

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-15/2017-18

Dated Kohima, the 15th November, 2017.

Appellant : Shri. Sabu Sote,
Phekerkrie Basa
Under Chiephobozou Block,
Kohima,
Mobile No. 9862288287.

Respondents : i) The Director & FAA,
Directorate of School Education, Nagaland, Kohima.

ii) The Additional Director & PIO,
Directorate of School Education, Nagaland, Kohima.

Public Authority : Directorate of School Education, Nagaland, Kohima.

Date of hearing : 30.10.2017 at 12:00 PM.
Date of Decision : 15.11.2017.

Present:

- i) Shri. Wonthungo Tsopoe, Director & FAA, Directorate of School Education, Nagaland, Kohima, Mobile No. 9436008991.
- ii) Shri. Razouseyi Vese, Additional Director & PIO, Directorate of School Education, Nagaland, Kohima, Mobile No. 8974866909.
- iii) Shri. P. Ongnyei, RDA, Directorate of School Education, Nagaland, Kohima, Mobile No. 9612017818.
- iv) The applicant (now appellant), Shri. Sabu Sote, Phekerkrie Basa under Chiephobozou Block, Kohima, Mobile No. 9862288287.

FACT OF THE CASE

An applicant, Shri. Sabu Sote had submitted an RTI application dated **09.12.2016** addressed to the PIO, Directorate of School Education, Nagaland, Kohima along with the prescribed application fee of Rs. 10/- in cash seeking the following information:-

1. *Please furnish the name of the post and their designation of the following given below:*
 - a. *Avilie S/o Late Khrietsielie*
 - b. *Keneisanuo D/o Late Khrietsielie*
 - c. *Shilo H/o Keneisanuo (son in law of Late Khrietsielie)*
 - d. *Aleno D/o Late Khrietsielie*
 - e. *Kekhrieno D/o Late Khrietsielie*
 - f. *Meziengu-ü D/o Thepfulilie (niece of Late Khrietsielie)*
 - g. *Keneinuo D/o Late Khrietsielie*
 - h. *Kenei W/o Late Kezhawheto (Daughter in law of Late Khrietsielie)*
2. *How they were appointed?*
3. *On what ground they were appointed?*
 - a. *Nature of appointment.*
 - b. *Reason of appointment.*
 - c. *Name of their post and education qualification required for their post.*
 - d. *Mention how they were appointed under interview vacated post new post creation etc.*

- e. *Time, date and year of their appointments*
 - f. *Name of their post, address in where they are serving.*
 - g. *Education qualification required for all the post education qualification of all the candidate.*
 - h. *What are the education qualifications required for every particular post.*
 - i. *What are their educational qualifications?*
 - j. *On what level of priority they were appointed?*
4. *In what way are Mr. Neitho-o and Mr. Khrielhoulie suspended teachers of GPS Keviphe are been re-instated by your authority? On whose order?*
 5. *How long can an employee be in suspension?*
 6. *On whose order an on what reason they are re-instating after 9 years?*
 7. *On what actual reason they are suspended?*
 8. *Is there 3% reservation policy in your Department for the differently abled person (disabled)?*

On receipt of the RTI application dated **09.12.2016**, Shri. Razouseyi Vese, the then Joint Director (HSS) & PIO, Directorate of School Education, Nagaland Kohima had, vide letter No. **ED/RTI-B/2014-15 (Pt-1)** dated **17.03.2017** informed the applicant that the information sought by him were not traceable and thus furnished a **NIL** report to the applicant.

However, on not being satisfied with the **NIL** report furnished to him by the Joint Director & PIO in response to his RTI application dated **09.12.2016**, the applicant submitted a first appeal dated **02.05.2017** addressed to the Addl. Director (HOD) & First Appellate Authority, School Education, Nagaland, Kohima.

And on receipt of the first appeal dated **02.05.2017**, the then Joint Director (HSS) & PIO, had, vide letter No.ED/RTI-A/2014-15 dated May, 2017 furnished the information sought by the applicant (now appellatant).

However, still on not being satisfied with the information furnished to him in response to his first appeal, the applicant (now appellatant) had preferred a second appeal dated **21.07.2017** before this Commission.

The Commission had decided to hear the appeal giving opportunity of being heard to the parties **on 30th October (Monday), 2017 at 12:00 P.M.in the Hearing Room of Nagaland Information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and had directed **to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. The First Appellate Authority, Directorate of School Education, Nagaland.
2. The Joint Director (HSS) & PIO, Directorate of School Education, Nagaland.
3. The applicant (now appellatant), Shri. Sabu Sote, Phekerkrie Basa under Chiephobozou Block, Kohima.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellatant) submitted that he was not satisfied with the first reply of the PIO dated 17.03.2017, since **NIL** report was furnished as the records were not traceable. Further, in the second reply given by the same PIO in May, 2017, some reply was furnished, however the information was not satisfactory.

The applicant (now appellatant) submitted that he did not get any reply to **Query Nos.1, 2 & 3** of his RTI application. He further stated that he had sought the information since the incumbents are from the same one family when others are not getting the opportunity for employment.

The applicant (now appellatant) also submitted that **Query Nos. 4, 5, 6 & 7** are relating to the two (2) primary teachers of Government Primary School (GPS), Phekerkrie Basa (Keviphe), Mr. Neitho-o and Mr. Khrielhoulie who were suspended for the last 11 to 12 years and still enjoying their salaries. The applicant (now appellatant) also informed that when he was the Chairman of the Village Education Committee, Phekerkrie Basa (Keviphe) under Chiephobozou Block, Kohima, he had written a letter to the Governor and twice to the Department of School

Education to terminate the services of the above teachers since they were not regular in attending the school as they are not permanent resident of the village.

Further, the applicant (now the appellant) stated that after the two primary teachers were suspended due to their irregularity, the GPS was almost defunct for the past several years and during which his wife served as a substitute teacher against one of the suspended primary teachers. And on re-instatement of the suspended primary teachers in August, 2017, his wife was terminated from her post and had not got her salary for the last five (5) years. A copy of the newspaper clippings which appeared in Morung Express on 31.08.2016 was also enclosed.

Query No. 8, the applicant (now appellant) stated that he was not satisfied with the information furnished since a disabled person had applied for the post of Chowkidar of the school however, another family member of Late Khrietsielie was appointed.

During the hearing, Shri. Razouseyi Vese, Additional Director & PIO, Directorate of School Education, Nagaland, Kohimastated that due to acute shortage of teachers in the rural areas, the Village Education Committee(VEC) must have engaged some substitute teachers. He further explained that:-

- **Query Nos. 1, 2 and 3** are related and he **could not trace** out the records except two (2) names from the payment list viz. 1(d) *Aleno, D/o Late Khrietsielie, Chowkidar at GMS, Phekerukriema* and 1(e) *Kekhrieno, D/o Late Khrietsielie, Typist Grade – III at DEO Office, Kohima*.
- **Replies to Queries No. 4, 5, 6, & 7** were given by the Joint Director, Legal & Confidential Section of the Department as under:-
 - **Query No. 4:** By Letter No. DSE/ESTT/MISC/1-91/2016/456 dated 26.04.2017, the Appellate Authority had requested the appointing authority to initiate follow up action under the Nagaland Government Servants Conduct Rules, 1967.
 - **Query No. 5:** There is no specific time frame for any Government servants to be put under suspension, however, till such time the charges and allegations are acquitted by the judiciary or by the appointing authority.
 - **Query No. 6:-**They are not re-instated yet into the service and therefore the question of re-instating them after 9 years does not arise.
 - **Query No. 7:-** They were suspended with effect from the month of July, 2008 due to their irregularity in attending their duties.
- **Query No. 8:-**Yes, provided the applicant submits Disabled Certificate. Unless Disability Certificate was submitted, the authority will not know.

The Director & FAA also stated that there is no provision for appointment of substitute teachers in the department. And such cases need to be taken up alongwith the VEC (Village Education Committee) and Village Council. He further stated that in regard to the 3% reservation, land owners are given preference.

However, the applicant stated that since the school was donated by the village, there is no question of land owners. Further, an applicant who is a disabled person had even submitted an application for some post alongwith Disabled Certificate, however, the disabled applicant was not appointed.

The Commission had observed that the RTI application dated 09.12.2016 was received on the same day i.e. 09.12.2016 and the first reply was given by Shri. Razouseyi Vese, Joint Director(HSS) & PIO on 17.03.2017 as NIL report, however, in the second reply given in May, 2017, the same PIO had given some information, which the applicant (now appellant) was not satisfied. Moreover, the submissions of the applicant (now appellant) and the public authority during the hearing was not very clear.

The Commission observed that since the RTI application dated 09.12.2016 was received on the same day i.e. 09.12.2016 and the reply given on 17.03.2017, taking into account the 30 days time for the PIO, there was a delay of $98 - 30 = 68$ days for which penalty is attracted.

DECISION:

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

- i. Since the PIO had given two different replies and that the submission of the applicant and the public authority was not clear, the public authority shall re-visit the case and re-furnish all the information as sought for on all the eight (8) queries of the RTI application dated 09.12.2016 to the applicant (now appellant) and with a copy to the Commission.
- ii. Shri. Razouseyi Vese, Additional Director & PIO, Directorate of School Education, Nagaland, Kohima shall submit to the Commission when, who and how the RTI application was received, processed and replied.

The above decisions shall be complied **within one (1) month** from the date of receipt of this Decision.

Decision pronounced in presence of all the parties on 30.10.2017 at 12:00 PM.

Copy be given to:-

1. Shri. Wonhthungo Tsopoe, Director & FAA, Directorate of School Education, Nagaland, Kohima, Mobile No. 9436008991.
2. Shri. Razouseyi Vese, Additional Director & PIO, Directorate of School Education, Nagaland, Kohima, Mobile No. 8974866909.
3. The applicant (now appellant), Shri. Sabu Sote, Phekerkrie Basa under Chiephobozou Block, Kohima, Mobile No. 9862288287.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-
CHANBEMO LOTHIA
State Information Commissioner

Sd/-
KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONHUNG EZUNG)
Secretary