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No. NIC/Appeal-12/2017-18

Dated Kohima, the 21st February, 2019.

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

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

(ii) The Regional Transport Officer & PIO,
Kohima,
Nagaland.

Public Authority : Office of the Regional Transport Officer,
Kohima, Nagaland.

Date of first hearing : 08.05.2018 at 12:00 PM.
Date of first Decision : 15.05.2018.

Date of second hearing : 25.07.2018 at 12:00 PM.
Date of second Decision : 30.07.2018.

Date of third hearing : 14.02.2019 at 2:00 PM.
Date of third Decision : 21.02.2019.

Present:

1. Smti. Keneingunuo Clara, Deputy Transport Commissioner, Motor Vehicles Department, Kohima, Mobile No. 9436010384 representing the Transport Commissioner & First Appellate Authority.
2. Shri. S. Yaongsanglee Chang, RTO, Office of the Regional Transport Officer, Motor Vehicles Department, Kohima, Nagaland, Mobile No. 9862159833.
3. Shri. Tatongtemsu, DTO, Office of the Regional Transport Officer, Motor Vehicles Department, Kohima, Nagaland, Mobile No. 9436009848.

The following **did not** appear for the hearing.

1. Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Office of the Transport Commissioner, Nagaland, Kohima, Mobile No. 9436011036.
2. The applicant (now appellant), Shri. Devinder Sharma, Krishna Cottage, 27-D, Dayal Bagh, Ambala Cantt. 133001 (HR), Mobile No. 9876140198, email: sharmadevinder1953@gmail.com.

FACT OF THE CASE

After the hearing of the second appeal 24.05.2017 for the second time on 25.07.2018 at 12:00 Noon, the Commission had passed decision vide of even No. dated 30.07.2018, wherein Smti.

Keneingunuo Clara, RTO & PIO, Office of the Regional Transport Officer, Motor Vehicles Department, Kohima was directed to furnish the information within fifteen (15) days.

In compliance to the decision of the Commission dated 30.07.2018, the RTO & PIO, Kohima had, vide letter No. RTO-K/DL/3/Part-II/278 dated 28.08.2018 furnished the following information to the Commission with a copy to the Transport Commissioner & FAA, Nagaland, Kohima:-

1. Regarding **Point No. 1**, since the duplicate fee receipt could not be printed in Sarathi, the transaction history sheet of the Driving License in lieu of the duplicate fee receipt had been furnished to the applicant (now appellant) vide letter No. RTO-K/DL/3/2017/Part-II/232 dated 02.08.2018.
2. Regarding **Point No. 2**, since all the files, documents, machines, etc were destroyed in the inferno by the mob on 02.02.2017, the date of receipt of RTI application dated 31.10.2016 submitted by the applicant (now appellant), Shri. Devinder Sharma was not known.
3. Regarding **Point No. 3**, Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima had submitted her explanation that she did not appear in the first hearing on 08.05.2018 as she was on Earned Leave on medical ground w.e.f. 26.03.2018 to 24.05.2018 and had enclosed a copy of the Transport Department Notification No.TPT/TC/ESTT-3/2005 dated 10.04.2018. Also, her absence in the second Hearing on 25.07.2018 was that she was on casual leave for four (4) days w.e.f. 24th to 27th July, 2018 as she was suffering from Variulla infection (chicken pox) and had enclosed medical certificate. Further, she had apologised for not intimating the Commission and had requested to pardon her, as that would not be repeated in future.

The Commission had, vide directive of even No. dated 11.09.2018 directed Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima to comply with the Point No.1 of the decision of the Commission of even No. dated 30.07.2018 by giving proper explanation in writing regarding the fee receipt and the fee history details of the Driving License No. NL-0120110040082 as clarified by the Sr. District Transport Officer & APIO who represented the PIO during the last hearing on 25.07.2018.

In compliance to the Point No.1 of the decision of the Commission dated 30.07.2018, Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima had, vide letter No.RTO-K/DL/3/2017/Part-II/415 dated 20.09.2018 submitted the explanation to the applicant(now appellant) and with a copy to Commission that *“the fee receipt is printed out only at the time of fee payment, whereas fee history is an abstract of all transactions recorded in the system. Further, duplicate copy of fee receipt is not printable but fee history details/ abstract can be printed out whenever needed for audit purposes etc”*. A copy of the Fee History details in respect of Smart Card Driving License No.NL-0120110040082 wherein at No.1 fee for an amount of Rs. 200/- deposited/ paid vide Treasury Challan No. D-6962 dated 22.07.2015 for replacement of Driving License was enclosed.

The Commission had, vide directive of even No. dated 24.10.2018 directed Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima to confirm the satisfaction or non-satisfaction of the information from the applicant (now appellant) within twenty-five (25) days from the date of receipt of the directive.

In compliance to the above directive dated 24.10.2018, Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima had, vide letter No.RTO-K/DL/3/2017/Pt-II/530 dated 05.11.2018 wrote to the applicant (now appellant) to submit his opinion on satisfaction or non-satisfaction within twenty-five (25) days with regards to the information provided on Driving License No.NL-0120110040082.

On receipt of the above letter of the PIO dated 05.11.2018, the applicant (now appellant) had vide e-mail dated 19.11.2018 submitted his **non-satisfaction** to the RTO & PIO, Kohima and with a copy to the Transport Commissioner and the Commission. The applicant (now appellant) stated that the clarification given by the RTO & PIO, Kohima, vide letter No.RTO-K/DL/3/2017/203 dated 08.06.2017 regarding validity of computerized driving license No. NL-0120110040082 (**issue dated 22.07.2015**) upto 01.11.2031 (for Non-Transport) and 26.01.2010 (for Transport) was in violation of the M.V. Act-1988, as the validity for transport category w.e.f. 22.07.2015 to 26.01.2020 which is 4 ½ years is not understood as the transport driving license cannot be issued/ renewed for more than 3 years at a time. Further, he stated that the renewal of driving license No.NL0120110040082 dated 22.07.2015 a/c Mr. Surinder Yadav s/o Sh Jai Ram was in lieu of old issued driving license No.21448/TSG/PROF/2010, which despite of the facts that DTO, Tuensang, Nagaland had, vide letter No. DTO-T/MV/21/08/5165 dated 17.07.2017 confirmed that *“No records for the driving license No.21448/TSG/PROF/2010 in the name of Mr. Surinder Yadav has been found/ available in their*

office". He also alleged that the renewed/ conversion computerised driving license No.NL 0120110040082 was issued on forged driving license No.21448/TSG/PROF/2010 which boost in corrupt practices and hence deserve strict action/warning by the Transport Commissioner, Nagaland.

Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Kohima had vide letter No.RTO-K/DL/3/2017/Pt-II/998 dated 12.12.2018 informed the Commission that the applicant (now appellant) had been informed to submit his opinion regarding the information of Driving License No.NL 0120110040082 provided to him vide letter No.RTO-K/DL/3/2017/Pt-II/530 dated 05.11.2018, however **no response** had been received from the applicant (now appellant) till date.

Though the Commission had received an email dated 19.11.2018 from the applicant (now appellant) regarding his non-satisfaction and a copy of which was also sent to the RTO & PIO, Kohima and Transport Commissioner, the RTO & PIO, Kohima had informed the Commission that there was no response from the applicant till date. And since the applicant was not satisfied with the information provided by the RTO & PIO, Kohima, the Commission has decided to hear the appeal giving opportunity of being heard to all the parties **on 14th February, 2019 (Thursday) at 2:00 P.M.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 & FAA, Motor Vehicles Department, Nagaland, Kohima.
- ii. Smti. Keneingunuo Clara, Regional Transport Officer & PIO, Motor Vehicles Department, Kohima, Nagaland.
- iii. Shri. Tatongtmsu, Sr. MVI & APIO, O/o the Regional Transport Officer, Motor Vehicles Department, Kohima, Nagaland.
- iv. The applicant (now appellant), Shri. Devinder Sharma, Krishna Cottage, 27-D, Dayal Bagh, Ambala Cantt. 133001 (HR).

OBSERVATIONS AND FINDINGS:

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

During the hearing, Smti. Keneingunuo Clara, Deputy Transport Commissioner, (former Regional Transport Officer & PIO, Kohima) stated that in compliance to the decision of the Commission, she had written to the applicant (now appellant) on 05.11.2018 to confirm his satisfaction or non-satisfaction regarding the information of Driving License No.NL 0120110040082 provided to him, however there was **no response** received from the applicant (now appellant) till date.

The Commission pointed out that an email dated 19.11.2018 sent by the applicant (now appellant), with a copy to the Transport Commissioner was received wherein the applicant (now appellant) had acknowledged the receipt of the letter No. RTO-K/DL/3/2017/Pt-II/530 dated 05.11.2018, however **no response** regarding the satisfaction or non-satisfaction of the information had been received from the applicant (now appellant) till date.

The PIO submitted that the RTI application dated 31.10.2016 was **never received** and since after the office was burnt down during the fire incident on 02.02.2017, the office did not have any address and no correspondences were received. The First Appeal dated 30.03.2017 was received only on 05.06.2017 after the office was relocated to a new location and with a new address. On receipt of the above first appeal, the information was furnished to the applicant (now appellant) on 08.06.2017. Further, on the directions of the Commission after the previous hearings, information had been refurnished to the applicant (now appellant), however, there was no response received from the applicant till date and hence prayed for closure of the case.

The Commission observed that as far as furnishing of information was concerned, the PIO had furnished all the information whatever available with the public authority and had complied with its decision during the hearings. Though sufficient time had lapsed, since there was no further response from the applicant (now appellant) regarding the information, suggesting that he was satisfied, the Commission had accepted the prayer of the PIO for closure of the case.

The Commission also observed that since the RTI application dated 31.10.2016 was **never received**, the question of delay did not arise.

DECISION:

On the above observations and findings, the Commission decided that the PIO shall declare in the form of sworn affidavit regarding the non-receipt of the RTI application dated 31.10.2016 and submit to the Commission, with a copy to the applicant (now appellant).

On receipt of the above affidavit, the case shall be declared as closed.

Decision pronounced in the presence of only the respondents on 14.02.2019 at 2:00 PM.

Copy be given to:-

1. Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Office of the Transport Commissioner, Nagaland, Kohima, Mobile No. 9436011036.
2. Smti. Keneingunuo Clara, Deputy Transport Commissioner (former RTO & PIO, Office of the Regional Transport Officer), Motor Vehicles Department, Kohima, Nagaland, Mobile No. 9436010384
3. Shri. S. Yaongsanglee Chang, RTO (former Sr. District Transport Officer), Office of the Regional Transport Officer, Motor Vehicles Department, Kohima, Nagaland, Mobile No. 9862159833.
4. Shri. Tatongtemsu, DTO (former Sr. MVI & APIO), Office of the Regional Transport Officer, Motor Vehicles Department, Kohima, Nagaland, Mobile No. 9436009848.
5. The applicant (now appellant), Shri. Devinder Sharma, Krishna Cottage, 27-D, Dayal Bagh, Ambala Cantt. 133001 (HR), Mobile No. 9876140198, email: sharmadevinder1953@gmail.com.
6. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's website and Notice Board.
7. 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