

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-10/2012-13

Dated Kohima, the 18th June, 2013.

Appellant: Ms. Mezhülhousieno Nakhro,
Exam Roll No. A-521,
Dimapur, Nagaland,
Mobile No. 9856445692.

Respondents: 1. Principal Director & First Appellate Authority,
School Education,
Nagaland, Kohima.

2. Shri. S. Atomi Swu,
Sub-Divisional Education Officer,
Office of the Sub-Divisional Education Officer,
Dimapur, Nagaland

Public Authority: Directorate of School Education,
Nagaland, Kohima

Date of hearing: 14.06.2013

Date of interim Decision: 18.06.2013.

Present:

- i. Shri. M. Patton, IAS, Principal Director & First Appellate Authority, School Education, Nagaland, Kohima;
- ii. Shri. Kelhoughilie Kire, Joint Director, School Education, Nagaland, Kohima;
- iii. Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland; and
- iv. The appellant, Ms. Mezhülhousieno Nakhro, Exam Roll No. A-521, Dimapur, Nagaland, Mobile No. 9856445692 **was not present.**

FACT OF THE CASE:

Ms. Mezhülhousieno Nakhro, Exam Roll No. A-521, Dimapur, Nagaland, Mobile No. 9856445692 had submitted a RTI application dated 16.05.2012 addressed to the PIO, Office of the District Education Officer, Dimapur, Nagaland seeking information on 2 queries:-

- i. Copy of the statement of marks that the applicant had secured in the written and in the oral examination (Primary Teacher examination) 2012;
- ii. Copy of the statement of marks (both written and oral) of all the 130 selected candidates and the 10 waiting list candidates.

Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland had, vide letter No. EDN/SDEOD/RTI/1/2012-13 dated NIL furnished the information to the applicant.

However, on receipt of the information on 16.06.2012, the applicant submitted her First Appeal dated 19.06.2012 addressed to the First Appellate Authority, Directorate of School Education, Nagaland, Kohima that the information so furnished was not satisfactory on the grounds that:-

- i. The information furnished was not by the PIO, Office of the District Education Officer, Dimapur, Nagaland but by Shri. Atomi Swu, Sub-Divisional Education Officer, Dimapur, Nagaland vide letter No. EDN/SDEOD/RTI/1/2012-13 dated Nil;
- ii. The information furnished was self-made computer typed copy on which marks secured by her in the written and oral examination are entered without any signature, seal or designation, and that both the written and oral marks of all the other 130 selected candidates and the 10 waiting list candidates were not furnished as sought by her; and
- iii. Only the Sl. Nos., Names and Roll Nos. of the 130 selected candidates and the 10 waiting list candidates were furnished with some remarks made on it, such as LF, Very Poor and Minority. And that the copy was signed only by the former DEO, Dimapur district and the DC, Dimapur without any seal.

Further, the applicant in her first appeal dated 19.06.2012, sought from the First Appellate Authority, Directorate of School Education, Nagaland, Kohima:-

- i. Copy of the statement of marks that the applicant had secured both in the written examination (held on 21.01.2012) and in the oral examination (held on 10.05.2012) of the Primary Teacher examination, 2012 alongwith the designation, signature, date and seal of the incharge/Director, SCERT, Nagaland, Kohima on the copy of the written mark statement and designations, signatures, date and seals of all the 6 (six) Members of the Selection Committee Board of Dimapur district in the copy of the oral mark statement;
- ii. Copy of the statement of the written marks of all the 130 selected candidates and the 10 waiting list candidates, signed, dated and sealed by the incharge/Director, SCERT, Nagaland, Kohima, and copy of the statement of the oral marks of all the 130 selected candidates and the 10 waiting list candidates, signed, dated and sealed by all the 6 (six) Members of the Selection Committee Board of Dimapur district.

Shri. Bendangkokba, IAS, the then Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima had, vide letter No. ED/RTI-1/2012-13 dated June, 2012, forwarded her First Appeal dated 19.06.2012 to the PIO of the Deputy Commissioner's Office, Dimapur on the ground that since as per the State Cabinet Decision, the District Recruitment Board, Dimapur was assigned to conduct the oral examination and subsequent declaration of result, all the documents would be available with the District Recruitment Board, Dimapur, and hence to furnish the information to the applicant within the stipulated period.

On being not satisfied with the reply of Shri. Bendangkokba, IAS, Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima, vide letter No. ED/RTI-1/2012-13 dated June, 2012, the applicant (now the appellant) had preferred

Second Appeal dated 20/07/2012 to the Nagaland Information Commission stating that the Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima, had instead of furnishing the information, simply forwarded her First Appeal dated 19.06.2012 to the PIO of the Deputy Commissioner's Office, Dimapur.

On receipt of the Second Appeal dated 20/07/2012, the Commission had observed that the Principal Director, Directorate of School Education, Nagaland, Kohima who is also the First Appellate Authority had not discharged his responsibilities as First Appellate Authority. Even if the exams were conducted by the District Recruitment Board, Dimapur, it does not absolve the First Appellate Authority, Directorate of School Education, Nagaland, Kohima of his responsibilities to hear the parties (appellant, the concerned PIO, District Recruitment Board, Dimapur) and pass a quasi-judicial order.

And the Commission had, vide its directive letter of even No. dated **08.08.2012**, directed that the Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima take up and examine the first appeal dated 19.06.2012 under the provisions of the RTI Act and pass a quasi-judicial order on the merit of the case within 30 days from the date of receipt of the Commission's directive dated 08.08.2012, and under intimation to this Commission positively.

However, since there was neither response nor any compliance received from the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima to the directive of the Commission dated 08.08.2012 even after the lapse of the 30 days given, the Commission had, vide its reminder letter of even No. **dated 20.11.2012**, once again directed the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima to hold a hearing of the parties **within two (2) weeks** from the date of receipt of the Commission's directive dated 20.11.2012 and pass a quasi-judicial decision with a copy to the appellant and to the Commission positively, and also with a warning that failure to adhere to this Commission's directive shall be viewed seriously.

However, in spite of the Commission's directive dated 08.08.2012 and the reminder dated 20.11.2012, since there was no response from the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, which the Commission had viewed very seriously the lapses and failure to adhere to the Commission's directives, the Commission had, vide its directive letter of even No. **dated 27.02.2013** served an '**Explanation Call**' to the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima as to why he had not heard the case and disposed of the first appeal as per the RTI Act, 2005 and to submit the **explanation by 08.03.2013**.

And in compliance to the Commission's directive of even No. dated 27.02.2013, Shri. M. Patton, IAS, Principal Director & First Appellate Authority, School Education, Nagaland, Kohima had, vide letter No. ED/RTI-1/2012-13 dated 08.03.2013, submitted his **explanation** as follows:-

1. that he had submitted his charge report as the Secretary and Ex-Officio Principal Director School Education, Nagaland, Kohima on 30.11.2012 and immediately proceeded on earned leave and joined office only on 02.01.2013.
2. that the charge of the office of the Principal Director School Education, Nagaland, Kohima was in transition for almost two(2) months i.e. November and December, 2012, and there was basically no one to hold the office as such.

3. that during the transition period, the office of the Principal Director School Education, Nagaland, Kohima had received the Commission's Directive **dated 20.11.2012 only on 22.11.2012, and that the letter was not brought to his notice even after he had assumed office on 02.01.2013.**
4. That he had no intention to undermine or disobey the Commission's Orders/directives in whatsoever manner and highly regretted the lapses on the part of his office.
5. that the information sought by the applicant (now the appellant) has been provided by Shri. Kelhoughilie Kire, Joint Director, School Education, Nagaland, Kohima vide letter No. ED/RTI/2012-13 dated **03.12.2012**, alongwith a copy enclosed.

Having satisfied with the explanation of the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, vide letter No. ED/RTI-1/2012-13 dated 08.03.2013, the Commission had, vide its directive letter of even No. dated **01.04.2013**, once again directed the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima to hold a hearing of the first appeal dated 19.06.2012 submitted by an applicant (now appellant), with the above appellant and the concerned PIO present and pass quasi-judicial decision. And a copy of the quasi-judicial decision so passed to be forwarded to the above appellant and to the Commission **by 15.04.2013** positively.

And in compliance to the Commission's directive of even No. dated 01.04.2013, Shri. M. Patton, IAS, Principal Director & First Appellate Authority, School Education, Nagaland, Kohima had, vide letter No. ED/RTI-1/2012-13 dated 12.04.2013, submitted the decision of the first appeal hearing held on 11.04.2013, wherein the PIO, Sub-Divisional Education Officer, Dimapur, Nagaland was directed to furnish the information to the appellant with the copies of the written and oral marks secured by her and that of the 130 selected candidates and 10 waiting list candidates duly authenticated by members of the District Recruitment Board by 12.04.2013 and to the Directorate of School Education by 15.04.2013.

And in compliance to the first appeal decision dated 11.04.2013 of the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland had, vide letter No. EDN/SDEOD/RTI/1/2013-14/105 dated **12.04.2013** furnished the following information to the applicant as follows:-

- i. Written marks (secured by her) : 52
- ii. Oral marks (secured by her) : 16
- iii. Result sheets of the 130 selected candidates and
- iv. List candidates under waiting category.

The Commission appreciated and was satisfied with the well-drafted first appeal decision dated 11.04.2013 given by the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, vide letter No. ED/RTI-1/2012-13 dated 11.04.2013, and also the information furnished to the applicant (now appellant) by the Sub-Divisional Education Officer, Dimapur, Nagaland.

Now, since the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, had heard the case on 11.04.2013 and first appeal decision passed on 12.04.2013, and also that the Sub-Divisional Education Officer, Dimapur, Nagaland had also provided the information, the Commission had, vide its letter of even No. dated **22.04.2013**, wrote to the applicant (now appellant) to ascertain her satisfaction with the decision of the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima to her

first appeal dated 19.06.2012 which was held on 11.04.2013, **latest by 02.05.2013**, so that the case can be closed in the Commission.

However, in response to the Commission's letter dated 22.04.2013, the appellant had stated in her letter dated 22.04.2013, that she was not satisfied on the following grounds:-

1. that the written marks were with incorrect dates;
2. that the oral marks were not only without the date but also without authentication from all the six (6) Interviewers on 01.05.2012;
3. that the seal and signature of the present DEO was not relevant and correct as there cannot be two DEOs at one time;
4. that after filing second appeal before the Commission on 20.07.2012 and after five-six months, the information was received and that too was unsatisfactory;
5. and claiming to grant for compensation of Rs. 25,000.00 as per the RTI Act, 2005.

On the above submission of the applicant (now appellant), the Commission decided to hear the appeal, giving opportunity to the parties, on **14th June, 2013 (Friday) at 01:00 PM.**

OBSERVATIONS:

1. The applicant (now the appellant) complained in her first appeal dated 19.06.2012, that the RTI application dated 16.05.2012 was addressed to the PIO, Office of the District Education Officer, Dimapur, Nagaland, however the DEO, Dimapur, (and not the SDEO, Dimapur) who was the **Member Secretary** and was one of the signatories on the Result Sheets, transferred the said RTI application **to the SDEO** (Sub-Divisional Education Officer), Office of the Sub-Divisional Education Officer, Dimapur, Nagaland for onward furnishing of the information. It was learnt that the DEO's Office, Dimapur and SDEO's Office, Dimapur are different offices.

There was no formal written letter of transferring or authorization given by the DEO to the SDEO.

The then DEO who was one of the signatories on the Result Sheet retired from service soon after the declaration of the result. Another DEO was posted, but was soon retired from service. The third DEO was posted, but later retired from service. And when the DEO's Office was in transition, the SDEO was attending to all the correspondences of the DEO Office, including RTI matters.

2. On being not satisfied with the information provided by Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland, vide letter No. EDN/SDEOD/RTI/1/2012-13 dated NIL, the applicant had submitted her first appeal dated. 19.06.2012. And since the first appeal had been received, Shri. Bendangkokba, IAS, the then Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima had, **instead of hearing the first appeal or furnishing the information, simply forwarded her First Appeal dated 19.06.2012 to the PIO of the Deputy Commissioner's Office, Dimapur**, vide letter No. ED/RTI-1/2012-13 dated June, 2012, on the ground that since as per the State Cabinet Decision, the District Recruitment Board, Dimapur was assigned to conduct the oral examination and subsequent declaration of result, all the documents would be available with the District Recruitment Board, Dimapur, and hence to furnish the information to the applicant within the stipulated period.

The Commission had earlier observed that the FAA had not discharged his responsibilities as the First Appellate Authority and clarified that even if the exams were conducted by the District Recruitment Board, Dimapur, it does not absolve the First Appellate Authority, Directorate of School Education, Nagaland, Kohima of his responsibilities to hear the parties (appellant, the concerned PIO, District Recruitment Board, Dimapur) and pass a quasi-judicial order.

3. The Commission had directed the FAA on 08.08.2012 and subsequent reminder dated 20.11.2012 to hold a hearing and pass quasi-judicial order. However, in spite of the Commission's directive dated 08.08.2012 and the reminder dated 20.11.2012, there was no response from the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, **which the Commission had viewed very seriously the lapses and failure to adhere to the Commission's directives**, thus compelling the Commission to serve an '**Explanation Call**' to the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima as to why he had not heard the case and disposed of the first appeal as per the RTI Act, 2005 and to submit the **explanation by 08.03.2013**.
4. In response to his '**Explanation Call**', the FAA clarified that soon after he took charge of office on 30.11.2012, he went on Earned Leave for 19 days, excluding the 1st December, 2012 and the Christmas & New Year holidays. And during the transition period, the office of the Principal Director School Education, Nagaland, Kohima had received the Commission's Directive **dated 20.11.2012 only on 22.11.2012, and that the letter was not brought to his notice even after he had assumed office on 02.01.2013**.

During the first appeal hearing held on 11.04.2013, the FAA directed the SDEO, Dimapur to provide the information to the appellant the next day i.e. 12.04.2013.

5. The documents (result sheet) was **incomplete** and **without signatures** of the Interviewers in the information provided by Shri. Kelhouphilie Kire, Joint Director, School Education, Nagaland, Kohima vide letter No. ED/RTI/2012-13 dated **03.12.2012**.

However, after the first appeal hearing held on 11.04.2013 and the first appeal decision dated 11.04.2013, on the direction of the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland had, vide letter No. EDN/SDEOD/RTI/1/2013-14/105 dated **12.04.2013** provided the information in which the documents (result sheet) was **complete** and **with signatures** of the Interviewers.

6. However, on receipt of the documents, the appellant complained that since there were **two signatures of DEO, Dimapur**, there cannot be two DEOs at the same time.

The SDEO clarified that after the first appeal hearing held on 11.04.2013, the SDEO and the appellant travelled together to Dimapur, and during their journey, the SDEO had asked the appellant, since he had to reply the next day i.e. 12.04.2013, whether she (appellant) could accept the signatures of the SDEO and the new DEO, as the then DEO had retired from service and all the other Interviewers were scattered. The SDEO submitted that the appellant had agreed to even accept the signatures of the SDEO and the new DEO.

However, the Commission warned the SDEO not to succumb to such request from any applicant unless it is given in writing, especially in such important RTI matters.

7. Since there were six(6) Interviewers, the result sheet should have been signed by all the 6 Interviewers, but bears only the signatures of the DC, Dimapur and the DEO, Dimapur.

DECISION (Interim):

After having heard and the observations made, the Commission decides the following:-

1. On the issue of “**inconsistencies**” detected in the documents such as incorrect dates, different signatures, seals etc, the Commission directs the public authority to clarify the inconsistencies by **06.07.2013**.
2. Since the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima had submitted to the Commission in his reply to the ‘Explanation Call’ vide letter No. ED/RTI-1/2012-13 dated 08.03.2013, that the Commission’s directive dated 20.11.2012 which was received by his office only on 22.11.2012, was not brought to his notice even after he had assumed office on 02.01.2013, the Commission directed the FAA to initiate an **inquiry** and submit the report by **06.07.2013**.
3. The final decision is reserved for the next hearing which shall be held on **31.07.2013 at 1:00 PM**.

Decision pronounced on this day, the 14th June, 2013.

Copies be given to the parties:-

1. Shri. M. Patton, IAS, Principal Director & First Appellate Authority, School Education, Nagaland, Kohima.
2. Shri. Kelhouphilie Kire, Joint Director, School Education, Nagaland, Kohima.
3. Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland.
4. Ms. Mezhülhousieno Nakhro, Exam Roll No. A-521, Dimapur, Nagaland, Mobile No. 9856445692.
5. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
6. Office Copy.

(BUKCHEM PHOM)

State Information Commissioner,
Nagaland Information Commission.

Authenticated by:

(SOYIMNA AIER KOZA)
Secretary

OBSERVATIONS:

8. Since the DEO, Dimapur, (and not the SDEO, Dimapur) was the **Member Secretary** and was one of the signatories on the Result Sheets, the RTI application dated 16.05.2012 was addressed to the PIO, Office of the District Education Officer, Dimapur, Nagaland. However, it is not known as to why the said RTI application was **transferred by the DEO to the SDEO** (Sub-Divisional Education Officer), Office of the Sub-Divisional Education Officer, Dimapur, Nagaland for onward furnishing the information, as complained in her first appeal dated 19.06.2012. It is learnt that the DEO's Office, Dimapur and SDEO's Office, Dimapur are different offices.

What could be reason in transferring the RTI application by the DEO to the SDEO (when the DEO was the Member Secretary and not the SDEO, and hence information was available with the DEO).

Is there any formal written letter of transferring or authorization given by the DEO to the SDEO?

9. On being not satisfied with the information provided by Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland, vide letter No. EDN/SDEOD/RTI/1/2012-13 dated NIL, the applicant had submitted her first appeal dated. 19.06.2012. And since the first appeal had been received, Shri. Bendangkokba, IAS, the then Principal Director & First Appellate Authority, Directorate of School Education, Nagaland, Kohima had, **instead of hearing the first appeal or furnishing the information, simply forwarded her First Appeal dated 19.06.2012 to the PIO of the Deputy Commissioner's Office, Dimapur**, vide letter No. ED/RTI-1/2012-13 dated June, 2012, on the ground that since as per the State Cabinet Decision, the District Recruitment Board, Dimapur was assigned to conduct the oral examination and subsequent declaration of result, all the documents would be available with the District Recruitment Board, Dimapur, and hence to furnish the information to the applicant within the stipulated period.

The Commission had earlier observed that the FAA had not discharged his responsibilities as the First Appellate Authority and clarified that even if the exams were conducted by the District Recruitment Board, Dimapur, it does not absolve the First Appellate Authority, Directorate of School Education, Nagaland, Kohima of his responsibilities to hear the parties (appellant, the concerned PIO, District Recruitment Board, Dimapur) and pass a quasi-judicial order.

10. The Commission had directed the FAA on 08.08.2012 and subsequent reminder dated 20.11.2012 to hold a hearing and pass quasi-judicial order. However, in spite of the Commission's directive dated 08.08.2012 and the reminder dated 20.11.2012, there was no response from the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, **which the Commission had viewed very seriously the lapses and failure to adhere to the Commission's directives**, thus compelling the Commission to serve an '**Explanation Call**' to the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima as to why he had not heard the case and disposed of the first appeal as per the RTI Act, 2005 and to submit the **explanation by 08.03.2013**.

11. In response to his **Explanation Call', the FAA** clarified that during the transition period, the office of the Principal Director School Education, Nagaland, Kohima had received the Commission's Directive **dated 20.11.2012 only on 22.11.2012, and that the letter was not brought to his notice even after he had assumed office on 02.01.2013.**
12. The documents (result sheet) was **incomplete** and **without signatures** of the Interviewers in the information provided by Shri. Kelhouphilie Kire, Joint Director, School Education, Nagaland, Kohima vide letter No. ED/RTI/2012-13 dated **03.12.2012.**

However, after the first appeal hearing held on 11.04.2013 and the first appeal decision dated 11.04.2013, on the direction of the Principal Director & First Appellate Authority, School Education, Nagaland, Kohima, Shri. S. Atomi Swu, Sub-Divisional Education Officer, Office of the Sub-Divisional Education Officer, Dimapur, Nagaland had, vide letter No. EDN/SDEOD/RTI/1/2013-14/105 dated **12.04.2013** provided the information in which the documents (result sheet) was **complete** and **with signatures** of the Interviewers.

Why are there inconsistencies in the above documents provided by the Directorate and by the SDEO Office?

13. But there were **two signatures of DEO, Dimapur** (which the appellant raised). Even if the second (or new) DEO, Dimapur signed, whether the said (new) DEO was officially one of the members?
Government Order for such Committee may be produced.
When(**date**) did the former DEO retire or transferred?
14. Since there were six(6) Interviewers, the result sheet should have been signed by all the 6 Interviewers, but bears only the signatures of the DC, Dimapur and the DEO, Dimapur.

DECISION:

- Caution the PIO and the FAA to take RTI matters seriously considering the time limits stipulated in the RTI Act.
- Caution the PIO that while transferring RTI applications, it should be done by formal written letters, even within the same office.
- On receipt of any first appeals in future, the FAA should hold a hearing of the parties (PIO and the applicant) and pass quasi-judicial order.
- To take seriously and strict adhere to the directives of the Commission.
- As given in his **Explanation Call**, the FAA submitted that the Commission's Directive dated 20.11.2012 was received by his office only on 22.11.2012, but the letter was not brought to his notice even after he had assumed office on 02.01.2013. Hence, the Commission directed the FAA to initiate an **inquiry** and submit the report by _____ (date).
- To make necessary rectifications clearing any inconsistencies (i.e. date, signature, seal etc. of all the six(6) Interviewers and that of the DEO and SDEO) detected in the above documents provided by the Directorate and by the SDEO Office, within _____ (date).
- The claims of the appellant to grant for compensation of Rs. 25,000.00 as per the RTI Act, 2005 shall be decided as deemed fit.