

NAGALAND INFORMATION COMMISSION
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No. NIC/Complaint-4/2017-18

Dated Kohima, the 2nd April, 2018.

Complainant : Shri. Anguto Sophie,
Advocates' Chamber,
Congress Bhavan,
Kohima, Nagaland,
Mobile No. 8794504107.

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

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

Date of hearing : 15.03.2018 at 1:00 PM.
Date of Decision : 02.04.2018.

Present:

1. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436600680.
2. The applicant(now appellant), Shri. Anguto Sophie, Advocates' Chamber, Congress Bhavan, Kohima, Nagaland, Mobile No. 8794504107.

FACT OF THE CASE

An applicant, Shri. Anguto Sophie had submitted an RTI application dated 16.10.2017 addressed to the PIO, Nagaland Public Service Commission (thereafter referred to as NPSC) along with the prescribed application fee of Rs. 10/- in cash seeking the following information in respect of candidates who appeared for the post of Assistant Public Prosecutor:-

- i. Written Exam marks statement of all the candidates who appeared for Viva-Voce.*
- ii. Interview marks statement of all the candidates who appeared for Viva-Voce.*

On receipt of the RTI application dated 16.10.2017 on the same day i.e. 16.10.2017, Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission had, vide letter No. NPSC/RTI/2005(VOL-II) dated 14.11.2017 **refused to furnish** the information sought by the applicant relying on Point No. 5 of the Office Memorandum, No.AR-1/8/88 dated 03.08.1995 issued by the Personnel and Administrative Reforms Department (Administrative Reforms Branch), Nagaland, Kohima which states that the Waiting List shall remain a 'Secret Document', therefore the Commission (i.e. the NPSC) do not disclose the marks of all the candidates to any individual or party. Further, the PIO had, in his reply stated that a candidate may apply for his individual mark sheet including viva voce through a written application annexing his call letter, which is issued to the concerned individual. As and when the waiting period is over, the marks can be disclosed. It may be noted that as per the NPSC (Civil Service & Other Services) Recruitment Rules, 2008 under Rule 23(9), the waiting list validity shall be period has been increased to one(1) year.

However, on not being satisfied with the reply given by the Deputy Secretary & PIO, Nagaland Public Service Commission in response to his RTI application, the applicant had submitted a complaint dated 21.11.2017 to this Commission.

The Commission had decided to hear the Complaint giving opportunity of being heard to all the parties on **15th March (Thursday), 2018 at 1:00 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:-

- i. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima.
- ii. The applicant (now complainant), Shri. Anguto Sophie, Advocates' Chamber, Congress Bhavan, Kohima, Nagaland.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now complainant) stated that the information sought do not fall under the exempted categories of information under Section 8 of the RTI Act, 2005 and that the Office Memorandum, No.AR-1/8/88 issued by the Personnel and Administrative Reforms Department (Administrative Reforms Branch), Nagaland, Kohima was dated 03.08.1995, which was before the RTI Act came into force in 2005. Moreover, he stated that the RTI Act, 2005 has an over-riding effect. Further, referring to a similar case in Shri. Amos Odyuo vs. NPSC, wherein information was furnished, he prayed that the information sought be furnished to him also.

Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC stated that the applicant should have approached the First Appellate Authority under Section 19 of the RTI, 2005 instead of approaching directly to the Commission. He opined that the applicant had come to the Information Commission with no good intention. He submitted that he had replied to the applicant within the 30 days time limit.

He further explained that the above Government Order implies that since the Waiting List is to be kept for one (1) year, the examination process is not yet over and hence marks cannot be disclosed. Referring to the appeal case of Shri. Amos Odyuo vs. NPSC, the PIO informed that the NPSC had, on 27.11.2017 written to the Government regarding the OM dated 03.08.1995.

The Cabinet had given its decision vide CAB-2/2013 dated 29.11.2017 as shown below:-

*“3. The P&AR Department shall review the OM dated 03.08.1995 i.e. regarding provision of waiting list to remove confidentiality. **The NPSC shall declare the written and interview marks on declaration of result by the NPSC.**”*

A copy of the above Cabinet OM was also produced before the Commission during the hearing.

The Commission observed that the applicant has two options – Complaint under Section 18 and Appeal under Section 19, and the applicant (now complainant) had approached this Commission under Section 18 of the RTI Act, 2005. Further, there was no delay, hence no penalty was attracted.

The Commission stated that the main objective of the RTI Act 2005 is to bring about transparency in the functioning of the public authorities. Every candidate appearing for written test or interview for selection to Govt. post would be anxious to know as to how many marks he has secured and also the marks secured by the selected candidates along with particulars of reservation. However, if the information with regard to selection process is withheld, it would certainly give room for suspicion. Further, it is basing on the total marks obtained by the aspiring candidates (in the Mains and Viva Voce), that the results are declared in the order of merit which becomes the basis for recommendation of the NPSC for appointment to the various advertised posts. While some measures of confidentiality is observed in the process of tabulating the marks, the marks obtained by each candidate once recorded becomes records, which in the interest of transparency, cannot be kept secret under the protection of Section 8 of the RTI Act 2005. The Commission is of the view that transparency and disclosure should go hand in hand in the declaration and notification of such results of examinations which are conducted in the interest of public and the successful candidates appointed to various services and posts for performance of public service.

The Commission also observed that once the examination process ends and results are declared, no more secrecy is called for. And once the marks obtained by the candidates come in public domain, they cease to be confidential and hence should be disclosed. Dissemination of such information would only add to the credibility of the NPSC in the constitutional conspectus in which it is placed. Therefore, disclosure of the marks of all the candidates will ensure that the candidates

have been given marks according to their performance in the exam. This practice will ensure a fair play in the competitive environment, where a candidate puts his/her time in preparing for the competitive exams. Moreover, such disclosure would reduce the load of RTI applications being filed with the public authority (NPSC) as information would be freely and readily available to the citizens and they would not have to resort to RTI for it. Transparency will only add to the confidence of the people regarding the purity of the conduct of not only the examinations but also on the public authority (in this case the NPSC) itself. The confidence that the public repose on the NPSC would only be augmented by the disclosure of information. This will not only boost the confidence of the people seeking government jobs but also lead to better accountability and transparency.

Referring to the previous similar cases of the NPSC such as in the appeal case No. NIC/Appeal-22/2008 of Miss. Zenyite-ü Mero vs. NPSC; Case No. NIC/Appeal-12/2016-17 of Smti. Chemtila vs. NPSC; and case No. NIC/Appeal-16/2016-17 of Shri. Amos Odyuo vs. NPSC, on the direction of this Commission, the NPSC had already disclosed both the written and oral interview marks of all the candidates and are available on its website i.e. in public domain and therefore no longer confidential. Therefore, this Commission cannot agree with the submission of the PIO that the marks obtained by the candidates could not be disclosed to any individual or party since the marks are confidential as waiting list is considered a secret document.

DECISION:

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

1. The Deputy Secretary & PIO, NPSC shall furnish the information to the applicant (now complainant) **within fifteen (15) days** from the date of receipt of this decision, with a copy to this Commission.
2. On furnishing of the above information, the PIO shall confirm satisfaction or non-satisfaction from the applicant (now complainant) and submit it to the Commission **within two (2) weeks** from the date of receipt of the confirmation.

Decision pronounced in the presence of all parties present on 15.03.2018.

Copies be given to:-

1. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436600680.
2. The applicant(now appellatant), applicant(now appellatant), Shri. Anguto Sophie, Advocates' Chamber, Congress Bhavan, Kohima, Nagaland, Mobile No. 8794504107.
3. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
4. 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