

NAGALAND INFORMATION COMMISSION
Below Raj Bhavan, Officers' Hill Colony
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Nagaland, Kohima-797001

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No.NIC/Appeal-16/2017-18

Dated Kohima, the 20th April, 2018.

Appellant : Shri. Vinod Sharma,
S/o Shri. K.K. Sharma,
F-85, Moti Bagh 1,
New Delhi-21,
Mobile No. 096544517/09891497733.

Respondent(s) : (i) Director-cum-Registrar & First Appellate Authority,
The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

(ii) The AAO & PIO,
The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

Public Authority : The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

Date of Hearing : 12.04.2018 at 12:00 P.M
Date of Decision : 20.04.2018.

Present:

1. Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9436070457.
2. Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9774418461.

The applicant (now appellant), Shri. Vinod Sharma, S/o Shri. K.K. Sharma, F-85, Moti Bagh 1, New Delhi-21 Mobile No. 096544517/09891497733 **did not appear** for the hearing.

FACT OF THE CASE

An applicant, Shri. Vinod Sharma had earlier submitted an RTI application vide letter No. **Misc.KKS/2015.Vig(iii)** dated **16.04.2015** addressed to the PIO, The Global Open University Nagaland, Dimapur along with the prescribed application fee of ` 10/- paid through IPO bearing No. 21F 265713 seeking the following information regarding his 1st year mark sheet and pass certificate of MA English course:

- i. *Original mark sheet of 1st year may be provided to me.*
- ii. *Original passing certificate may be provided to me.*
- iii. *Action taken on my representation No. Misc.KKS/2015.Vig(i), dated 17.03.2015 reg. issue of original mark sheet/certificate.*
- iv. *Is any due is pending against me in the University. If yes, please send the details.*

On not getting any response from the PIO, The Global Open University Nagaland, Dimapur to his RTI application dated **16.04.2015**, the applicant had, vide letter No.

Misc.KKS/2015.Vig.(iv) dated **02.07.2015** submitted a first appeal addressed to the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur.

Further, on not getting any response from the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur to his first appeal dated **02.07.2015**, the applicant (now appellant) had, vide letter **No. Misc.KKS/2015.Vig.(v)** dated **12.08.2015** preferred a second appeal before the Central Information Commission, New Delhi, however, since the appeal came under the jurisdiction of the Nagaland Information Commission, the Central Information Commission, New Delhi had, vide **No. CIC-SA-A-2015-001573-MP** dated **31.05.2017** transferred the second appeal to this Commission along with all the documents pertaining to the appeal case.

And on receipt of the above second appeal dated **12.08.2015**, since the first appeal was not heard, the Commission had, vide letter of even No. dated **28.08.2017** directed the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur to take up the first appeal by hearing the parties i.e., the applicant and the PIO concerned and pass decision within 1 (one) month from the date of receipt of the directive and submit a copy of the decision to the Commission.

In compliance to the above directive of the Commission of even No. Dated **28.08.2017**, the Commission had on **08.01.2018** received a copy of the decision passed by the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur vide letter No. GOUN.2-14/16/B VOL I/566 dated 04.12.2017.

However, since the Commission did not receive the above compliance within the time limit given in its directive of even No. dated **28.08.2017**, the Commission had, vide letter of even No. dated **15.12.2017** directed the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur to appear before the Commission on **09.02.2018 at 11:00 A.M** and explain his failure to comply with the directive of the Commission of even No. dated **28.08.2017**.

Since the Director cum Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur had failed to appear before the Commission on the above mentioned date and time without any reason or prior information, the Commission had decided to hear the appeal giving opportunity of being heard to all the parties on **12th 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 had also directed **to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Sodzulhou Village, P.O- ARTC, Dimapur, Nagaland-797115.
2. Shri. Keluozie Kesiezie, Asst. Administrative Officer & PIO, The Global Open University, Nagaland, Sodzulhou Village, P.O ARTC, Dimapur, Nagaland- 797115.
3. The applicant (now appellant), Shri. Vinod Sharma, S/o Shri. K.K. Sharma, F-85, Moti Bagh 1, New Delhi-21 Mobile No. 096544517/09891497733.

OBSERVATIONS AND FINDINGS

The applicant (now appellant), Shri. Vinod Sharma did not appear for the hearing and there was no intimation to the Commission regarding his absence. The hearing was conducted only in the presence of the respondents – Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority and Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland.

During the hearing, Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO stated that The Global Open University Nagaland did not receive the letter dated 15.12.2017 of the Commission for the meeting scheduled on 09.02.2018 at 11:00 A.M, however, on the telephonic call from the Commission on 06.02.2018, he had attended the said meeting.

Regarding the non-hearing of the first appeal, Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland explained that the RTI application dated 16.04.2015 was received on **10.05.2015** when the campus was located at Kohima. However, in 2016, the campus was shifted to Dimapur. The Controller of Examination

had, vide letter No. GOUND/EX/8-12/13/522 dated **30.04.2015** issued the First year mark sheet in original to the applicant, but despatched on **01.05.2015**. And since the mark sheet was sent to the applicant, The Global Open University Nagaland had assumed that the applicant was satisfied. He had also admitted that he had received the first appeal dated 02.07.2015 on **10.07.2015**.

However, the Commission pointed out that even before the receipt of the RTI application dated 16.04.2015 on 10.05.2015, The Global Open University Nagaland had given the reply i.e the First year mark sheet in original to the applicant on 01.05.2015. Further, though the mark sheet was sent to the applicant on 01.05.2015, the applicant had filed first appeal on 02.07.2015 and the second appeal on 12.08.2015.

The PIO admitted that the mark sheet was sent to the applicant even before the RTI application was received and also stated that the reply to his four queries had been furnished to the applicant, vide letter No. GOUNK/ADMN/1-4/06/VOL XI/633 dated **30.11.2015**.

The Commission observed that the FAA should appreciate the opportunity given to him to hear the First Appeal within one (1) month, however, the FAA had failed to hear the case. Further, the Commission had pointed out that an **explanation call** was issued to the Director & FAA for his failure to comply with the directive of the Commission vide even No. dated 28.08.2017 and also for his failure to attend the meeting on 09.02.2018 at 11:00 A.M vide directive of even No. dated 15.12.2017 without any reason or prior intimation to the Commission, however, since the reply was given by the Vice Chancellor and not by the concerned person i.e. the Director & FAA, the Commission had not accepted the reply to the explanation.

The FAA stated that the non hearing of the first appeal was due to the non-putting up of the file/matter to the FAA by the PIO. The PIO also admitted his failure to put up the matter to the FAA on time for which the delay was caused.

The Commission also viewed seriously the lackadaisical attitude of the Director cum Registrar & First Appellate Authority in not complying with the decisions and directives of the Commission and his absence in the meeting without any reason or prior intimation to the Commission.

The Commission further observed that the total number of days between the date of receipt of the RTI application dated 16.04.2015 on **10.05.2015** and the date of furnishing the information on **30.11.2015** to the applicant was **204 days**. Considering the 30 days prescribed for the PIO to furnish the information, the number of days of delay becomes $(204-30) = 174$ days, for which penalty was attracted. However, since Section 20(1) provides for imposing penalty for maximum of Rs. 25,000.00 (Rupees twenty five thousand only), the Commission had to impose penalty for 100 days only for contributing to the delay in furnishing the information.

DECISION

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

1. Since the information had already been furnished by the PIO on 30.11.2015 to the applicant (now appellant) as per his RTI application dated 16.04.2015, the PIO shall confirm satisfaction or non-satisfaction from the applicant(now appellant) within a specific time limit. Further, if there is no response from the applicant(now appellant) within the time limit, the applicant(now appellant) shall be presumed that he is satisfied with the information and no further complaint shall be entertained.
2. Since the reply to the explanation call was submitted by the Vice Chancellor and not by the concerned person i.e. the Director & FAA, the Commission did not accept the reply. Therefore, the Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur shall re-submit his reply to the **explanation call** to the Commission, **within one (1) month** from the date of receipt of this Decision.
3. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for the total delay of 100 days, amounting to **Rs. 25,000/-** (Rupees twenty five

thousand only) is imposed on Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO for his failure to furnish the information to the applicant (appellant) within the prescribed period of 30 days without reasonable cause.

The above penalty amount shall be paid within **one (1) month** from the date of receipt of this decision. The penalty amount shall be deposited into the Government account through **treasury challan** in favour of the Consultant (Accounts), Nagaland Information Commission, Kohima under the Head of Account given below, with a copy to this Commission:-

0070 - Other Administrative Services
60 - Other Services
118- Receipts under RTI Act, 2005

On receipt of the above compliances, the Commission shall declare the appeal case as **closed**.

Decision pronounced in the presence of only the respondents on 12.04.2018.

Copy be given to:-

1. Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Sodzihou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9436070457.
2. Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO -I, The Global Open University Nagaland, Sodzihou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9774418461.
3. The applicant (now appellant), Shri. Vinod Sharma, S/o Shri. K.K. Sharma, F-85, Moti Bagh 1, New Delhi-21 Mobile No. 096544517/09891497733
4. The Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima for information.
5. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's website and Notice Board.
6. Office Copy.

Sd/-
G. H. RAMLIA
State Information Commissioner

Sd/-
KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary