

NAGALAND INFORMATION COMMISSION

Below Raj Bhavan, Officers' Hill Colony

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No. NIC/Appeal-24/2017-18

Dated Kohima, the 30th April, 2018.

Appellant : Shri. Hemant Paliwal,
S/o Om Prakash Paliwal,
47, Krishnapura, Road No. 4,
Near St. Paul's School,
Udaipur, Rajasthan-313001,
Mobile No. 9468577072.

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

(ii) The District Transport Officer & PIO,
Tuensang,
Nagaland.

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

Date of hearing : 24.04.2018 at 1:30 PM.
Date of Decision : 30.04.2018.

Present:

1. Shri. Y. Yansaromo Jami, District Transport Officer (E), representing Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Office of the Transport Commissioner, Nagaland, Kohima, Mobile No. 7085324295.
2. Shri. Tsuknungmeren, District Transport Officer & PIO, Motor Vehicles Department, Tuensang, Nagaland, Mobile No. 9436002510.

The applicant (now appellant), Shri. Hemant Paliwal, S/o Om Prakash Paliwal, 47, Krishnapura, Road No. 4, Near St. Paul's School, Udaipur, Rajasthan-313001, Mobile No. 9468577072, **did not** appear for the hearing.

FACT OF THE CASE

An applicant, Shri. Hemant Paliwal had submitted an RTI application vide letter **No. HP/089** dated **02.08.2017** addressed to the District Transport Officer & PIO, Tuensang, Nagaland along with the application fee of Rs.10/- paid through IPO bearing No. 40F 737727 by speed post bearing No. RLAD D RR434476903IN seeking the following information in respect of DL No. NL-0320090010015 issued in the name of Shri. Ramesh, S/o Shri. Ruliya Ram, R/o HS Road, Tuensang Town, Nagaland by DTO, Tuensang:

1. *Complete certified copy of that DL along with complete computer summary including all endorsements and all renewals.*
2. *Also confirm that whether on 05.04.2017 the DL is valid for driving the TR or not.*

On not getting any response from the DTO & PIO, Tuensang to his RTI application dated 02.08.2017 within the stipulated time period of 30 (Thirty) days, the applicant had submitted a first appeal dated **08.09.2017** to the Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima by speed post bearing No. RLAD A RR551467334 IN.

On not getting any response from the Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima to his first appeal dated 08.09.2017, the applicant (now appellant) had, preferred a second appeal dated 29.09.2017 before this Commission.

On receipt of the second appeal dated 29.09.2017, since the first appeal was not heard, the Commission had vide letter of even No. dated 08.11.2017 directed the First Appellate Authority 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.

The Commission had, vide letter No. TC/Estt-RTI/Appeal/302/2017(175)/5019-21 dated 30.10.2017 (but signed on 31.10.2017) received from the Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima reminding the District Transport Officer & PIO, Tuensang, Nagaland in continuation to his letter No. TC/Estt-RTI/Appeal/302/2017(175)/5194-95 dated 07.09.2017 and letter No. TC/Estt-RTI/Appeal/302/2017(175)/5357-58 dated 04.10.2017 to furnish the details of information as desired by the applicant (now appellant).

On receipt of the reminder dated 30.10.2017 from the Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima, the District Transport Officer & PIO, Tuensang, Nagaland had, vide letter No. DTO-T/MV/21/08/4457 dated 13.10.2017 informed the applicant (now appellant) that the information sought vide **RTI application dated 16.06.2017** which was received on 05.07.2017 had already been furnished by the Public Authority vide letter No. DTO-T/MV/21/08/5147 dated **05.07.2017**, and had enclosed a copy of the information furnished to the applicant (now appellant).

On receipt of the directive of the Commission of even No. dated 08.11.2017, the Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima had, vide letter No. TC/Estt-RTI/Appeal/302/2017(175)/05-06 dated 12.01.2018 stated that on receipt of the first appeal dated 08.09.2017, the Transport Commissioner & FAA had, vide letter No. TC/Estt-RTI/Appeal/302/2017(175)/5357-58 dated 04.10.2017 directed the DTO & PIO, Tuensang to respond to the applicant without any hearing as practiced all along. In compliance to the above directive, the District Transport Officer & PIO, Tuensang had, vide letter No. DTO-T/MV/21/08/4457 dated 13.10.2017 informed the applicant (now appellant) stating that the **RTI application dated 16.06.2017** was received by the Office of District Transport Officer, Tuensang on 05.07.2017 and had already furnished the information vide letter No. DTO-T/MV/21/08/5147 dated 05.07.2017.

Since there was neither any response to the RTI application dated **02.08.2017** nor to the first appeal dated **08.09.2017**, and as observed that the District Transport Officer & PIO, Tuensang, Nagaland had furnished the information in response to another RTI application dated **16.06.2017** and not against the RTI application dated **02.08.2017** for which the first appeal and second appeal were submitted, the Commission had decided to hear the appeal giving opportunity of being heard to all the parties on **24th April, 2018 (Tuesday) at 1:30 P.M** in the **Hearing Room of Nagaland Information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima**. Further, the following parties were also directed **to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. The Transport Commissioner & FAA, Motor Vehicles Department, Nagaland, Kohima.
2. The District Transport Officer & PIO, Tuensang, Nagaland.
3. The applicant (now appellant), Shri. Hemant Paliwal, Udaipur, Rajasthan.

OBSERVATIONS AND FINDINGS:

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

Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Office of the Transport Commissioner, Nagaland, Kohima had, vide letter No. TC/ESTT-RTI/NOTICE-NIC/306/2014/954-55 dated 16.04.2018 informed the Commission his inability to attend the hearing due to some unavoidable pre-fixed family programme on 24.04.2018 the day of hearing. He further, informed that Shri. Y. Yansaromo Jami, District Transport Officer (E) would be representing the First Appellate Authority during the hearing.

On receipt of the Notice for hearing, the applicant (now appellant) had also sent a letter dated 19.04.2018 to the Commission which was received on the day of hearing stating that he had submitted two (2) RTI applications – one bearing letter No. HP/085 dated 16.06.2017 and HP/089 dated 02.08.2017 seeking information on the same DL. He stated that on not getting any response to his first RTI application vide No. HP/085 dated 16.06.2017, he preferred a first appeal, after which he received some information, however it was incomplete. He had further received another letter

dated 13.10.2017 from the PIO, however, it was simply a repetition of the previously supplied incomplete information. Therefore, he had filed another RTI application vide No. HP/089 dated 02.08.2017, however, he did not get any response, and for which he had filed first appeal dated 08.09.2017 and second appeal dated 29.09.2017.

The Commission clarified that the hearing was regarding the second appeal dated 29.09.2017 which was filed against the non-response to the RTI application vide No. HP/089 dated **02.08.2017** and the subsequent first appeal dated **08.09.2017**, and not against the first RTI application vide No. HP/085 dated **16.06.2017** as no appeal or complaint was received against it.

During the hearing, Shri. Tsuknungmeren, District Transport Officer & PIO, Motor Vehicles Department, Tuensang, Nagaland stated that as per the entry in the Despatch/Issue Register, the reply was sent on **24.08.2017**, however, the reply was not found or available in the office record. A copy of the Issue/Despatch Register was also produced before the Commission.

The Commission observed the above submission of the DTO & PIO, Tuensang that the reply to the RTI application was not found in its office records was **not tenable**. There is a benefit of doubt that the reply to the RTI application dated 02.08.2017 was furnished since the applicant (now appellant) had also stated that he did not get any response.

DECISION:

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

1. the DTO & PIO, Tuensang shall re-furnish the reply to the applicant (now appellant), **within 15 days** from the date of receipt of this Decision.
2. The PIO shall also write to the applicant (now appellant) to confirm satisfaction or non-satisfaction within a time limit of one (1) month, indicating that in case of non-response even after the expiry of the time limit, it shall be considered as satisfied.
3. On receipt of the satisfaction or non-satisfaction from the applicant (now appellant) or on the expiry of the above time limit of one (1) month, whichever is earlier, the DTO & PIO, Tuensang shall inform to the Commission.
4. The PIO shall set up an Inquiry Committee to enquire into the loss of the reply to the RTI application dated 02.08.2017 from office records, and submit the findings in the form of sworn affidavit to the Commission **within 15 days** from the date of receipt of this Decision.

Decision pronounced in the presence of only the respondents on 24.04.2018.

Copy be given to:-

1. Shri. Elias T. Lotha, Transport Commissioner & First Appellate Authority, Motor Vehicles Department, Office of the Transport Commissioner, Nagaland, Kohima.
2. Shri. Tsuknungmeren, District Transport Officer & PIO, Motor Vehicles Department, Tuensang, Nagaland, Mobile No. 9436002510.
3. The applicant (now appellant), Shri. Hemant Paliwal, S/o Om Prakash Paliwal, 47, Krishnapura, Road No. 4, Near St. Paul's School, Udaipur, Rajasthan-313001, Mobile No. 9468577072.
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