

**NAGALAND INFORMATION COMMISSION**

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No. NIC/Appeal-23/2017-18

Dated Kohima, the 7<sup>th</sup> August, 2018.

**Appellant** : Shri. L. Tonen Chang,  
Assistant Finance Secretary,  
Eastern Naga Students' Federation,  
Perizie Colony, High School, Kohima,  
Nagaland, Mobile No.7308967875.

**Respondents** : Shri. Kelhouseto Nakhro,  
Deputy Secretary & PIO,  
Nagaland Public Service Commission,  
Nagaland, Kohima.

**Public Authority** : Nagaland Public Service Commission, Nagaland, Kohima.

**Date of hearing** : 25.07.2018 at 2:00 PM.

**Date of Decision** : 07.08.2018.

**Present:**

1. Shri. Khrupi Sothu, Secretary & FAA, NPSC, Nagaland, Kohima, Mobile No.9436618557.
2. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436600680.
3. The applicant(now appellant), Shri. L. Tonen Chang, Assistant Finance Secretary, Eastern Naga Students' Federation, Perizie Colony, High School, Kohima, Mobile No. 7308967875/7630805412.
4. Shri. Sepili L. Sangtam, Eastern Naga Students' Federation, Perizie Colony, High School, Kohima, Mobile No. 9402018401.

**FACT OF THE CASE**

An applicant, Shri. L. Tonen Chang had submitted an RTI application dated 06.06.2017 addressed to the PIO, Nagaland Public Service Commission (NPSC), Nagaland, Kohima along with the prescribed application fee of Rs. 10/- seeking the following information:

1. *After the Government Notification (NO.RCBT-5/87(Pt-II) dated Kohima, the 23<sup>rd</sup> July, 2008) how many notifications were notified by the Government against the implementation of Reservation policy for the Backward Tribes of Nagaland? Kindly enclose the photo copy of the notification. Also, which year exam result were declared according to which notification till date?*
2. *Kindly furnish the various Roster Point Table for the Backward Tribes of Nagaland.*
3. *Which Roster Point Table is used against which posts (Technical/Non-Technical/Educational Services)? Furnish the details along with the Roster Point No. for each post.*
4. *Does the Commission makes a separate reservation chart/policy for the Eastern Nagas (25%)/10% for the Pochury, Zeliang & Chakhesang/ 2% for the Sumi and 3% for the physically handicapped? If yes, kindly enclose a photo copy of the Roster Point Table prepared in MS Excel. If No, kindly give the details of the differential in accordance to the reserved percentage in separate MS Excel format.*
5. *How many posts were filled by the physically handicapped under reservation since 2008? Furnish the details of the year and tribe along with the name of the posts.*
6. *How many posts were advertised and results declared so far (Technical/Non-Technical & Educational Services) through NPSC since 23<sup>rd</sup> July, 2008, details in posts wise.*

7. *How Backward Tribe Reservation percentage is extracted i.e., from 100% or from 80%, in case of any relaxation with regard to any posts (100%/80%) mention the categories of posts and its Roster Point table?*
8. *So far how many posts were vacated/resigned under various categories of posts by the Eastern Nagas. Prespective: Improved up gradation or attempts in different years.*
9. *Kindly furnish the present Roster Position No. for all the posts (Technical/Non-Technical & Educational Services) which comes under the purview of NPSC.*
10. *Total No. of applicant from Eastern Nagas (Chang, Konyak, Yimchunger, Sangtam, Phom and Khiamniungan) for Special Recruitment of 10 Backward Tribes 2011-12, Advt. No.1).*
11. *Enclose a photo copy signed by the competent authority of the following:*
  - a. *200 point Roster Table inclusive of formula number, Backward Tribes Position and arithmetic formula preferably in MS Excel.*
  - b. *125 point Roster Table inclusive of formula number, Backward Tribes Position and arithmetic formula preferably in MS Excel.*
  - c. *100 point Roster Table inclusive of formula number, Backward Tribes Position and arithmetic formula preferably in MS Excel.*

On receipt of the RTI application dated 06.06.2017 by the Public Authority on the same day i.e. on 06.06.2017 as evidence on the body of the RTI application, Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima had, vide letter No. NPSC/RTI/2005 (VOL-II) dated 27.07.2017 furnished the information to the applicant.

On receipt of the information furnished to him by the PIO, NPSC, the applicant had filed First Appeal dated 08.08.2017 stating that the replies to query Nos.1, 6, 8, 10 & 11 were unsatisfactory and incomplete, while replies to query Nos. 3 & 9 were misinterpretation of the section of the RTI Act by the PIO, NPSC.

On receipt of the first appeal dated 08.08.2017 by the Secretary & FAA on the same day i.e. 08.08.2017 as evidenced on the body of the above first appeal, since there was no response or any decision from the Secretary & FAA, NPSC within the stipulated time limit of 30 days, the applicant (now appellant) had preferred second appeal dated 25.09.2017 before this Commission.

On receipt of the second appeal dated 25.09.2017, since the first appeal was not heard by the First Appellate Authority, the Commission had, vide letter of even No. dated 17.10.2017 directed the First Appellate Authority to take up the first appeal by hearing the parties i.e., the applicant (now appellant) 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 directive of the Commission of even No. dated 17.10.2017, Shri. Khrupi Sothu, Secretary & FAA, NPSC, Nagaland, Kohima had, vide letter No. NPSC/ESTT-9/2016 dated 23.11.2017 submitted that after hearing the applicant (now appellant), the information relating to query Nos. 1, 6, 8, 10 & 11 were furnished to the applicant (now appellant) and with a copy to Commission.

On receipt of the above decision of the Secretary & FAA, NPSC, the Commission had, vide letter of even No. dated 14.02.2018 directed the Secretary & FAA, NPSC to confirm satisfaction or non-satisfaction of the information so furnished to the applicant (now appellant) within 2 (Two) weeks from the date of receipt of the directive positively.

In response to the above directive of the Commission of even No. dated 14.02.2018, the Secretary & FAA, NPSC had, vide letter No. NPSC/ES55-9/2016 dated 20.02.2018 stated that since the applicant (now appellant) had not complained or appealed on the matter further the NPSC was of the opinion that the applicant (now appellant) was fully satisfied with the information furnished. He further added that if the applicant (now appellant) was still not satisfied, it would be his bounden duty to approach the Commission and that the NSPC have no further responsibility to ascertain his satisfaction or non-satisfaction of information.

Since confirmation regarding the satisfaction or non-satisfaction of the information furnished to the applicant (now appellant) was not received, the Commission had, vide letter of

even No. dated 22.03.2018 again directed the Secretary & FAA, NPSC to issue **final reminder** to confirm satisfaction or non-satisfaction of information furnished to the applicant (now appellant) specifying a certain time limit for submission of the confirmation, with a copy to this Commission.

In compliance to the directive of the Commission of even No. dated 22.03.2018, the Secretary & FAA, NPSC, Nagaland, Kohima had, vide letter No. NPSC/ESTT-9/2010 dated 09.05.2018 directed the applicant (now appellant) to submit confirmation of satisfaction or non-satisfaction of information so furnished to him within 2 (Two) weeks from the date of issue of his letter failing which the case shall be closed.

Since there was delay in furnishing the information and to determine the cause of delay, the Commission has decided to hear the appeal giving opportunity of being heard to all the parties **on 25<sup>th</sup> July, 2018 (Wednesday) at 2:00 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. Shri. Khrupi Sothu, Secretary & FAA, NPSC, Nagaland, Kohima.
2. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima.
3. The applicant (now appellant), Shri. L. Tonen Chang, Assistant Finance Secretary, Eastern Naga Students' Federation, Perizie Colony, High School, Kohima.

#### **OBSERVATIONS AND FINDINGS:**

The applicant(now appellant) stated that the NPSC was directed by the Commission to conduct hearing, however the NPSC did not conduct the hearing and had only furnished some additional information.

Shri. Khrupi Sothu, Secretary & FAA, NPSC stated that one of his staffs had contacted the applicant for the hearing, however the applicant did not appear for the hearing and instead some representative showed up. And since the representative had appeared without any authorisation letter from the applicant, the hearing was not held but additional information were furnished to the representative.

On being asked by the Commission to produce proof of documents regarding the hearing held, the Secretary & FAA, NPSC had failed to produce any Notice for hearing and the date when the hearing of the first appeal was held. Therefore, the Commission observed that the Secretary & FAA, NPSC should have called for the hearing by issuing a notice in writing and not verbally by contacting the applicant over the phone.

The applicant(now appellant) stated that he had entrusted the President of the Eastern Naga Students' Federation to attend the hearing and after the hearing some additional information were received, which were all satisfied except the replies to query **Nos. 3 and 10.**

**Regarding query No. 3,** the information furnished was not satisfied since in the second part of the query, the PIO, NPSC had replied that the information could not be disclosed under section 8(1)(d) & (g) of the RTI Act, 2005 as there was possibility of harming the competitive position of a third party and may even endanger the life or physical safety of the aspiring candidates belonging to a particular BT if the position is made known beforehand. The applicant(now appellant) stated that the above reply of the PIO was a misinterpretation of the Act, since the information sought do not relate to commercial or trade secrets or intellectual property rights.

Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC stated that Roster Point Table is prepared by the Government and the NPSC follows the Roster Table where the reservation is given to the next tribe if no candidate is available from a particular BT (Backward Tribe) whose turn has come on the roster. However, in the recent Govt. Notification/Order of September 2015, the BT reservation will be reserved for that tribe and even if no suitable candidate is available, it will still remain vacant.

The applicant(now appellant) stated that the **Roster Point Table** was received and satisfied but **Roster Point Number** for each post was not given, hence not satisfied. Further, they pointed out that the PIO, NPSC had already disclosed the above information for the NCS, NPS, NSS etc. in reply to query No. 6, however the same for the Technical/ Non-Technical and Educational Services were not disclosed.

The Deputy Secretary & PIO, NPSC replied that as per the Government Notification of September, 2015, the above information can be disclosed, however, it can be disclosed for the declared results only. He further explained that Roster Point No. was different for each post and the reserved tribe however, he had to refer to the files and other office records, and if available it can be furnished. However, the applicant(now appellant) stated that the Roster Point No. have no particular year and they wanted to know the Roster Point No. for each posts.

The Commission observed that the above mentioned Government Notification of September, 2015 referred to by the Deputy Secretary & PIO, NPSC was issued/published before the RTI application dated 06.06.2017 was filed, and therefore the information sought should have been disclosed or furnished to the applicant (now appellant) in the first place.

**Regarding query No. 10**, the information furnished was not satisfied since the NPSC had given irrelevant and incomplete information. The applicant(now appellant) stated that the Government had advertised ten (10) posts of EAC for Special Recruitment of the 10 BT but the Eastern Naga Students' Federation did not accept the offer and no exam was held. The applicant(now appellant) informed that the NPSC had collected application fee of Rs. 300/- for the examination, however, since the exam was not held, the applicants wanted refund of their application fees.

Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC also stated that the Government had instructed to cancel the conduct of the exam after the advertisement. And since no exam was held, the NPSC do not have the information as the **records had been destroyed**. Hence, when the information was not with the NPSC, the same cannot be furnished. However, the applicant(now appellant) clarified that they had asked for only the **total number of applicants** from Eastern Nagas (*Chang, Konyak, Yimchunger, Sangtam, Phom and Khamniungan*) and not the applications.

The PIO also explained that from the total number of Treasury Challans where the application fee of Rs. 300 was paid and deposited into the Government Treasury, the total number of applications can be worked out, however the tribe-wise cannot be made out. The applicants (now appellants) were satisfied with the above explanation of the PIO and once the above information was received, they would take up the matter separately with the Government for the refund.

The Commission also observed that the RTI application dated 06.06.2017 was received on 06.06.2017 and the information furnished on 27.07.2017, and considering the 30 days for the PIO to furnish the information, there was a delay of 21 days for which penalty was attracted. However, the PIO had objected that penalty should not be imposed on him since the applicant had appealed only for the unsatisfactory information and not for the delay. He further stated he had exhausted all out efforts and had consumed considerable time in furnishing the information and that the information was furnished free of cost.

Referring to Section 7(6) of the RTI Act, 2005, the Commission also observed that the PIO had accordingly furnished the information free of cost to the applicant(now appellant), since the information was given after the expiry of the 30 days time period. However, for the delay in furnishing the information to the applicant(now appellant), the Commission made its stand clear that it has to abide by the provisions of the RTI Act, 2005.

### **DECISION**

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

1. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC shall furnish the **Roster Point Number** for each post to the applicant(now appellant).

2. As submitted above, after working out the total number of applications from the total number of Treasury Challans received wherein the application fee of Rs. 300/- was paid and deposited into the Government Treasury, the PIO shall furnish the total number of applicants for the Special Recruitment of the 10 BT to the applicant(now appellant).
3. On receipt of the above information from the PIO, the applicant(now appellant) shall give satisfaction or non-satisfaction to the PIO, with a copy to this Commission.
4. 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 twenty one (21) days, amounting to **Rs. 5,250/-** (Rupees five thousand two hundred and fifty only) is imposed on Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima for contributing to the delay in furnishing the information to the applicant (now appellant) without reasonable cause.

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 of the **treasury challan**(in original) to this Commission:-

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

The above compliances shall be submitted to this Commission **within one (1) month** from the date of receipt of this decision.

Decision pronounced with both the parties on 25.07.2018 at 2:00 PM.

Copies be given to:-

1. Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436618557.
2. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436600680.
3. The applicant(now appellant), Shri. L. Tonen Chang, Assistant Finance Secretary, Eastern Naga Students' Federation, Perizie Colony, High School, Kohima, Mobile No. 7308967875/7630805412.
4. The Consultant (Accounts), Nagaland Information Commission for information.
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