

NAGALAND INFORMATION COMMISSION
Below Raj Bhavan, Officers' Hill Colony
Post Box No. 148
Nagaland, Kohima-797001
Tel: 0370-2242366, Fax: 0370-2242368

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



No. NIC/Appeal-19/2017-18.

Dated Kohima, the 13th July, 2018.

Appellant : Shri. Prem Rattan Daga,
M/S R.D. Trade Agency,
C/o M/S Monika (Bombay Dyeing),
Church Road, Dimapur-797112.

Respondent : The concerned PIO,
Office of the Chief Engineer,
PHED,
Nagaland, Kohima.

Public Authority : Office of the Chief Engineer, PHED, Nagaland, Kohima.

Date of hearing : 04.07.2018 at 1:00 PM.

Date of Decision : 13.07.2018.

Present:

1. Er. K. Ghushito Sema, Chief Engineer & FAA, PHED, Nagaland, Kohima, Mobile No. 9436015086.
2. Er. Repangyangba Longkumer, Additional Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima, Mobile No. 9436006161.
3. Shri. Jonthong Khiam, Technical Assistant, Office of the Chief Engineer, PHED, Nagaland, Kohima, Mobile No. 9436009851.

The applicant (now appellant) Shri. Prem Rattan Daga, M/S R.D. Trade Agency, C/o M/S Monika (Bombay Dyeing), Church Road, Dimapur-797112 **did not appear** for the hearing.

FACT OF THE CASE

An applicant, Shri. Prem Rattan Daga, M/s R.D. Trade Agency, C/o M/s Monika (Bombay Dyeing) Church Road, Dimapur 797112 had submitted an RTI application dated **08.09.2016** addressed to the PIO, O/o the Chief Engineer, PHED, Nagaland by speed Post bearing No. ER000181767IN dated 08.09.2016 along with an amount of Rs. 100/- paid through IPO bearing No. 48H476393 towards application fee of Rs.10/, photocopy charges of Rs. 40/- and postage charges of Rs. 50/- seeking the following information:-

- i. *Whether payments have been made to supplier applicant against the supply orders and Bills mentioned here under?*
- ii. *If answer to (i) above is yes, then how much? Please provide proof of payments that id DD/Cash/Cheque Number with date or receipt duly signed by receiver.*
- iii. *Dow much amount is unpaid under each supply order and bill?*
- iv. *Copy of carriage bills Total 7 Nos. (Seven) supply-Orders and proof of payments if made.*
- v. *The amount due under of 7 Nos. (Seven) supply-Orders carriage bills.*

- a. *Supply order No. CE/PHE/HRD/SR-S/2005-06/95-97 dated Feb 2006, Bill No RDTA/2005-06/011 dated 23 Feb. 2006 Rs.60,99,803.00. Goods delivered at Distt. HQ Tuensang.*
- b. *Supply order No. CE/PHE/CCDU-SWAJ/2006-07/236-239 dated 16 Mar 2007, bill No. RDTA/2006-07/014 for Rs.51,82,800.00. Goods delivered at Distt. HQ Tuensang.*
- c. *Supply order No. CE/PHE/CCDU-SWAJ/2006-07/232-235 dated 16 Mar 2007, bill No. RDTA/2006-07/013 for Rs.48,32,450.00. Goods delivered at Distt. HQ Tuensang.*
- d. *Supply order No. CE/PHE/HRD/SR-S/2005-2006/98-100 dated 20 Feb 2006, bill No. RDTA/2005-06/015 dated 23 Feb 2006 for Rs.15,55,751. Goods delivered at Distt. HQ Zunheboto.*
- e. *Supply order No. CE/PHE/CCDU-SWAJ/2006-07/240-243 dated 16 Mar 2007, bill No. RDTA/2006-07/011 dated 23.04.07 for Rs.17,68,804. Goods delivered at Distt. HQ Zunheboto.*
- f. *Supply order No. CE/PHE/HRD/SR-S/2003-2004/10-14 dated 5 Dec 2003, bill No. RD/2003-04-101 for Rs.24,67,962/-. Goods delivered at Distt. HQ Zunheboto.*
- g. *Supply order No. CE/PHE/CCDU-SWAJ/2006-07/244-247 dated 16 Mar 2007, bill No. RDTA/2006-07/012 for Rs.16,30,371. Goods delivered at Distt. HQ Zunheboto.*

On not getting any response from the PIO, O/o the Chief Engineer, PHED, Nagaland to his RTI application dated 08.09.2016 within the stipulated time period of 30 (Thirty) days as provided under Section 7(1) of the RTI Act, 2005, the applicant had submitted a First Appeal dated **06.12.2016** addressed to the First Appellate Authority & Principal Secretary, Public Health Engineering Department, Nagaland, Kohima by Speed Post bearing No. ER328294475IN dated 17.01.2017.

However, on not getting any response from the First Appellate Authority & Principal Secretary, PHED, Nagaland, Kohima, to his first appeal dated 06.12.2016, the applicant (now appellants) had preferred a second appeal dated **19.07.2017** before this Commission.

On receipt of the second appeal dated 19.07.2017, since the first appeal was not received and heard, the Commission had, vide letter of even No. dated **03.10.2017** advised the applicant (now appellants) to submit the first appeal before the appropriate/ rightful First Appellate Authority i.e. the Chief Engineer, PHED. Further, if there was no response or unsatisfactory decision of the First Appellate Authority within 30-45 days on receipt of the first appeal, the applicant (now appellants) may prefer second appeal to this Commission within 90 days from the date on which the decision should have been made or was actually received under Section 19(3) of the RTI Act, 2005.

In compliance to the advice of the Commission of even No. dated 03.10.2017, the applicant had, vide letter dated **09.11.2017** addressed to the Chief Engineer & FAA, PHED submitted first appeal in the form of RTI application. However, on not getting any response to his supposedly First Appeal dated 09.11.2017 within the stipulated time frame of 30 days from the Chief Engineer & FAA, PHED, Nagaland, the applicant (now appellants) had, again preferred a Second Appeal dated **30.01.2018** before this Commission.

Since the First Appeal was not heard, the Commission had, vide letter of even No. dated **16.03.2018** directed the Chief Engineer & FAA, PHED to take up the first appeal by hearing the parties i.e. the applicant and the PIO concerned and pass decision within 1(one) month from the date of receipt of the directive and submit a copy of the decision to the commission.

In compliance to the directive of the Commission of even No. dated 16.03.2018, the Chief Engineer & FAA, PHED had, vide No. CE/PHE/RTI/2005/910-14 dated 03.04.2018 issued Notice for hearing fixed on **09.04.2018 at 12:00 noon** in the office chamber of the Chief Engineer & FAA, PHED, Nagaland, Kohima. The Chief Engineer & FAA, PHED had, vide letter No. CE/PHE/RTI/2005/1032-34 dated 12.04.2018 (but signed on 11.04.2018) submitted to the Commission that the hearing was held on 09.04.2018 at 12:00 Noon as scheduled with only the Director, WSSO (PHED) and PIO in attendance, since the applicant (now appellant) had expressed his inability to attend the hearing due to ill health. Further, the applicant had acknowledged by e-mail the receipt of the information sent to him by speed post, however, since he had requested for confirmation of payment made by the Executive Engineers of Tuensang, Zunheboto and Mokokchung Divisions, the FAA had decided to hear the case again on **18.04.2018** in the presence of both the past and present Executive Engineers of the above divisions.

The Chief Engineer & FAA, PHED had, vide letter No. CE/PHE/RTI/2005/1162-64 dated **19.04.2018** submitted to the Commission that the hearing was held as scheduled on 09.04.2018 at 12:00 Noon and it was decided that due to huge time gap and transfer and posting of Officers, ample time should be given to the respective Executive Engineers and for which 2 (Two) weeks time i.e. till 02.05.2018 was given to furnish the information.

Since there was neither any response from the Chief Engineer & FAA, PHED nor from the respective Executive Engineers even after the lapse of the given 2 (Two) weeks time i.e. 02.05.2018, the Commission has decided to hear the appeal giving opportunity of being heard to all the parties on **4th July, 2018 (Wednesday) at 1:00 P.M in the Hearing Room of Nagaland Information Commission, below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and had also directed the parties **to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing:-

- i. The Chief Engineer & FAA, PHED, Nagaland, Kohima.
- ii. The Additional Chief Engineer & PIO, PHED, Nagaland, Kohima.
- iii. The applicant (now appellant) Shri. Prem Rattan Daga, Dimapur-797112.

OBSERVATIONS AND FINDINGS:

The applicant (now appellant), Shri. Prem Rattan Daga, Dimapur did not appear for the hearing and there was no prior intimation to the Commission regarding his absence. The hearing was conducted in the presence of the respondents only.

During the hearing, Er. K. Ghushito Sema, Chief Engineer & FAA, PHED, Nagaland, Kohima had admitted the failure to furnish the information on time. He stated that on the directive of the Commission to hear the first appeal, the hearing was fixed on 09.04.2018 at 12:00 noon, however, since the applicant did not appear for the hearing on 09.04.2018 and had only sent his representative without any authorisation letter, the hearing of the first appeal could not be held. He further informed that the applicant (now appellant) had earlier supplied materials under the *Swajaldhara* Scheme and since payments were not made or cleared against some pending bills, he had resorted to RTI. The Scheme was operative till 2007 and discontinued in the year 2008.

Er. Repangyangba Longkumer, Additional Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima also stated that the RTI application dated 08.09.2016 was received on **16.09.2016**, and the information furnished to applicant (now appellant), vide letter No. CE/PHE/RTI/2005 dated **20.11.2017**. The applicant(now appellant) had acknowledged receipt of the information,however there was no response from him about his satisfaction till date. A copy of

the information furnished to the applicant(now appellant) was also produced before the Commission.

On scrutiny of the above information produced during the hearing, the Commission observed that though the letter addressed to the applicant(now appellant) furnishing the information was dated 20.11.2017, it was sent only on 12.02.2018 vide Speed Post Article bearing No. EE460641210IN. The applicant (now appellant) had acknowledged receipt of the information only on 15.02.2018, as per tracking events/records produced before the Commission during the hearing. Hence, there was considerable delay in furnishing the information to the applicant(now appellant).

DECISION

On the above observations and findings, the Commission decided that since the information had already been furnished to the applicant(now appellant), Er. Repangyangba Longkumer, Additional Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima shall confirm satisfaction or non-satisfaction of the information from the applicant(now appellant) **within one (1) month** from the date of receipt of this decision, specifying that failure to submit confirmation within the specified time shall deemed to be satisfied.

On receipt of the above compliance, the Commission shall hear the appeal again in the next hearing which shall be notified later.

Decision pronounced in presence of only the respondents on 04.07.2018.

Copy be given to:-

1. Er. K. Ghushito Sema, Chief Engineer & FAA, PHED, Nagaland, Kohima, Mobile No. 9436015086.
2. Er. Repangyangba Longkumer, Additional Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima, Mobile No. 9436006161.
3. The applicant (now appellant) Shri. Prem Rattan Daga, M/S R.D. Trade Agency, C/o M/S Monika (Bombay Dyeing), Church Road, Dimapur-797112, Mobile No. 9352333339.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-

CHANBEMO LOTH
Chief Information Commissioner

Sd/

G. H. RAMLIA
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary