

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-31/2017-18

Dated Kohima, the 24th 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 2:00 PM.

Date of Decision : 24.04.2018.

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 total amount received for Annual Road Maintenance Fund during 2014-15, 2015-2016, 2016-2017, 2017-2018.
2. Please furnish how much amount sanction to the District wise under Annual Road Maintenance Fund during 2014-15, 2015-2016, 2016-2017, 2017-2018.
3. Please furnish the list of contractor under Annual Road Maintenance Fund (photo work order) during 2014-15, 2015-2016, 2016-2017, 2017-2018.
4. Please furnish the actual payment made to the contractors and balance alone with M.B and Bill Voucher under Annual Road Maintenance Fund during 2014-15, 2015-2016, 2016-2017, 2017-2018.
5. Please furnish the Administrative approval Annual Road Maintenance Fund during 2017-2018.

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 as evidenced on the body of the first appeal, 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 compliance from the PIO, O/o the Chief Engineer, PWD (R&B), Nagaland to the decision of the First Appellate Authority, PWD (R&B), Nagaland, 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 non-satisfaction of the decision of the First appellate Authority on 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 has decided to hear the appeal giving opportunity of being heard to all the parties on **19th April, 2018 (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.

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 he had received the information for the **query Nos. 1 to 5** from the PIO and was **satisfied** with the information. However, he was not satisfied with the query No. 6 regarding deduction of P.F (Party Fund) from all the work orders from 2013 to 2018. He presumed that the PF were deducted by the department.

Regarding **Query No. 6**, Er. Limadongdang, Chief Engineer & FAA (former PIO), PWD (R & B), Nagaland, Kohima, clarified that the department did not deal with PF (party fund) and hence, the department did not have any reply. 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 applicants (now appellants) were satisfied with the replies to all the queries and explanation given by the PIO.

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, however, the information was furnished only on 04.10.2017, after the hearing of the first appeal. Hence, 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.

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. 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 given extension of time of 7 days, however, since no information was 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 the PIO shall 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 Kengurüse, 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.
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Sd/-
CHANBEMO LOTHIA
Chief Information Commissioner

Sd/-
G. H. RAMLIA
State Information Commissioner

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KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)

Secretary