

**NAGALAND INFORMATION COMMISSION  
OLD SECRETARIAT COMPLEX  
POST BOX NO.148  
NAGALAND: KOHIMA -797001**

**No.NIC/Appeal-1/2011-12**

**Dated Kohima, the 19<sup>th</sup> August, 2011**

Appellant: Shri R. Paphino,  
Kohima.

Respondent: Chief Engineer, Irrigation & FC, Kohima  
Public Authority: Irrigation & FC, Kohima  
Date of hearing: 27.07.2011 and 10.08.2011  
Date of decision: 19.08.2011

Present: The appellant Shri R. Paphino  
The PIO, Irrigation &FC, Er. Echongbemo,  
SE-1, Kohima.  
The Chief Engineer, Irrigation &FC, Er. T. Yanger.

**PROCEEDINGS OF HEARINGS HELD ON 27.07.2011**

On 27<sup>th</sup> July, 2011, the Commission held its first hearing and gave opportunity to the appellant, the PIO and the First Appellant Authority of Irrigation & FC Department to profer their statements etc.

**Facts of the case**

The appellant Shri R. Paphino had applied to the PIO in the office of the Chief Engineer, Irrigation & Flood Control Department for the following items of information:-

- (i) Photo copy (True copy) of the amount sanction order copies by Government of India of all the listed projects enclosed herewith.
- (ii) Full names (recipients/beneficiaries) and complete addresses (each village separately) of all the projects listed by the Department)
- (iii) Actual payment receipts (APRs) containing name of recipient, amount, date

village and project (each village separately)

The PIO furnished the following documents to the applicant Shri R. Paphino on 10<sup>th</sup> January, 2011 given in column (i) & (ii) viz.

Photo copies of sanction orders by the Government of India from 2007-08, 2008-09 and 2009-10, and full names of recipients/beneficiaries and complete addresses (each village separately) of all the projects listed by the Department.

In respect of the information asked for in column No.(iii) i.e. Actual Payment Receipts (APRs), the PIO replied that APRs will be available only with the Executive Engineers in the Divisions who are also the APIOs of the Department in their respective districts. He also mentioned that the Head office maintains the APRs of amounts released to each Engineer of the Divisions for disbursement to the beneficiaries.

The Appellant on 17<sup>th</sup> January, 2011 therefore filed a complaint to the Chief Information Commissioner that the PIO of the office of the Chief Engineer, Irrigation and FC gave false and misleading information in his reply to the appellant on 10<sup>th</sup> January, 2011 and alleged that the APRs containing names of recipients, amounts, dates, villages and projects will be available only with the Executive Engineers and that the head office maintains only the APRs of amounts released to each Engineer of the Divisions for disbursement to the beneficiaries.

The State Information Commission wrote to the applicant on 7<sup>th</sup> February, 2011 advising him to appeal to the First Appellate Authority of the Department concerned under the provision of Section 19 of the RTI Act 2005.

Accordingly, the applicant filed an appeal to the Chief Engineer, Irrigation & FC and First Appellate Authority on 9<sup>th</sup> March, 2011. Thereafter on the plea that the Chief Engineer, Irrigation and FC and First Appellate Authority had not taken any action yet regarding the issues highlighted in his appeal, the appellant filed an appeal before the Commission vide his letter dated 23<sup>rd</sup> January, 2011.

The Commission accordingly fixed the date of initial hearing on 27<sup>th</sup> July, 2011 at 2 PM.

The appellant Shri R. Paphino submitted that out of the three items of information applied for by him, the PIO had furnished information in regard to only two items but had not furnished information regarding APRs. He also alleged that the PIO furnished **false** and **misleading** information relating to the APRs by saying that APRs of all beneficiaries will be available only with the E.Es in the Divisions and that the head office maintains only the APRs of

amounts released to each Engineer of the divisions for disbursal to the beneficiaries.

The PIO Er. Echongbemo stated that he had not given any false and misleading information regarding APRs but only mentioned that such APRs are not kept in the Chief Engineer's office and that such APRs of beneficiaries are available with the concerned Engineers of the Divisions. He also mentioned that the Chief Engineer's office only maintains APRs of amounts released to each Engineer of the divisions for disbursal to the beneficiaries.

The Chief Engineer and First Appellate Authority of the Irrigation and Flood Control stated that he had received an appeal from the appellant on 9<sup>th</sup> March, 2011 and that on the **very same day (9.3.2011)** he had written to all concerned Engineers of the Divisions to submit APRs of all the beneficiaries as applied for by the appellant.

The Commission, however, observed that the letter dated 9.3.2011 purported to have been issued by the Chief Engineer, Irrigation & FC and First Appellate Authority to all the Engineers of the divisions to furnish the APRs requested by the appellant had not been endorsed to the appellant nor to the State Information Commission. The Commission also observed that if the Chief Engineer, Irrigation & FC and First Appellate Authority had given a copy of his letter to the Engineers of all divisions dated 9<sup>th</sup> March, 2011 to the appellant and assured him of providing the APRs requested within a specific time framed provided in the Act, it would have obviated the need for the appellant to file an appeal before the Commission. The Commission also did not agree with the allegation that the PIO had furnished false and misleading information to the applicant as alleged by the applicant regarding APRs since no APRs at that point of time were furnished by PIO to the applicant. However, the PIO ought to have responded more positively by mentioning that the APRs in question which are with the Divisions can be obtained if given sufficient time to collect them from the Divisions.

### **INTERIM DECISION**

On the assurance given by the Chief Engineer, Irrigation & FC and First Appellate Authority that the information regarding APRs would be furnished to the applicant within two or three days time the Commission hereby directs that the Chief Engineer, Irrigation & FC keeps his commitment and furnishes the APRs to the applicant within the time frame assured by him.

The hearing is adjourned and the date for pronouncement of the final decision of the Commission is fixed for 10<sup>th</sup> August, 2011 at 2 PM. Notices shall be given to all concerned to be present on the date of hearing.

**FACTS:** The fact of the case is that the Appellant Shri R. Paphino had during the hearing on 27.07.2011, stated in the presence of 1<sup>st</sup> Appellate Authority Chief Engineer, Irrigation and Flood Control and PIO of the Irrigation and Flood Control that quite a few APRs furnished by the Irrigation and Flood Control Department during the period 2006-07, 2007-08 and 2008-09 were **incomplete**. He further elaborated that many APRs did not even have entries regarding date of receipt of money from the Department, names of beneficiaries, names of projects, signatures of beneficiaries and also that the many APRs appeared to have been photo copied and entries made subsequently. The Appellant furnished the bundles of incomplete APRs received from the Chief Engineer, Irrigation & FC which were also scrutinized by the **FULL BENCH** of the Commission who acknowledged that the allegation made by the Appellant were correct and that the APRs in question were grossly incomplete and cannot be accepted as proper APRs.

The Commission advised the Chief Engineer, Irrigation and FC and also PIO, Irrigation and FC to initiate immediate necessary action as under:-

- (a) To submit proper APRs with full details as are required to be incorporated in the APRs and submit the same through PIO to the Appellant before the next hearing fixed for 10.08.2011 under intimation to the Commission.
- (b) The SDO and E.E, Irrigation and Flood Control who countersigned the APRs should also affix their signatures and seals on the APRs and also enter the dates, on which they countersigned the APRs.
- (c) APRs should henceforth be printed with proper serial numbers and columns required to be incorporated in APRs and **standardized** for use by all the Divisions and Sub-Divisions of the Department with provision for providing a counterfoil and copy being provided to the beneficiaries. There should be space for counter signature and seal of SDO and EE, Irrigation and Flood Control who are normally required to countersign on the APRs.

### **Proceeding of the hearing on 10<sup>th</sup> August, 2011**

Heard the statements of the appellant Shri R. Paphino, the Chief Engineer, Irrigation and Flood Control and Appellate Authority and PIO of Irrigation and Flood Control. The appellant stated that he was informed by the PIO, Irrigation and Flood Control only on 10-08.2011 at about 12:30 to collect the revised and updated APRs and hence he did not collect the APRs since he would have no time to scrutinize the APRs before hearing by the Commission at 2 PM on 10.08.2011. The Chief Engineer, Irrigation & Flood Control and Appellate Authority and PIO of Irrigation & Control stated that they were awaiting a call from the appellant or expecting the appellant to collect the revised and modified APRs from their office. They have, however, admitted that till 12:30 P.M. on 10<sup>th</sup> August, 2011 they had **not** informed the appellant to collect the APRs which were ready by 05.08.2011. The Appellate Authority and PIO **should have informed** the appellant to collect the APRs on 05.08.2011 since they had committed to hand over the corrected and updated APRs within two or three days as assured on 27.07.2011. Besides this, the RTI Act Section 5(3) enjoins upon the PIOs/APIOs to **render reasonable assistance to the applicants**. Their plea of expecting the appellant to call or collect the documents is not tenable. The appellant is also equally expected to take the trouble to collect the documents from the PIO of Irrigation and Flood Control.

The Commission took strong exception to the excuse given by Appellate Authority and PIO of Irrigation & Flood Control for the **casual** manner in which they handled the whole matter more so as it was on the basis of the commitment given by the Chief Engineer and Appellate Authority, Irrigation and Flood Control on 27.07.2011 that the revised and modified APRs would be made available to the appellant within two or three days that the Commission had fixed the date of hearing and final decision on 10<sup>th</sup> August, 2011. Because of the casual attitude of the Chief Engineer & Appellate Authority and PIO, Irrigation & Flood Control, the Commission was not in a position to give a final decision. The casualness with which the Appellate Authority of Irrigation & FC and PIO of Irrigation & FC approached the whole matter on account of which the decision of the Commission could not be pronounced is taken very seriously by the Commission. They are cautioned against repeating such laxity in future.

The Commission hereby directs that the next hearing will be fixed on 19<sup>th</sup> August, 2011 at 1:00 PM **before** which time the appellant should scrutinize the 1161 numbers of APRs **received by the appellant** so that the final hearing can be completed on 19<sup>th</sup> August, 2011 positively.

The Commission also directs that the Department of Irrigation & FC immediately takes action on the **direction** of the Commission regarding APRs in exercise of its powers vested under Section 25 (5) of the RTI Act 2005.

**Decision:** Since the appellant has been given the updated APRs by the PIO of the Irrigation & FC Directorate as requested and he has expressed full satisfaction with the APRs received by him, the Commission decided to close the appeal petition with a stricture to the Appellate Authority and the PIO of the Irrigation & FC Directorate not to treat RTI matters lightly or casually but to give them the importance they deserve and desist from submission of **incomplete APRs in future which do not lend credence to the authenticity of APRs. It also directs the Department (Public Authority of Irrigation & FC) to initiate steps to immediately introduce printed APRs with full details as already highlighted by the Commission in its hearing held on 10.08.2011 with sample copy of receipt book submitted to the Commission for records.**

Copies shall be collected by the following from the Registrar-cum-Secretary of the Commission:

1. The Chief Engineer, Irrigation & FC, Kohima.
2. The PIO, Irrigation & FC, Kohima.
3. The Appellant.

Pronounced in open proceeding on 19.08.2011.

**Sd/- Lalhuma IAS (Rtd)**  
Chief Information Commissioner,  
Nagaland, Kohima

**Sd/- Kevinino P. Meru**  
State Information Commissioner,  
Nagaland, Kohima.

**Sd/- Bukchem Phom**  
State Information Commissioner,  
Nagaland, Kohima

Authenticated by:

Deputy Secretary  
Nagaland Information Commission  
Kohima