

NAGALAND INFORMATION COMMISSION

Below Raj Bhavan, Officers' Hill Colony

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No.NIC/Appeal-14/2017-18

Dated Kohima, the 25th July, 2018.

Appellant : Ms. Renbeni Ezung,
C/o Hayibemo Ezung,
Kenezou Colony,
Kohima, Nagaland,
Mobile No. 8259001340/9612562606,
email: ezunghayi07@gmail.com/ ezungrenbeni2@gmail.com

Respondent(s) : (i) Shri. Limawabang Aier,
State Mission Director & First Appellate Authority,
Rashtriya Madhyamik Shiksha Abhiyan(RMSA),
Nagaland, Kohima.

(ii) Shri. Wopenthung Lotha,
Deputy Mission Director & PIO,
Rashtriya Madhyamik Shiksha Abhiyan(RMSA),
Nagaland, Kohima.

Public Authority : Rashtriya Madhyamik Shiksha Abhiyan(RMSA),
Nagaland, Kohima.

Date of first Hearing : 06.03.2018 at 12:00 P.M

Date of first Decision : 08.03.2018.

Date of second Hearing : 06.07.2018 at 12:00 P.M

Date of second Decision : 25.07.2018.

Present:

1. Shri. Limawabang Aier, State Mission Director & FAA, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima, Mobile No. 9436000909.
2. Shri. Wopenthung Lotha, Deputy Mission Director & PIO, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima, Mobile No. 8415086498.
3. Shri. Ayie Yhome, Deputy Project Director, RMSA, Nagaland, Kohima, Mobile No. 8575192749.
4. Shri. Pakhachu Pfithu, State Co-ordinator, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima, Mobile No. 9612450337.
5. The applicant (now appellant), Ms. N. Renbeni Ezung, c/o Hayibemo Ezung, Kenezou colony, Kohima, Nagaland, Mobile No. 8259001340/9612562606, email: ezunghayi07@gmail.com/ ezungrenbeni2@gmail.com.
6. Accomplice of the applicant (now appellant), Shri. Zubemo Humtsoe, Agri Colony, Kohima, Mobile No. 8794886627.

FACT OF THE CASE

The Commission had, after hearing the second appeal dated 13.07.2017 on 06.03.2018 at 12:00 P.M, passed its decision vide even No. dated 08.03.2018 wherein the State Mission Director & FAA was directed to submit to the Commission the documents in support of the case which was resolved amicably within **fifteen (15) days** i.e. on or before **21.03.2018**.

In compliance to the above decision of the Commission dated 08.03.2018, the State Mission Director & FAA, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Nagaland, Kohima had, vide letter No. NLD/RMSA/RTI/2015-16/228 dated 15.03.2018 submitted a copy of its decision passed and alongwith the attendance sheet which was held on 13.11.2017.

The Commission had observed that though the State Mission Director & FAA had heard the first appeal on 13.11.2017 and passed its decision on the same day i.e., 13.11.2017, the decision was signed and issued only on 15.03.2018, which was after the hearing of the second appeal by the Commission on 06.03.2018.

The Commission had also observed that the signatures of the applicant (now appellant) and her guardians were not appended on the attendance sheet of the first appeal hearing enclosed in the decision dated 15.03.2018 of the FAA.

Therefore, in order to clarify the above discrepancies, the Commission had, vide Notice of even No. dated 09.05.2018 called for a hearing of all the parties on **23.05.2018 at 12:00 Noon**. However, the said hearing could not be held on 23.05.2018 since only the applicant (now appellant) had appeared for the hearing. The Deputy Mission Director & PIO, RMSA had, vide letter No. letter No.NLD/RMSA/RTI/2015-16 dated 21.05.2018 informed the Commission regarding his inability to attend the hearing as he was appointed as Presiding Officer for the Lok Sabha by-election Nagaland and had already scheduled for an election duty training on the same day i.e. on 23.05.2018. Further, he submitted that since the matter pertain to appointment and that he was not allotted with such assignment, the Officers-in-charge of establishment would be the right persons to participate in the hearing.

Since the Mission Director & FAA did not appear for the hearing without any prior intimation or reasons to the Commission, the Commission had, vide letter of even No. dated 23.05.2018 directed him to submit an explanation within 2 (Two) weeks from the date of receipt of the directive.

In compliance to the above decision of the Commission dated 23.05.2018, Shri. Limawabang Aier, Mission Director & FAA, RMSA had, vide letter No. NLD/RMSA/FAA-1/2018/250 dated 05.06.2018, submitted his reply to the explanation and had also requested the Commission to fix another date for the hearing.

The Commission has decided to hear the appeal case again, giving opportunity of being heard to both the parties on **6th July (Friday), 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:-

1. Shri. Limawabang Aier, State Mission Director & FAA, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Nagaland, Kohima.
2. Shri. Wopenthung Lotha, Deputy Mission Director & PIO, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Nagaland, Kohima.
3. The Deputy Project Director (Establishment), RMSA, Nagaland, Kohima.
4. The State Co-ordinator (Establishment), RMSA, Nagaland, Kohima.
5. The applicant (now appellant), Ms. Renbeni Ezung, c/o Hayibemo Ezung, Kenezou colony, Kohima, Nagaland.

OBSERVATIONS AND FINDINGS

The applicant (now appellant) stated that the State Mission Director & FAA, RMSA had decided the matter as amicably resolved, however, no such agreement was made during the hearing of the first appeal on 13.11.2017, and therefore not satisfied.

The Commission pointed out that in the last hearing, the FAA stated that the appeal case was **resolved amicably** with the applicant (now appellant) in the presence of her three (3) guardians, however, since there was no written statement or proceedings or decision of the FAA nor any confirmation of satisfaction from the applicant (now appellant), the FAA was directed to submit the documents in support of the case which was resolved amicably within **fifteen (15) days** i.e. on or before **21.03.2018** and submit a copy to the Commission. Accordingly, the FAA had submitted the proceedings of the first appeal alongwith the attendance sheet to the Commission, however, the Commission observed that the signatures of the applicant (now appellant) and her representatives were not appended or recorded in the attendance sheet.

While admitting the short-comings, the Deputy Mission Director & PIO, RMSA had produced before the Commission, a **register** wherein the signature of the applicant (now appellant) was appended. However, the applicant (now appellant) stated that she **had not** appended any signature in the register and that her signature was forged by the department.

The Commission observed that the applicant (now appellant) had denied that the FAA had resolved the matter amicably. It also observed that the public authority i.e the RMSA had issued Offer Letter to the candidates in the Merit List, however, while offering the post to the next candidate in the Waiting List, the same treatment of writing to the Waiting List candidates was not extended. The Commission had also pointed out in the last hearing that all official matters should be done in writing and not over the phone or SMS. Hence, rules were flouted and the procedure in issuing Offer Letter to the Wait List candidates was not followed.

Shri. Limawabang Aier, State Mission Director & FAA, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima stated that the appeal case was arisen since the office was unable to communicate to the applicant due to lack of mobile communications. He, however, admitted the lapses pointed out by the Commission and assured that the applicant(now appellant) would be accommodated as and when vacancy arises next time.

The applicant (now appellant) also stated that she wanted justice by getting the job, and requested that the appointment be made retrospectively w.e.f 31st August, 2016, the date of Notification of the selected and short-listed candidates in order to maintain her seniority. However, the Commission dismissed the plea stating that the Commission was not the appointing authority and hence not in its jurisdiction. Further, as observed earlier, since there was no delay in replying to the applicant, no penalty was attracted.

DECISION

On the above observations and findings, since the State Mission Director & FAA and the Deputy Mission Director & PIO, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Nagaland, Kohima had admitted their lapses and assured that the applicant (now appellant) would be given the job in the next vacancy to which the applicant (now appellant) had also agreed, the Commission felt that no further action was required and therefore decided to **dispose of** the appeal.

Further, under Section 25(5) of the RTI Act, 2005, the Commission recommends that the public authority i.e the Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima shall follow the rules and procedures while selecting the merit as well as the waiting list candidates.

Decision pronounced in presence of both the parties on 06.07.2018.

Copy be given to:-

1. The Principal Secretary, Department of School Education, Nagaland, Kohima for information.
2. Shri. Limawabang Aier, State Mission Director & FAA, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima, Mobile No. 9436000909.
3. Shri. Wopenthung Lotha, Deputy Mission Director & PIO, Rashtriya Madhyamik Shiksha Abhiyan(RMSA), Nagaland, Kohima, Mobile No. 8415086498.
4. The applicant (now appellant), Ms. Renbeni Ezung, c/o Hayibemo Ezung, Kenezou colony, Kohima, Nagaland, Mobile No. 8259001340/9612562606, email: ezunghayi07@gmail.com/ezungrenbeni2@gmail.com.
5. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
6. Office Copy.

Sd/-

CHANBEMO LOTH
Chief Information Commissioner

Sd/-

G. H. RAMLIA
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary