accordance to the law of the land as the Notifications do attest. Further, the Transport Commissioner & FAA also stated that the applicant (now appellant), being as a responsible citizen expects to honour the efforts being made by the Department on all fronts.

The Commission had also observed that the applicant (now appellant) had mentioned about the Notification dated 01.08.2009 in his first appeal dated 18.01.2017 to the FAA and second appeal dated 29.05.2017 to the Commission.

Since the Transport Commissioner & FAA had deposed that there was no such Notification dated 01.08.2009 as claimed by the applicant (now appellant), the Commission has again decided to hear the appeal giving opportunity of being heard to all the parties on **13th November (Tuesday), 2018 at 12:00 Noon in the Hearing Room of Nagaland Information Commission, below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and had also directed **to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing:-

- i. Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Solitary Park, New Secretariat area, Nagaland, Kohima.
- ii. Shri. Tsuknungmeren, District Transport Officer & PIO, Tuensang, Nagaland.
- iii. The applicant (now appellant), Shri. Devinder Sharma, Haryana.

OBSERVATIONS AND FINDINGS:

The applicant (now appellant), Shri. Devinder Sharma did not appear for the hearing and there was no prior intimation regarding his absence in the hearing.

Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Nagaland, Kohimahad, vide letter No. TC/Estt-RTI/NOTICE-NIC/306/2014/2797-98 dated 12.11.2018 informed the Commission that due to some bonafide government duty, he would not be able to attend the hearing, and that Smti. Keneingunuo Clara, Deputy Transport Commissioner, Transport & Motor Vehicles Department, Nagaland, Kohima would represent the FAA.

The Commission informed that the appeal was being heard for the **fourth time**, and that the hearing was regarding the non-furnishing of the Notification dated 01.08.2009 to the applicant (now appellant).

During the hearing, the representative of the Transport Commissioner & FAA, Transport & Motor Vehicles Department, Smti. Keneingunuo Clara, Deputy Transport Commissioner, Transport & Motor Vehicles Department, Nagaland, Kohima stated that efforts were made to search the Notification dated 01.08.2009 in the Secretariat, Directorate and in the district offices, however it was not traceable and the FAA had sent regret letter to the applicant (now appellant). She further stated that the said Notification might have been destroyed in the fire incident on 02.02.2017 during the public unrest, however, a copy of similar Notification dated 04.08.2009 which was very near to the Notification dated 01.08.2009 was produced before the Commission.

The Commission observed that the public authority was not sure whether the Notification dated 01.08.2009 existed but not traceable or the Notification was non-existent.

DECISION:

On the above observations and findings, the Commission decided that:-

1. The public authority shall declare that the Notification dated 01.08.2009 was not traceable or non-existent in the form of a sworn affidavit accordingly.
2. The PIO shall also confirm from all the DTOs if any of the DTO cited the Notification dated 01.08.2009 in any of their correspondences with applicants and submit report to the Commission.
3. Since the Notification dated 04.08.2009 (which was very near to the Notification dated 01.08.2009) and the Public Information dated 01.08.2014 had been furnished to the applicant (now appellant), the PIO shall write to the applicant (now appellant) to confirm his satisfaction or non-satisfaction within 30 days, failing which it shall be considered as satisfied.

Decision heard with only the respondent on 13.11.2018 at 12:00 PM.

Copy be given to:-

1. Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Transport & Motor Vehicles Department, Solidary Park, New Secretariat Area, Nagaland, Kohima, Mobile No. 9436011036.
2. Shri. Tsuknungmeren, District Transport Officer & PIO, Motor Vehicles Department, Tuensang, Nagaland, Mobile No. 9436002514.
3. The applicant (now appellant), Shri. Devinder Sharma, Krishna Cottage, 27-D, Dayal Bagh, Ambala Cantt. 133001 (HR), Mobile No. 9876140198, email: sharmadevinder1953@gmail.com.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-
CHANBEMO LOTHIA
Chief Information Commissioner

Sd/-
G. H. RAMLIA
State Information Commissioner

Sd/-
KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary