

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-30/2017-18

Dated Kohima, the 27th April, 2018

Appellant : Shri. Vilhousielie Kengurüse,
President,
Nagaland Pradesh Youth Congress (NPYC),
Mobile No. 9774037529

Respondents : 1) Chief Engineer & FAA,
PWD (R&B),
Nagaland, Kohima.

2) The concerned PIO,
O/o the Chief Engineer,
PWD(R&B),
Nagaland, Kohima.

Public Authority : O/o the Chief Engineer, PWD(R&B), Nagaland, Kohima.

Date of hearing : 19.04.2018 at 1:00 PM.

Date of Decision : 27.04.2018.

Present:

1. Er. Limadongdang, Chief Engineer & FAA (former PIO), PWD (R & B), Nagaland, Kohima, Mobile No. 9436005327.
2. Er. Imsuyanger, Executive Engineer (Design) & APIO, O/o the Chief Engineer, PWD (R & B), Nagaland, Kohima, Mobile No. 9436604021.
3. Er. Likivi, Junior Engineer (D), O/o the Chief Engineer, PWD (R & B), Nagaland, Kohima, Mobile No. 8794965920.
4. The applicants (now appellants):-
 - a. Shri. Vilhousielie Kengurüse, President, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9774037529;
 - b. Shri. Keviphreo K. Kuotsu, Secretary, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9862548169.
 - c. Shri. Limayanagba, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9862338667.

FACT OF THE CASE

Two applicants, Shri. Vilhousielie Kengurüse, President, NPYC, and Shri. Keviphreo K. Kuotsu, Secretary, NPYC, had jointly submitted an RTI application dated **04.08.2017** addressed to the PIO, O/o the Chief Engineer, PWD (R&B), Nagaland along with the prescribed application fee of ` 10/- in cash seeking the following information:

1. *Please furnish the total sanction amount received from Centrally Sponsored Scheme PMGSY, NEC, NLCPR, E and I and Chief Minister Road Fund during 2013-2014, 2014-15, 2015-16, 2016-17, 2017-18.*
2. *Please furnish the name of the project of Scheme in district wise order Centrally Sponsored Scheme PMGSY, NEC, NLCPR, E and I and Chief Minister Road Fund 2013-2014, 2014-15, 2015-16, 2016-17, 2017-18.*
3. *Please furnish the name of the contractor under order Centrally Sponsored Scheme PMGSY, NEC, NLCPR, E and I and Chief Minister Road Fund (photo of work order) from 2013-2014.*

4. Please provide the NIT with paper clip under order Centrally Sponsored Scheme PMGSY, NEC, NLCPR, E and I and Chief Minister Road Fund 2013-2014, 2014-15, 2015-16, 2016-17, 2017-18.
5. Please furnish the actual payment made to the contractor along with MB and Bill Voucher under Sponsored Scheme PMGSY, NEC, NLCPR, E and I and Chief Minister Road Fund during 2013-2014, 2014-15, 2015-16, 2016-17, 2017-18.
6. Please furnish the details of P.F deduction from all the work order 2013-2018.

On receipt of the RTI application dated 04.08.2017 on the same day i.e. 04.08.2017 as evidenced on the body of the application, the PIO, O/o the Chief Engineer, PWD (R&B), Nagaland had furnished the information. However, on not being satisfied with the information furnished to them, the applicants had submitted a first appeal dated 11.09.2017 to the First Appellate Authority, O/o the Chief Engineer, PWD (R&B), Nagaland.

On receipt of the first appeal dated 11.09.2017 on the same day i.e., 11.09.2017, the First Appellate Authority, O/o the Chief Engineer, PWD (R&B), Nagaland had heard the first appeal and passed its decision wherein the time for furnishing the information was extended to enable the PIO to furnish the remaining information to the applicants (now appellants). However, on not receiving the remaining information from the PIO, O/o the Chief Engineer, PWD (R&B), Nagaland as decided by the First Appellate Authority, PWD (R&B), Nagaland in the first hearing, the applicants (now appellants) had preferred a second appeal dated **27.11.2017** before this Commission.

Since the applicants (now appellants) had preferred second appeal dated **27.11.2017** against the incomplete information furnished by the First Appellate Authority, PWD (R&B), Nagaland in response to their first appeal dated 11.09.2017 which was submitted against the incomplete information furnished by the PIO, O/o the Chief Engineer, PWD (R&B), Nagaland in response to their RTI application dated 04.08.2017, the Commission had decided to hear the appeal giving opportunity of being heard to all the parties on **19th April, 2018 (Thursday) 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 to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. The Chief Engineer & FAA, PWD (R & B), Nagaland, Kohima.
2. The Concerned PIO, O/o the Chief Engineer & FAA, PWD (R & B), Nagaland, Kohima.
3. The applicants (now appellants), Shri. Vilhousielie Kenguruse, President, NPYC, and Shri. Keviphreo K. Kuotsu, Secretary, NPYC.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellant) submitted that:-

1. Regarding **Query No. 1**, he was not satisfied since he had not received the Sanction Orders for some of the works/projects.
2. Regarding **Query No. 2**, he was not satisfied since he had not received the information for some of the works/projects.
3. Regarding **Query No. 3**, he had received the information and hence satisfied.
4. Regarding **Query No. 4**, he was not satisfied since the Newspaper clippings of the NIT (Notice Inviting Tender) were not received for some projects and hence presumed that the works were executed without floating any NIT.
5. Regarding **Query No. 5**, he was not satisfied since payments were made without any signatures of the contractors in some of the Divisions.
6. Regarding **Query No. 6**, he was not satisfied since he did not receive any reply.

Er. Limadongdang, Chief Engineer & FAA (former PIO), PWD (R & B), Nagaland, Kohima had stated that the RTI application dated 04.08.2017 was received on the same day i.e. 04.08.2017 and had furnished the reply only on 04.10.2017 after the FAA's hearing. On the replies which the applicant (now appellant) was not satisfied, he further clarified that:-

1. Regarding **Query No. 1**,
Works were executed by the Divisions and in each of the Work Orders, the names of the projects and the sanction amounts were mentioned.

However, on examination of the documents produced during the hearing, the Commission pointed out that the applicant (now appellant) had asked for Sanction Amount and not Sanction Order. Further, referring to **Annexure-D**, the Commission had pointed out that the PIO had already furnished the Year-wise and project-wise information alongwith the total sanctioned amount to the applicant (now appellant).

As clarified by the Commission, the applicant (now appellant) admitted that he had sought for Sanction Amount and not Sanction Order, however since he had already received the Sanction orders wherein the name of the projects and the sanction amount were mentioned, he expressed satisfaction.

2. Regarding **Query No. 2**, the PIO pointed out that the names of the projects and schemes district-wise had already been furnished to the applicant (now appellant) as seen at **Annexure-E**.

On perusal of the documents, the applicant (now appellant) had expressed satisfaction.

3. Regarding **Query No. 4**, the PIO stated that NITs were floated for all the works, however, some NITs were not published in the papers and since the applicant (now appellant) had asked for NIT with newspaper clippings only, he had furnished only those NITs which were published in the newspapers alongwith their newspaper clippings.

The Commission observed that though the applicant (now appellant) had received only those NITs which were published in the newspapers, since NITs were floated for all the projects/Schemes, the NITs for the remaining works that were not published in the papers also be furnished.

4. Regarding **Query No. 5**, the PIO stated that **vouchers** for all the schemes were furnished. However, the applicant (now appellant) stated that he was not satisfied since payments were made though works were not completed and there were no signatures of the contractors.

The Commission advised the applicant (now appellant) to pin-point or specify the vouchers and the schemes for which he was not satisfied or works not completed. Further, the Commission observed that the department do not maintain separate APRs, however payments made to the contractors are entered in the MB(Measurement Books) and Bill Vouchers, wherein the signatures of both the Engineers and the contractors are appended can be provided in lieu of APRs as a proof of payment received. However, for those works which were done and payments made but had not appended any signatures in the MBs, the PIO shall refurnish the information after obtaining the signatures.

5. Regarding **Query No. 6**, the PIO stated that the department did not deal with PF (party fund) and hence, the department did not have any reply. The PIO explained that it was the look-out of the contractors and the PF were deducted from the Contractors and not from the Department.

The applicants (now appellants) expressed satisfaction with the clarification of the PIO.

The Commission observed that the PIO had furnished the information, however, the applicant (now appellant) had not examined the information furnished to him. Further, the Commission observed that the applicant (now appellant) had expressed satisfaction with the replies and explanations to query Nos. 1, 2, 3 and 6, however, he was not satisfied with the replies to query Nos. 4 and 5.

The Commission advised the public authority that whenever a first appeal is received from an applicant, the FAA should hear the first appeal in the presence of the applicant and the PIO, and thereafter pass decision which is to be recorded in writing, within 30 – 45 days.

Regarding the delay in furnishing the information, the Commission observed that the RTI application dated 04.08.2017 was received on the same date i.e. on 04.08.2017. The information was furnished only on 04.10.2017, after the hearing of the first appeal.

The PIO submitted that, on receipt of the RTI application dated 04.08.2017, he had transferred it to all the Divisions on the same date. Altogether, 22 Divisions had submitted the information on time

within the 30 days limit, however, 7 Divisions, namely, Aboi, Atozui, Dimapur, Kiphire, Peren, Naginimora and Tuensang could not submit the information on time. He further stated that the information submitted by the 22 Divisions was furnished to the applicant (now appellant), however, the applicant (now appellant) did not accept the information since it was incomplete. The applicant (now appellant) had also given extension of time of 7 days, however, since the complete information was not given, the first appeal was filed.

The Commission observed that from the date of receipt of the RTI application dated 04.08.2017 on 04.08.2017 to the date of furnishing the information to the applicant on 04.10.2017, the number of days was 60 days, and considering the 30 days period for the PIO to furnish the information, there was a delay of (60 – 30) days = **30 days**, for which penalty was attracted. However, since the date of the receipt of the PIO's letter dated 04.08.2017 was not known, it was not possible to calculate the delay and penalty.

The APIO also submitted that the delay was due to communication problems in far-flung /remote areas and also due to transfer and posting of officers. However, the Commission opined that IT tools such as SMS or Whatsapp or email could have been used to communicate with their own colleagues and hence did not accept the above explanation for the delay.

DECISION:

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

1. Regarding **query No. 4**, the PIO shall furnish the remaining NITs which do not have newspaper clippings to the applicant (now appellant) **within one (1) month** from the date of receipt of this decision, with a copy to this Commission.
2. Regarding **query No. 5**, the PIO shall, after appending the signatures on the MBs and Bill Voucher, re-furnish the information to the applicant (now appellant) **within one (1) month** from the date of receipt of this decision, with a copy to this Commission.
3. On receipt of the above information, the applicant (now appellant) shall submit satisfaction or non-satisfaction to the PIO and with a copy to this Commission **within 10 days**.
4. The PIO shall also confirm from the 7 Divisions, namely, Aboi, Atozui, Dimapur, Kiphire, Peren, Naginimora and Tuensang, the **dates of receipt** of the PIO's letter dated 04.08.2017 and submit it to the Commission **within one (1) month** from the date of receipt of this decision.

Decision pronounced in the presence of both the parties on 19.04.2018.

Copy be given to:-

1. Er. Limadongdang, Chief Engineer & FAA (former PIO), PWD (R & B), Nagaland, Kohima, Mobile No. 9436005327.
2. Er. Imsuyanger, Executive Engineer (Design) & APIO, O/o the Chief Engineer, PWD (R & B), Nagaland, Kohima, Mobile No. 9436604021.
3. The applicants (now appellants), Shri. Vilhousielie Kenguruse, President, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9774037529 and Shri. Keviphreo K. Kuotsu, Secretary, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9862548169.
4. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's 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