



NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-18/2012-13

Dated Kohima, the 30th January, 2013.

Appellant: Shri Tiasunep, President, and others,
Molungyimsen Students' Union,
Molungyimsen village,
PO Tuli, Dist. Mokokchung,
Mobile No.9436812064

Respondent: 1. The Chief Engineer & First Appellate
Authority, PHED, Nagaland, Kohima.
2. The Addl. Chief Engineer & PIO,
Office of the Chief Engineer,
PHED, Nagaland, Kohima.
3. The Executive Engineer,
PHED, Mokokchung Division.

Public Authority: Office of the Chief Engineer,
Public Health Engineering Department,
Nagaland, Kohima.

Date of Hearing : 30.01.2013
Date of decision : 30.01.2013

Present:

1. Er. Kevisekho Kruse, Chief Engineer & First Appellate Authority, PHED, Nagaland, Kohima.
2. Er. J. Walter Longchar, Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima.
3. Er. N. Yanger Pongen, Executive Engineer, PHED, Mokokchung Division.
4. The appellants, Shri. Supongtems, Shilu and Imliwapang, Molungyimsen Students' Union, Molungyimsen village, P.O. Tuli, District: Mokokchung, as President, MSU, Shri Tiasunep could not attend due to the death of his grandfather.

Facts of the case:

Shri. Tiasunep, President, on behalf of Molungyimsen Students' Union, Molungyimsen village, P.O. Tuli, District: Mokokchung, Mobile No. 9436812064, had earlier submitted a RTI application dated 17.08.2012 to the PIO, Office of the Chief Engineer, Public Health Engineering Department, Nagaland, Kohima, seeking information on the following queries:-

- (a) Relevant documents relating to "Augmentation of Water Supply to Molungyimsen Village amounting to Rs. 106.60 lakhs under Works Programme 2009-10".
- (b) Physical and financial progress.
- (c) Work order, supply order & materials acquisition/requisition order.
- (d) Payment release (to whom and when).
- (e) Detail specification of material supplied with rate and quality of material.
- (f) If the amount diverted to some other scheme, to which scheme it was diverted and the reason thereof along with the approval of the authority?
- (g) The reason for delay in implementing the project.
- (h) Photocopies of the measurement book against the scheme.

On receipt of the above RTI application dated 17.08.2012 in the Office of the Chief Engineer, PHED, Nagaland, Kohima vide receipt No. 234 dated 17.08.2012, Er. K. Ghushito Sumi, Addl. Chief Engineer & PIO, PHED, Nagaland, Kohima, had vide letter No. CE/PHE/RTI/2005/338 dated 19.09.2012, furnished the information as follows:

- (a) Copy of Technical sanction for water supply to Molungyimsen Village;
- (b) Scheme completed during 2009-10;
- (f) No diversion of fund was allowed by the Head Office.

Further, the applicant was informed that reply to Queries (c), (d), (e), (g) & (h) can be made available by the Executive Engineer, PHED, Mokokchung, who is maintaining all the records.

The applicant had earlier submitted to the Nagaland Information Commission vide letter No. MSU/RTI/2012-13 dated 24.09.2012, stating that the information furnished by Er. K. Ghushito Sumi, Addl. Chief Engineer & PIO, PHED, Nagaland, Kohima, was incomplete. However, the Commission advised the applicant to prefer First Appeal to the Chief Engineer & FAA, PHED, Nagaland, Kohima vide letter of even No. dated 22.10.2012. And, also at the same time, the Commission, had in a separate letter of even No. dated 22.10.2012 directed the Addl. Chief Engineer & PIO, PHED, Nagaland, Kohima to transfer Queries (c), (d), (e), (g) & (h), to the Executive Engineer, PHED, Mokokchung Division, for onward furnishing of the information to the applicant **within one month** from the date of receipt of the Commission's directive and under intimation to the Commission.

On the advice of the Commission, the applicant, on behalf of the organisation, had accordingly filed First Appeal to the Chief Engineer & FAA, PHED, Nagaland, Kohima vide letter No. MSU/RTI/2012-13 dated 26.09.2012.

Also, in compliance to this Commission's directive, Er. K. Ghushito Sumi, Addl. Chief Engineer & PIO, PHED, Nagaland, Kohima, transferred the unanswered Queries to the Executive Engineer, PHED, Mokokchung Division vide letter No. CE/PHE/RTI/2005/904-06 dated 06.11.2012, with a request to furnish the information from his end **within one month** i.e. **30.11.2012** and with a copy to the Commission. However, the information has not been provided within the time frame stipulated.

In response to the First Appeal vide No. MSU/RTI/2012-13 dated 26.09.2012, the Chief Engineer & First Appellate Authority, PHED, Nagaland, Kohima had, vide letter No. CE/PHE/RTI/2005/1061-64 dated 19.11.2012 replied to the applicant (now appellant) reiterating the reply given by the PIO stating that most of the queries sought concerned the PHED, Mokokchung division. Secondly, the Chief Engineer & FAA, PHED, Nagaland, Kohima, maintained that as per Section 3 of the RTI Act, 2005, a Union such as Molungyimsen Students' Union is not entitled/eligible to the information under the RTI, since, the aforementioned section has provisions for the Rights of citizens only to

obtain information but does not say “Organisation” or “Union” or “Association” or such collective body.

The applicant (now appellant) had submitted second appeal vide No. MSU/RTI/2012-13 dated 13.12.2012, under Section 19 of the Right to Information Act, 2005, before the Nagaland Information Commission stating that they were not satisfied with the reply of the Chief Engineer & First Appellate Authority, PHED, Nagaland, Kohima vide letter No. CE/PHE/RTI/2005/1061-64 dated 19.11.2012 to their first appeal vide No. MSU/RTI/2012-13 dated 26.09.2012 and also that the information provided by the Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima vide letter No. CE/PHE/RTI/2005/338 dated 19.09.2012 to their RTI application letter dated 17.08.2012 was **incomplete**.

Observations and record:

The Commission was requested by the appellant, Tiasunep, President of Molungyimsen Students’ Union to adjourn hearing scheduled for 30th January, 2013, due to sudden demise of his grandfather in the early hours of 29th January, 2013, and the application was received in the late hours of 29th January, 2013. Since other officials had already been issued notice to attend, the Commission did not adjourn the hearing scheduled on 30th January, 2013, and informed the Molungyimsen Students’ Union through phone to send their representatives to the hearing on 30.01.13. Accordingly, three (3) members of the Molungyimsen Students’ Union attended the hearing on 30.01.13.

It is recorded that the Chief Engineer & FAA, PHED took over charge only on 01.12.2012 and Addl. Chief Engineer & PIO office of the C.E., PHED, joined on 17.01.13 and the E.E, PHED, Mokokchung Division, Mokokchung joined on 05.09.13. The E.E., PHED, Mokokchung, in fact was hospitalised on 10.11.12 and discharged on 09.12.12. These were the grounds for the delay in furnishing the remaining information pertaining to PHED, Mokokchung which the Commission accepted as valid.

Action taken by the department on the RTI queries are as under:-

I. On 19.09.12, the Additional CE & PIO, PHED furnished reply to three (3) queries namely :-

- (a) Relevant documents relating to “Augmentation of Water Supply to Molungyimsen Village amounting to Rs. 106.60 lakhs under Works Programme 2009-10”.
- (b) Physical and financial progress.
- (c) If the amount diverted to some other scheme, to which scheme it was diverted and the reason thereof along with the approval of the authority?

II. Out of eight (8) queries applied for by the applicant, the President of Molungyimsen Students’ Union on 17.08.12, the Addl. C.E & PIO, PHED mentioned that the information to the queries No. c, d, e, g and h can be made available by the EE, PHED Mokokchung Division, Mokokchung.

III. The then Addl. CE & PIO, PHED, was directed by the Chief Engineer & FAA to redirect queries c, d, e, g, & h to E.E., PHED, Mokokchung Division, Mokokchung. This instruction was issued to EE, PHED, Mokokchung Division by Addl. C.E. & PIO, PHED only on 06.11.12 with direction to furnish the information in question by 30.11.12 with copy to Nagaland Information Commission. The E.E., PHED Mokokchung could not furnish the said information by 30.11.12.

IV. The E.E. PHED Mokokchung Division, Mokokchung gave the following reasons for delay in furnishing the information in question:-

(i) He joined the Division only on 05.09.12 and had been ailing for some time and hospitalised from 10.11.12 to 09.12.12 at Guwahati. This was followed by the Christmas and New Year Holidays. However, he furnished a copy of his reply on queries c, d, e, g and h during the hearing on 30.01.13.

The Commission has not been given any copy of the reply to a, b & f, furnished by the then Addl. CE & PIO, PHED on 13.09.12 to the applicant. The copy of the reply which was prepared by E.E. PHED, Mokokchung Division, Mokokchung on queries c, d, e, g and h was produced only during the hearing on 30.01.13. There has been a considerable delay in the information being furnished but since the information on a, b & f were furnished by **19.09.12** though not complete within 33 (thirty three) days of receipt of the application by the PIO and reply to the other 5 (five) queries were produced by the E.E., PHED,

Mokokchung Division, Mokokchung and the fact that most of the senior officers assumed their present assignments very recently and the prolonged illness of EE, PHED, Mokokchung Division, Mokokchung, the Commission did **not find imposition of penalty warranted.**

Decision:

Due to the request for adjournment filed by the appellant on compelling grounds and due to the fact that replies to all 8 (eight) queries had been furnished but sufficient time not being provided to the appellant and party to examine replies furnished particularly on queries c, d, e, g & h, only today (30.01.13), the Commission is pleased to order as under:-

(a) The President and representatives of Molungyimsen Students' Union shall be **given time of one week** to examine and discuss the replies furnished by the PHE Department on 19.09.12 on queries a, b and f, and the replies produced by the PHE Department on 30.01.13 to queries c, d, e, g & h and **seek** any **clarification** or **information strictly within the confines of the original application filed on 17.08.12** and thereafter report their satisfaction/dissatisfaction with the information/clarification that they received from the PHE Department. The Additional CE & PIO, PHED in consultation with the C.E & FAA, PHED and the E.E, PHED, Mokokchung Division, Mokokchung shall furnish more elaborate and satisfactory reply in **consolidated form to the appellant on all 8 (eight)** queries to the appellant under intimation to Nagaland Information Commission within a period of **one month** from the date of receipt of this order. Thereafter, depending on the satisfaction or dissatisfaction of the appellant, the final decision will be taken.

Decision pronounced in presence of all on 30.01.2013.

Copy be given to:-

1. Er. Kevisekho Kruse, Chief Engineer & First Appellate Authority, PHED, Nagaland, Kohima.
2. Er. J. Walter Longchar, Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima.
3. Er. N. Yanger Pongen, Executive Engineer, PHED, Mokokchung Division.
4. The appellant, Shri. Tiasunep, President, and others, Molungyimsen Students' Union, Molungyimsen village, P.O. Tuli, District: Mokokchung, Mobile No. 9436812064.

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

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

Sd/-
Bukchem Phom
State Information Commissioner,
Nagaland

Authenticated by

Secretary
Nagaland Information Commission