

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-33/2017-18

Dated Kohima, the 30th April, 2018

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

Respondents : 1) Director General of Police & FAA,
PHQ,
Nagaland, Kohima.

2) The IGP & PIO,
O/o the DGP,
PHQ,
Nagaland, Kohima.

Public Authority : O/o the DGP, PHQ, Nagaland, Kohima.

Date of hearing : 19.04.2018 at 12:00 PM.

Date of Decision : 30.04.2018.

Present:

1. Shri. Rupin Sharma, IPS, Director General of Police & FAA, PHQ, Nagaland, Kohima.
2. Shri. Sandeep Tamgadge, IPS, IGP(Hqtr) & PIO, O/o the DGP, PHQ, Nagaland, Kohima, Mobile No. 9689195999.
3. Shri. Aaron Patton, NPS, AIG(OPS) & APIO, O/o the DGP, PHQ, Nagaland, Kohima, Mobile No. 9402022902.
4. Shri. Swedeviho Kikhi, Dealing Assistant (RTI), O/o the DGP, PHQ, Nagaland, Kohima, Mobile No. 9856981252.
5. The applicant (now appellant), Shri. Vilhousielie Kengurüse, President, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9774037529.
6. Shri. Limayanagba, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9862338667.
7. Shri. Keviphreo, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9862548169.

FACT OF THE CASE

An applicant, Shri. Vilhousielie Kengurüse had submitted an RTI application dated 01.09.2017 addressed to the PIO, PHQ, Nagaland, Kohima along with the prescribed application fee of Rs. 10/- in cash seeking the following information:

- i. *Furnish Xerox copy of appointment letter for all the non-local appointees under the PHQ.*
- ii. *Furnish Xerox copy of all the relevant documents submitted during the appointment of non-local employees under PHQ.*
- iii. *Furnish the file number and Xerox copy of buff sheet noting of every non-local appointees under PHQ.*
- iv. *Furnish Xerox copy of the scheme under which Water Sprinkler Pump/Pipe with Xerox copy of APR.*
- v. *Furnish the name of the contractor for Water Sprinkler Pump/Pipe.*

On receipt of the RTI application dated 01.09.2017, the IGP & PIO, O/o the DGP, PHQ, Nagaland, Kohima had, vide letter No. PHQ (CON-II) 185/RTI/2015-16/2752 dated 09.10.2017 (but signed on 07.10.2017) furnished the information sought by the applicant on payment of Rs.392/- being the cost of the information. However, on not being satisfied with the information furnished by the IGP & PIO, O/o the DGP, PHQ, Nagaland, Kohima, the applicant had submitted a first appeal dated 31.10.2017 to the First Appellate Authority, PHQ, Nagaland, Kohima.

On receipt of the first appeal dated 31.10.2017, the First Appellate Authority had heard the first appeal and passed decision extending the time for furnishing of the remaining information. However, on not receiving the remaining information even after the hearing by the FAA and the time extended for furnishing of the information, the applicant (now appellant) had submitted a second appeal dated 30.01.2018 before this Commission.

Since the applicant (now appellant) had preferred a second appeal dated 30.01.2018 against the non-furnishing of the remaining information sought by him despite the hearing of the first appeal dated 31.10.2017 which was filed against the non-satisfaction of information furnished to him by the PIO, O/o the DGP, PHQ, Nagaland, Kohima in response to his RTI application dated 01.09.2017, the Commission had decided to hear the appeal giving opportunity of being heard to all the parties on **19th April, 2018 (Thursday) at 12:00 P.M in the Hearing Room of Nagaland Information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and directed the parties **to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

- i. The DGP & FAA, PHQ, Nagaland, Kohima.
- ii. The IGP & PIO, O/o the DGP, PHQ, Nagaland, Kohima.
- iii. The applicant (now appellant), Shri. Vilhousielie Kenguruse, President, NPYC.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellant) submitted that he had received the information from the PIO, however, since he was not satisfied with the information, he had filed the first appeal. The applicant (now appellant) submitted that regarding:-

1. **Query No. 1**, he was satisfied with the information furnished to him.
2. **Query No. 2**, he was not satisfied since no documents like Educational Certificate, Medical Certificate etc. of the appointees were not furnished to him.
3. **Query No. 3**, he was not satisfied since the file number(s) were not provided.
4. **Query No. 4**, he was not satisfied since the scheme was implemented through private funds.
5. **Query No. 5**, he was not satisfied since the scheme was implemented through private funds.

On the expiry of the then PIO, the new PIO, Shri. Sandeep Tamgadge, IPS, IGP(Hqtr), O/o the DGP, PHQ, Nagaland, Kohima had explained on the replies which were not satisfied by the applicant (now appellant):-

1. Regarding Query No. 2, Shri. Sandeep Tamgadge, IPS, IGP(Hqtr) & PIO, O/o the DGP, PHQ, Nagaland, Kohima submitted that there are forty two (42) non-local personnel who were appointed for the last 20 to 25 years back, however since no such documents or records were available, the information could not be provided.
2. Regarding Query No. 3, the former PIO had in his reply stated that the file numbers of cases of appointments were on the body of the appointment orders. Shri. Sandeep Tamgadge, IPS, IGP(Hqtr) & PIO stated that the file numbers were not provided separately. Further, buff sheet noting were not furnished since buff sheets are not used in the PHQ.
3. Regarding Query No. 4, the former PIO replied that the items were purchased from private fund of MT(PHQ) on cash payment and not by the department. The department had provided only the transportation and hence providing of APR does not arise. Shri. Sandeep Tamgadge, IPS, IGP(Hqtr) & PIO also submitted that the works were done by the PHQ with its manpower and resources.
4. Regarding Query No. 5, the PIO submitted that the Cash Memos were furnished.

Shri. Rupin Sharma, IPS, Director General of Police & FAA, PHQ, Nagaland, Kohima had also stated that the first appeal hearing was held on 20.11.2017, however the proceedings could not be recorded. He submitted that whatever information available in the office were furnished. Regarding queries No. 4 and 5, the FAA explained that the department maintains a 'private fund' which is generated through contribution by the personnel, and the purchase and installation of the Water Sprinkler Pumps/Pipes were done out of this private fund. Further, since this private fund is not a government fund or project or scheme, no documents could be furnished.

The Commission also viewed that since the fund was raised by the contribution of the private individuals, it is merely a private fund and hence would be outside the purview of the RTI. The Commission further, observed that since files and records are weeded out from time to time as per

Records Management, the information could have been easily located and furnished, had the applicant specified the period for which he wanted the information.

The applicant (now appellant) **expressed satisfaction** with the clarification given by the DGP & FAA regarding query **Nos. 4 and 5**. He, however pointed out that regarding **query No. 2** on the appointments, he was **not satisfied** since appointments need to be as per the rules and procedures and should have proper documents of the candidates.

The Commission observed that from the date of receipt of the RTI application dated 01.09.2017 on 06.09.2017 to the date of furnishing of the information to the applicant on 09.10.2017, the number of days was 33 days. However, considering the 30 days period prescribed for the PIO to furnish the information, there was a delay of only (33 – 30)= three (3) days. The PIO stated that since the information was furnished by the former PIO who had already expired and that the delay was not intentional, he had requested the Commission to condone the three (3) days of delay.

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

DECISION:

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

1. The Public Authority shall try to search the documents of the appointees and whatever information found or available, be furnish to the applicant (now appellant) **within 45 days** from the date of receipt of this decision, and with a copy to this Commission.
2. On the request of the applicant (now appellant), the Commission took a lenient view and had condoned the three (3) days of delay. Hence, no penalty is imposed.
3. On receipt of the information from the PIO, the applicant (now appellant) shall submit satisfaction or non-satisfaction with the information **within 10 days**.

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

Copy be given to:-

1. Shri. Rupin Sharma, IPS, Director General of Police & FAA, PHQ, Nagaland, Kohima.
2. Shri. Sandeep Tamgadge, IPS, IGP(Hqtr) & PIO, O/o the DGP, PHQ, Nagaland, Kohima, Mobile No. 9689195999.
3. Shri. Aaron Patton, NPS, AIG(OPS) & APIO, O/o the DGP, PHQ, Nagaland, Kohima, Mobile No. 9402022902.
4. The applicant (now appellant), Shri. Vilhousielie Kenguruse, President, Nagaland Pradesh Youth Congress (NPYC), Mobile No. 9774037529.
5. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's website and Notice Board.
6. 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