

## NAGALAND INFORMATION COMMISSION

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No.NIC/Appeal-16/ 2018-19.

Dated Kohima, the 8<sup>th</sup> April, 2019.

### **Sub: Closing Order for Appeal Case.**

WHEREAS, under Section 19 of the RTI Act, 2005 and in accordance to the Nagaland State Information Commission (Appeal Procedure) Rules-2005, the Commission had received a second appeal dated 13.03.2019 from Miss Arenla Imsong, New Ministers' Hill, Near South Police Station, Kohima, Nagaland, Mobile No.7005637277 against the non-satisfaction of the decision of the Chief Electoral Officer & FAA, Nagaland, Kohima to her first appeal dated 15.11.2018 which was submitted against the incomplete and unsatisfactory information furnished by Shri. R. Mhathung, Assistant Chief Electoral Officer & APIO, O/o the Chief Electoral Officer, Nagaland, Kohima in response to her RTI application dated 17.10.2018.

AND WHEREAS, referring to a complaint letter dated 10.02.2018 which was filed/ lodged before the CEO by 'Clean Election' on the subject ***"Election complain against state government directly involving in election canvassing for a candidate"*** wherein seven (7) Government Officials under different capacities were alleged to have been involved in election canvassing in violation of the directives of the Election Commission of India, the applicant, Miss Arenla Imsong had submitted an RTI application vide letter dated 17.10.2018 addressed to the PIO, O/o the Chief Electoral Officer, Nagaland, Kohima alongwith an application fee of `10/- paid in cash and a photocopy of the above complaint letter dated 10.02. 2018, seeking the following information:-

1. Name, address, mobile No. of the complainants.
2. Whether the said complaint was duly signed by the complainants?
3. If No, whether such complaints can be entertained by the Election Commission without signature of the complaints under any law or rules framed under the relevant provision of the Constitution of India.

AND WHEREAS, on receipt of the RTI application dated 17.10.2018 on 22.10.2018, Shri. R. Mhathung, Assistant Chief Electoral Officer & APIO, O/o the Chief Electoral Officer, Nagaland, Kohima had, vide letter No.ELE/RTI-6/2018-19/992 dated 30.10.2018 furnished the reply to the applicant as below:-

1. For Sl.No. 1 & 2 complaint letter is enclosed from "Clean Election".
2. For Sl.No. 3, during Election period the department entertained complaints from every corner. Also as part of the public grievances and complaint redressal system, the department attends to all issues relating to Election matters (a copy of the complaint letter received by email was enclosed).

AND WHEREAS, on receipt of the above information, the applicant (now appellant) had submitted first appeal dated 15.11.2018 to the Chief Electoral Officer & FAA, Nagaland, Kohima stating that the requested information were not specifically furnished and the enquires

were merely replied which were not satisfying. She stated that the APIO had merely furnished a copy of the letter forwarded by one Shri. Sundeep Jain (sundeep.jain@eci.gov.in) to Shri. Abhijit Sinha, Chief Electoral Officer, Nagaland (ceo-nagaland@eci.gov.in), and not the copy of the complaint letter written by the complainant. She further requested for the details of the complainant and the copy of the complaint to be furnished to her.

AND WHEREAS, on receipt of the first appeal dated 15.11.2018, Shri. Abhijit Sinha, IAS, Chief Electoral Officer & FAA, Nagaland, Kohima had on 06.12.2018 heard the first appeal in the presence of the applicant (now appellant), the Additional CEO & PIO and the Assistant CEO & APIO. And after the hearing, the CEO & FAA had passed decision vide Order No. ELE/RTI-6/2018-19/1162 dated 14.12.2018 stating that the files containing the Complaint letter was scrutinized and it was found that was only a copy of the email of the complaint and no other documents pertaining to the complaint was found in the file. A further scrutiny of the address from which the email was sent was also not very useful in helping know the particulars of the sender/ complaint except that it came from a body called 'Clean Election'. He further stated that whatever information available had been provided and since no further information regarding the identity of the complaint could be provided by the Department, the appeal was disposed of.

AND WHEREAS, on not being satisfied with the above decision of the Chief Electoral Officer & FAA, the applicant (now appellant) had, vide letter dated 13.03.2019 submitted second appeal before this Commission stating that (i) the PIO/ APIO and FAA had failed to state whether such complaints could be entertained by the Election Commission without signature of the complainants under any law or rules framed under the relevant provision of the Constitution of India and (ii) the PIO/APIO and FAA had failed to state whether the Chief Electoral Officer, Nagaland could entertain and act upon without the genuineness of the so called "Clean Election"

AND WHEREAS, the Commission had examined the case and observed that the replies for **query Nos. 1 & 2** could not be furnished by the Public Authority since no details of the complainant was mentioned in the email except that it came from a sender mentioned as "Clean Election", however a copy of the complaint received by email was furnished to the applicant (now appellant). The Commission had relied on the Govt. of India, Department of Personnel & Training O.M. No.10/2/2008-IR dated 12.06.2008, which states "the Act requires the supply of such information only which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to create information" and also O.M. No.11/2/2008-IR dated 10.07.2008, which clarifies "the PIO is requested to supply such material to the citizen who seeks it. The Act, however does not require the PIO to deduce some conclusion from the materials and supply the conclusion so deduced to the applicant. The PIO is required to supply the material in the form as held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply to him."

AND WHEREAS, for **query No.3**, the Commission had also agreed with the submissions of the PIO and the APIO that during election period, complaints are received from many sources including anonymous complaints, and if the complaint is found to contain some specific information or allegation, the Department proceed to get such information crosschecked and investigated. In the present case, since the complaint was received by email alleging certain Govt. officials, the Department had immediately forwarded to the concerned Election officials for verification and for taking necessary action.

AND WHEREAS, on the above observations, since the Commission was convinced with the submissions of both the PIO and the APIO, and had also agreed with the decision of the

CEO & FAA and that there was no delay in furnishing the reply, the Commission felt that no further action was required and hence dismissed the appeal.

NOW THEREFORE, it is notified to all the parties that this appeal case is hereby declared as closed:-

- i. Shri. Abhijit Sinha, IAS, Chief Electoral Officer & FAA, Nagaland, Kohima.
- ii. Shri. R. Mhathung, Assistant Chief Electoral Officer & APIO, O/o the Chief Electoral Officer, Nagaland, Kohima.
- iii. The applicant (now appellant), Miss. Arenla Imsong, New Ministers' Hill, Near South Police Station, Kohima, Nagaland.

Sd/-

**CHANBEMO LOTH**  
**Chief Information Commissioner**

No.NIC/Appeal-16/2018-19.

Dated Kohima, the 8<sup>th</sup> April, 2019.

Copy to:

1. The PPS to the Chief Information Commissioner, Nagaland Information Commission for kind information of the CIC.
2. The PA to the State Information Commissioner (K), Nagaland Information Commission for kind information of the SIC (K).
3. The PA to the State Information Commissioner (R), Nagaland Information Commission for kind information of the SIC (R).
4. Shri. Abhijit Sinha, IAS, Chief Electoral Officer & FAA, Nagaland, Kohima
5. Shri. R. Mhathung, Assistant Chief Electoral Officer & APIO, O/o the Chief Electoral Officer, Nagaland, Kohima.
6. The applicant (now appellant), Miss. Arenla Imsong, New Ministers' Hill, Near South Police Station, Kohima, Nagaland, Mobile No.7005637277.
7. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's website and Notice Board.
8. Office Copy.

**(WORHONTHUNG EZUNG)**  
Secretary