NAGALAND INFORMATION COMMISSION
Old Secretariat Complex,
Post Box No. 148
Nagaland, Kohima - 797001.
Tel: 0370-2291041, Fax: 2291774, Website: www.nlsic.gov.in

No. NIC/Appeal-14/2012-13 Dated Kohima, the 23rd July, 2013.

Appellant: Shri. K. Sangtsoi Khiamnuingan,
Panso 'A' Village,
Tuensang, Nagaland,
Mobile No. 9402807517.

Respondent:

i. The Deputy Commissioner & First Appellate Authority,
Office of the Deputy Commissioner,
Tuensang District, Nagaland.

ii. The Additional Deputy Commissioner & PIO,
Office of the Deputy Commissioner,
Tuensang District, Nagaland.

Public Authority: Office of the Deputy Commissioner,
Tuensang District, Nagaland.

Date of hearing: 11.07.2013
Date of Interim Decision: 23.07.2013

Present:

1. Shri. T. Mhabemo Yanthan, Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang District, Nagaland.
2. Shri. Sushil Kumar Patel, IAS, Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner, Tuensang District, Nagaland.
3. The appellant, Shri. K. Sangtsoi Khiamnuingan, Panso 'A' Village, Tuensang, Nagaland, Mobile No. 9402807517.
4. Shri. I. Imti Longchar, Advocate, Kohima, legal representative of the applicant (now the appellant).

FACT OF THE CASE

Shri. K. Sangtsoi Khiamnuingan, Panso 'A' Village, Tuensang, Nagaland, Mobile No. 9402807517 had submitted a RTI application dated 03.04.2012 alongwith the prescribed fee of Rs. 10/-, addressed to the PIO, Office of the Deputy Commissioner, Tuensang, Nagaland, seeking information on the following:-

1. DPC Meeting Minutes for promotion of DB's and regularisation of contingent DBs held on 30th May, 2007.
2. Interview minutes/proceedings for appointment of 2(two) DBs under Noklak Sub-Division held on 2nd May, 2008.
3. DB's post sanction order under Noklak Sub-Division.
4. Educational qualification certificate and Age Certificate submitted by Thsongtsa, DB.
5. Thsongtsa's appointment as Interpreter at Thonokyu Hq. Order No. EST-23/7/275 dated 20th April, 1971 w.e.f. 01.04.1971.
6. Thsongtsa's Appointment Order as contingency paid DB, dated 7th December, 1979.

The Additional Deputy Commissioner & PIO, Tuensang District, Nagaland had, vide letter No. RTI/2005/TSG/2012-13/17 dated 18.05.2012 replied to the above applicant that the information sought '*under the Act is not available in the Office record*'.

On being not satisfied with the reply of the Additional Deputy Commissioner & PIO, Tuensang District, Nagaland, the applicant had submitted First Appeal dated 06.06.2012.

On receipt of the First Appeal dated 06.06.2012, the Additional Deputy Commissioner & PIO, Tuensang District, Nagaland had, vide letter No. EST-37/2012-13/476 dated 13.08.2012 submitted that '*No record found*' except on two (2) queries at Sl. Nos. 2 and 4 above and furnished some information/documents, which the applicant (now appellant) stated that the information so provided were still not satisfied.

The applicant (now the appellant) had preferred a second appeal dated 21.08.2012 before the Commission, wherein the appellant stated that there was no response to his First Appeal dated 06.06.2012, from the First Appellate Authority, Office of the Deputy Commissioner, Tuensang District, Nagaland and also that the information provided by the Additional Deputy Commissioner & PIO, Tuensang District, Nagaland were not to his satisfaction.

And on receipt of the second appeal dated 21.08.2012, the Commission had, vide letter of even No. dated 12.09.2012, directed the Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner, Tuensang District, Nagaland that the reply furnished was incomplete and that the PIO cannot write such things as '*No record found'* while replying to the applicant. Also, if the record is not found in the DC Office, efforts should be made to trace it in other offices or if it pertains to other public authorities to forward to the concerned public authorities.

The Commission had also directed the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland, vide letters of even No. dated 12.09.2012 and 19.11.2012 to hold a hearing of the parties (PIO and appellant together) and pass a quasi-judicial decision, with a copy of the decision to this Commission and to the appellant.

The SDO(C) & PIO, Office of the Deputy Commissioner, Tuensang, Nagaland had, vide letter No. RTI/2005/TSG/2012-13/02 dated 11.12.2012 issued Summon notice to the appellant to appear before the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland on 20.12.2012 at 11:00 AM and had also informed twice over the phone (9402807517). However, the appellant was in Kohima then treating his ailing wife and had assured that he would come to the Office of the Deputy Commissioner, Tuensang when he return to Tuensang.

The Commission had, vide letter of even No. dated 7.01.2013 wrote to the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang whether the appellant had turned up for the hearing of his first appeal summoned by his public authority/office on 20th December, 2012 at 11:00 AM. And if so, a copy of quasi-judicial decision/order passed by the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang District be forwarded to this Commission for its records and future exigency.

On getting no response, the Commission had again, vide letter of even No. dated 27.02.2013 wrote to the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang that the above appellant be informed to appear for the hearing and a quasi-judicial decision/order passed **by 15.03.2013.** However, in case the appellant fails to appear, an *exparte* quasi-judicial decision/order be passed, and forward a copy of the quasi-judicial decision/order so passed to this Commission for its records and future exigency.

And in compliance to the direction of the Commission, the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland had heard the first appeal dated 06.06.2012 on **14.03.2013** and after immense efforts in locating the office records and tracing out, the following information were provided to the appellant, vide Order No. RTI-2005/PIO(PT-II)/2012-13/2147 dated 14.03.2013 as follows:-

1. A copy of the DPC Meeting Minutes for promotion of DB's and regularisation of contingent DBs held on 30th May, 2007.
2. A copy of the Interview minutes/proceedings for appointment of 2(two) DBs under Noklak Sub-Division held on 2nd May, 2008.
3. Total No. of sanction post for DB's under Noklak Sub-Division, 23 (twenty three).
4. Information at column Nos. 4, 5 and 6 is more than 20 years old information which does not come under the purview of the RTI Act, 2005.
   (4. Educational qualification certificate and Age Certificate submitted by Thsongtsa, DB.
   5. Thsongtsa's appointment as Interpreter at Thonokyu Hq. Order No. EST-23/7/275 dated 20th April, 1971 w.e.f. 01.04.1971.
   6. Thsongtsa's Appointment Order as contingency paid DB, dated 7th December, 1979.)

After hearing the first appeal on **14.03.2013** and also subsequently providing the information by the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland, since there was no further complain from the appellant, suggesting that the information so received by the applicant(appellant) was satisfactory, the Commission had closed the case vide its Closure Order of even No. dated 17.04.2013.

And on receipt of the Commission's Closure Order dated 17.04.2013, the applicant (now the appellant) had, vide his letter dated 21.05.2013, requested the Commission to reopen the case and entertain his present complain in the interest of justice, on the grounds that since his wife, Smti. Chonglio had health complications; she was treated at Naga Hospital Authority, Kohima from the month of October, 2012 till January, 2013. And since her illness could not be diagnosed, she was taken back to Tuensang in February, 2013, where she was treated at Poly Clinic, Tuensang. However, unfortunately, she died on 10.04.2013 and since the appellant was in bereavement, he could not make any complaint before the Commission against the decision of his first appeal dated 06.06.2012, which was heard on 14.03.2013 by the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland, resulting in the closure of his appeal case dated 21.08.2012 by the Commission.

On receipt of the appellant's letter dated 21.05.2013, the Commission had accepted the reasons for the delay in filing a complaint before the Commission against his non-satisfaction of the first appeal decision passed by the Deputy Commissioner & First Appellate Authority, Tuensang District, Nagaland.

The Nagaland Information Commission had decided to hear the appeal, giving opportunity to the parties, on **11th July, 2013 (Thursday) at 1:00 PM.**

OBSERVATIONS:

During the hearing, the applicant (now the appellant), Shri. K. Sangtsoi Khiamnuingan, Panso 'A' Village, Tuensang expressed dissatisfaction with the reply of the PIO, Office of the Deputy Commissioner, Tuensang District, Nagaland as "***No records found***" or "***not available in the Office record***", and also with the decision order dated 14.03.2013 passed by the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang

District, Nagaland that the '*information at column Nos. 4, 5 and 6 is more than 20 years old information which does not come under the purview of the RTI Act, 2005'.*

The Commission observed that there is no consistency in the replies of the the Additional Deputy Commissioner & PIO, Tuensang, Nagaland and the decision of the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang, Nagaland, and that the public authority cannot simply shrug off its responsibilities by not giving the information on the ground that it was more than 20 years old.

The Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang District, Nagaland submitted that despite several efforts, the records could not be traced out. However, he suggested constituting a committee to enquire into the records of 1971 and 1979 pertaining to the appointment of Shri. Thongtsa.

INTERIM DECISION:

1. The Commission decided that on the suggestion of the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang District, Nagaland, an **Inquiry Committee** shall be constituted to locate the records of 1971 and 1979.

2. Considering the request of the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang for sufficient time to complete the inquiry due to the ongoing Economic Census in the district, the Commission decided to give to the Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang sufficient time of **50 (fifty) days from the date of receipt of this Commission's Decision** to submit the Report of the Inquiry Committee to the Commission, in the form of an **Affidavit** declaring the records as "**found**" or "**lost**".

3. The next date of hearing shall be held on the **26th September, 2013 at 1:00 P.M.**

Copies be given to the parties:-

1. Shri. T. Mhabemo Yanthan, Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Tuensang District, Nagaland.
2. Shri. Sushil Kumar Patel, IAS, Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner, Tuensang District, Nagaland.
3. The appellant, Shri. K. Sangtsoi Khiamnuingan, Panso 'A' Village, Tuensang, Nagaland, Mobile No. 9402807517.

Sd/-
BUKCHEM PHOM
State Information Commissioner,
Nagaland Information Commission.

Authenticated by:

(SOYIMNA AIER KOZA)
Secretary
Nagaland Information Commission.

Copy to:-

1. The P.P.S. to the Hon'ble Chief Information Commissioner, Nagaland Information Commission for kind information of the CIC.
2. The P.A to the State Information Commissioner(K), Nagaland Information Commission for kind information of the SIC.
3. The P.A to the State Information Commissioner(B), kind information of the SIC.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. Office Copy.

even after hearing of the first appeal information furnished by

was appointed as DB in 2007, but in 2008 he was terminated and Shri. Thongtsa of Thonokyu Village, Tuensang was appointed in his place. The appellant, Shri. K. Sangtsoi Khiamnuingan alleges that since Shri. Thongtsa was appointed as _____ way back in 1971 vide Order No. _____ dated _____, therefore, questioned the appointment of Shri. Thongtsa as DB who must be over-aged by now. And in order to prove his claims, Shri. K. Sangtsoi Khiamnuingan had sought the information/documents relating to _____ through RTI.

Interview was held on 30.05.2005 and based on the merit, appointments were made.

The legal representative of the applicant (now the appellant), Shri. I. Imti Longchar submitted that what his client, the applicant (now the appellant) need is the appointment Order No. _____ dated _____ mentioned in the letter _____