

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-6/2017-18

Dated Kohima, the 22nd September, 2017.

Appellant : Shri. Vikheto Zhimomi,
RTI Activist,
P.R Hill,
Kohima, Nagaland.
Mobile No. 9089896123

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

ii) The IGP(Hqr) & PIO,
PHQ, Nagaland, Kohima.

Public Authority : PHQ, Nagaland, Kohima.

Date of hearing : 15.09.2017 at 11:00 AM.
Date of Decision : 22.09.2017.

Present:

- i) Shri. L. L. DOUNGEL, IPS, Director General of Police & FAA, PHQ, Nagaland, Kohima, Mobile No. 9436144116.
- ii) Shri. P. F. ZELIANG, IPS, IGP(HQ) & PIO, PHQ, Nagaland, Kohima, Mobile No. 9436012953
- iii) The applicant (now appellant), Shri. Vikheto Zhimomi, RTI Activist, P.R Hill, Kohima, Nagaland, Mobile No. 9089896123.

FACT OF THE CASE

An applicant, Shri. Vikheto Zhimomi had submitted an RTI application dated **21.09.2016** addressed to the PIO, O/o the Director General of Police, Nagaland, Kohima along with the prescribed application fee of Rs.10/- in cash seeking the following information regarding 231 Nos. of non-Nagas who were appointed in the Police department between 2013 to March 2016:-

- i. *On what ground, these 231 non-nagas was appointed?*
- ii. *Who recommended them? Kindly give me the name and designation of officers who recommended their appointment. And also the recommendation letter.*
- iii. *What action should be taken to these officers who appoint them violating the rules?*
- iv. *Will their appointment be cancelled as they were not appointed as per the recruitment rules?*
- v. *Who are the officers scrutiny their documents? Kindly give me the name and designation of the officers.*
- vi. *How many Havildars has been appointed from January 2013 till date? Name, place of posting and date of appointment please.*
- vii. *Can Havildar be directly appointed without open recruitment? If yes. Kindly give me the orders, OM etc. If No, or what ground, some person were appointed?*

On receipt of the RTI application dated **21.09.2016** by the Public Authority on 26.09.2016 as evidenced on the body of the RTI application, the IGP (Hqr) & PIO, O/o the Director General of Police, Nagaland, Kohima had, vide letter No. PHQ(CON-II)185/RTI/2015-16/766 dated **29.10.2016** furnished the information to the applicant.

On not being satisfied with the information furnished to him by the IGP (Hqr) & PIO, O/o the Director General of Police, Nagaland, Kohima, the applicant had submitted a first appeal

dated **24.11.2016** addressed to the DGP & First Appellate Authority which was received on the same date i.e. 24.11.2016.

On receipt of the first appeal dated 24.11.2016, the IGP (Hqr) & PIO, O/o the Director General of Police, Nagaland, Kohima had, vide letter No. PHQ(CON-II)185/RTI/2015-16/1151 dated 30.11.2016 issued Notice for Hearing on 19.12.2016 at 11:00 A.M in the Conference Hall, PHQ. And after the hearing of the first appeal by the Director General of Police & First Appellate Authority, the IGP (HQ) & PIO had, vide letter No. PHQ(CON-II)185/RTI/2015-16/1760 dated 08.02.2017 but signed on **01.03.2017** refurbished the information to the applicant (now appellant).

On being not satisfied with the information furnished to him after the hearing of his first appeal by the Director General of Police & First Appellate Authority on 19.12.2016, the applicant (now appellant) had preferred a second appeal dated **27.04.2017** before this Commission on **query Nos. 1, 2, 4, 5 & 7** of his RTI application dated **21.09.2016**.

After the aftermath of the gutting of the Old Secretariat Complex including the office building of the Nagaland Information Commission on 02.02.2017 during the public unrest in connection with the issue of the ULB (Urban Local Bodies) elections, the Commission was functioning from the guard house of the official quarter of the State Information Commissioner at Agri Farm Colony on a stop-gap arrangement till the Commission shifted to an alternative office accommodation in a new location around the 1st week of August 2017.

On having shifted to a new location, the Commission had decided to hear the appeal, giving opportunity of being heard to the parties on **15th September (Friday), 2017 at 11:00 A.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 during hearing.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellant) stated that he had preferred a second appeal before the Commission since he was **not satisfied** with the information given by the PIO on **29.10.2016** and on **01.03.2017** after the hearing of the FAA on the following grounds:-

Reply to query No. 1: Constable is a non-technical post.

Reply to query No. 2: Recommendation letters in hard copy not furnished.

Reply to query No. 3 & 4: Whether appointment of non-Nagas can be cancelled or not was not clarified.

Reply to query No. 5: No name of officers furnished.

Reply to query No. 7: OM not furnished.

During the hearing, Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, PHQ, Nagaland, Kohima submitted that:-

Regarding Query No.1: Most of the appointments were made against the posts of trade/technical in nature such as drivers, cobblers, barbers, tailors, mechanics etc. which are in the same rank as that of Constables. He further explained that though these posts are technical in nature, they have the same criteria as that of Constables and for which they also undergo nine (9) months of training like the Constables. However, unlike the Constables, some posts like sweepers, cooks, water carriers etc. which are non-combatant posts do not undergo any formal training.

On the question raised by the applicant (now appellant) as to why non-Nagas were appointed even though the Recruitment Rules permits only indigenous inhabitants of Nagaland, the PIO replied that only those persons with the adequate technical/ trade knowledge and skills were appointed, however, as per Government OM and Notification, in the absence of indigenous inhabitants having the desired qualifications, knowledge and skills, non-Nagas can also be appointed since they are also Indian citizens.

The Commission observed that the RTI Act, 2005 is a tool to access information from the public authorities and as long as furnishing of information is concerned, the PIO had already furnished the replies and had also explained the reasons. However, since the Commission is not a

court of arbitration, the applicant (now appellant) is free to approach other appropriate platforms/forums. Hence, no further action is required.

Regarding Query No.2: The PIO had furnished the information received from the Units in soft copy. However, the unit commanders i.e. S.Ps of district and Commandants of NAP Bn. did not furnish the copies of the recommendations made by VIPs and senior police officers, implying that they, being the appointing authority had taken the decisions at their own level. During the hearing, the PIO stated that recommendation letters were not furnished since most of the recommendations were only verbal directions. However, the PIO submitted that the information can be updated and furnished in hard copy as desired by the applicant.

The applicant (now appellant) stated that in some cases where recommendations were made, scanned copies of such letters may also be given.

Regarding Query No. 3 & 4: The PIO stated that query No. 3 and 4 are related. The PIO stated that the fault lies with the appointing authority i.e. the unit commanders and not the non-Nagas who were appointed. The PIO further admitted that proper procedures were not followed in the appointments. Hence, disciplinary action can be attracted as per the Nagaland Services (Discipline and Appeal) Rules, 1967. However, any disciplinary actions against any gazetted officers have to be initiated by the Government i.e the Home Department, whereas the DGP has the power to take action only upto the rank of Sub-Inspector of Police.

The Commission observed that the applicant (now appellant) expected the Commission and the public authority to take action on the defaulters, however, the Commission made its stand clear that it is not a court of arbitration and that the applicant (now appellant) was free to approach other appropriate platforms/forums if he so desire.

Further, the Commission observed that like in the above **query No. 1**, these two **query Nos. 3 and 4** are also not documented information and hence are not available with the public authority, and therefore, in the strict sense cannot be termed as information under the RTI Act, 2005. However, the PIO had already given some related information and had explained to his queries as per the RTI application during the hearing, for which, in the opinion of the Commission, the applicant (now appellant) should be satisfied and hence, no further action is required.

Regarding Query No.5: The PIO stated that he had furnished whatever information he had received from the units in soft copy on a CD. He further submitted that since all appointments were made by the Unit Officers i.e. the S.Ps and the Commandants, scrutiny of the documents of the applicants were done by them.

However, the applicant (now appellant) stated that the print-out from the CD indicated that the names of the scrutinizing officers were not mentioned. The PIO admitted that the fault was at the unit level which dealt with the matter. He submitted that the list of scrutinisers can be updated from the units and re-furnish to the applicant(now appellant).

Regarding Query No.6: The applicant (now appellant) stated that since he had received a list of thirty seven (37) Havildars appointed from January, 2013 to March, 2016, he is **satisfied** with the information furnished to him and the explanation given by the PIO and therefore has no further complaint.

Regarding Query No.7: The PIO replied that the post of Havildar is filled by promotion only, however, by the time the personnel are promoted to the rank of Havildar, most of them attain the retirement age or the length of service for retirement. Hence, to mitigate the requirement, young bloods with educational qualification of matriculate and above are directly appointed in the rank of Havildars.

The applicant (now appellant) stated that he had wanted the grounds on which the Havildars were appointed and the OM or Government Orders, if available basing on which the appointments were made. However, since the PIO had replied that the OM was not traceable, the applicant (now the appellant) opined that the OM or Government Orders must be available but presently not found or misplaced. The PIO stated that an attempt may be made to search for the OM and furnished it to the applicant.

DECISION:

On the above observations and findings, the Commission decided that the PIO shall furnish the following information to the applicant (now appellant), with a copy to this Commission **within two (2) weeks** from the date of receipt of this Commission's Decision:-

1. Regarding **query No. 2:** the updated information in hard copy duly signed and alongwith scanned copies of recommendations letters wherever available as desired by the applicant(now appellant).
2. Regarding **query No. 5:** the updated and complete list of the scrutinising officers.
3. Regarding **query No. 7:** Another attempt be made to search for the OM or Government Orders and furnish.

Decision pronounced in the presence of all the parties on 12.09.2017 at 12:00 PM.

Copy be given to:-

1. Shri. L. L. DOUNGEL, IPS, Director General of Police & FAA, PHQ, Nagaland, Kohima, Mobile No. 9436144116.
2. Shri. P. F. ZELIANG, IPS, IGP(HQ) & PIO, PHQ, Nagaland, Kohima, Mobile No. 9436012953
3. The applicant (now appellant), Shri. VIKHETO ZHIMOMI, RTI Activist, P.R Hill, Kohima, Nagaland, Mobile No. 9089896123.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-

TOSHI AIER, IAS (Retd.)
Chief Information Commissioner

Sd/-

CHANBEMO LOTHIA
State Information Commissioner

Sd/-

KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary