

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

No.NIC/Appeal-3/2012-13/

Dated Kohima, the 6th June, 2012

Appellant: Mr Shanchamo Lotha, Senior Citizen, Shaki village,
Wokha District, Mobile: 9402003354

Respondent: Director, Rural Development, Nagaland, Kohima.
Public Authority: Directorate of Rural Development, Nagaland,
Kohima.

Date of hearing: 06.06.2012

Date of final decision: 06.06.2012

Present:

1. Mr Waichiba, Addl. Director, RD & PIO, Nagaland, Kohima (deputed by Director, RD & FAA but taken exception to by the Commission).
2. Mr Hilo Semp, Project Director & PIO, DRDA, Wokha.
3. Mr Imtilepden, BDO, W/ Ralan, Wokha, Nagaland.
4. Mr Shanchamo Lotha, VCM, Shaki village.

Facts of the case

The applicant Mr Shanchamo Lotha filed a RTI application on **24.01.2012** to the Project Director and PIO, DRDA, Wokha, Nagaland, seeking information on MNREGA and BRGEF funds released and schemes implemented in Shaki village etc. from 2007-2011.

The Project Director and PIO, DRDA, Wokha received the RTI application on 24.01.2012 and endorsed the application to BDO, RD Block, W/Ralan to examine and furnish the information sought immediately.

The Project Director and PIO, DRDA, Wokha nor BDO, W/Ralan who had become a "**deemed PIO**" by virtue of having received the RTI

application from the Project Director & PIO, DRDA, Wokha and directed to furnish the **required information** FAILED to furnish the information sought within the stipulated time of 30 days i.e. by **22.02.2012**.

The petitioner on the grounds of not receiving any response or information from PIO within the stipulated date filed an appeal before Director and First Appellate Authority of RD Department on **01.03.2012**. However, the Director and FAA, RD Department instead of admitting the appeal and taking up the hearing of the appellant, the PD and the PIO, DRDA Wokha as also BDO, RD Block, W/Ralan and passing a “**quasi judicial decision**” simply instructed the Project Director, DRDA, Wokha to write to the BDO, RD Block, W/Ralan to furnish the information sought by Shanchamo Lotha of Shaki village. This is evident from the letter No.DRDA/WKA/RTI/2007-08 dated Wokha 15.03.2012. The following procedural **lapses by officials** of the RD Department at various levels has been observed by the Commission:-

- (a) The Project Director and PIO, DRDA, Wokha who received the RTI application from Mr Shanchamo Lotha on 24.01.2012 instead of taking suitable action by him as the addressee, endorsed the application to the BDO, RD Block, W/Ralan to furnish the information sought immediately. The proper procedure to be followed by Project Director and PIO, DRDA, Wokha was to obtain information from the BDO, RD Block, W/Ralan, and having done so to furnish it to the applicant within 30 days from the date of receipt of the application. **Information to the applicant is required to be furnished by the concerned PIO and not by other officials.** The Project Director and PIO DRDA, Wokha failed to furnish information sought within 30 days of receipt of the application. In fact, up to the time that the appellant filed an appeal before the Director and FAA, RD Department on **01.03.2012** the PD & PIO, DRDA, Wokha had still failed to furnish any information to the **applicant** who was therefore compelled to file an appeal before **the Director and FAA, RD Directorate.**
- (b) From the records available, the Director, RD and FAA instead of conducting a hearing based on the appeal filed by the appellant on 01.03.2012 had directed the Project Director & PIO, DRDA, Wokha to write to the BDO, RD Block, W/Ralan to furnish the information (letter No.DRDA/WKA/RTI/2007-08 dated 15.03.2012 signed by Mr Hilo Semp, PD, DRDA and PIO to the BDO, RD Block, W/Ralan refers).
- (c) From the records available till the date of hearing no information sought by the applicant/appellant Shanchamo Lotha of Shaki village

has been furnished to him. This has entailed a cumulative delay of 132 days which is unjustifiable.

IMPORTANT FINDINGS:-

- (i) On **25.05.2012**, the appellant Shri Shanchamo Lotha addressed a letter to the Project Director, DRDA and PIO withdrawing the **complaint** lodged against Shaki village by him on 24.01.2012. **He further stated in the letter that he would never lodge RTI against Shaki village in future.** No mention have been made on whether or not the applicant/appellant received the information sought by him. **He simply mentioned that the General Meeting of Shaki village was held on 18.05.2012 where the whole issues regarding the complaint has been discussed.** At this stage, when the appeal filed by Mr Shanchamo Lotha filed on **09.04.2012** before the Commission which has been **admitted** and hearing fixed on 06.06.2012 and where the PIO has failed to furnish the information and where the Director, RD and FAA who received the appeal filed by the appellant on 01.03.2012 has not even disposed the appeal case at his level, there is no question of withdrawal of RTI application at this juncture. The letter written by Project Director and PIO, DRDA, Wokha to the Secretary, Nagaland Information Commission vide No.DRDA/WKA/RTI/2007-08/433-40 dated 26.05.2012 is **highly irregular**. The Project Director & PIO, DRDA, Wokha also is not vested with any authority to write to the Commission to drop the case fixed for hearing on 06.06.2012. Further, the Project Director, DRDA & PIO, Wokha's **inference** that the application filed by petitioner does not come under the purview of RTI is totally unfounded.
- (ii) The appellant Shri **Shanchamo** in his statement before the Commission mentioned that he had **never** filed any complaint against Shaki village regarding funds released under MNREGA and BRGEF etc. **According to him it seems that his RTI application has been misconstrued as complaint against Shaki village.** He also mentioned that he had faced threats, pressures and inducements from several quarters to withdraw the RTI application. **He, however, refused to do so because all he ever wanted as village leader (VCM) was to get the details of FUNDS allotted to Shaki village by RD Department under MNREGA and BRGEF for the period 2007-2011 and also schemes undertaken under the two programmes.** He stated

that the letter of 25.05.2012 signed by him which Project Director & PIO, DRDA, Wokha forwarded to Secretary, NIC, under the subject heading of “withdrawal of RTI application by Shri Shanchamo Lotha, Senior Citizen of Shaki village” was never drafted by him but that he was forced to sign the said letter under extreme duress. This “forced withdrawal” letter signed by the appellant on 25.05.2012 under duress was forwarded by Project Director, DRDA & PIO, Wokha to Secretary, Nagaland Information Commission on 26.05.2012 with endorsements to the PIO, RD Directorate, BDO W/Ralan but not to the Director, Rural Development & FAA vide letter No.DRDA/WKA/RTI/2007-08/433-04 dt. 26.05.2012. In the same letter, Project Director & PIO, DRDA, Wokha had suggested that the case be dropped. The Project Director & PIO, DRDA, Wokha in writing that letter to Secretary, Nagaland Information Commission has exceeded his brief and misrepresented facts. Till the writing of this letter by Project Director & PIO, DRDA, Wokha, no information had been furnished to the appellant as sought by him.

- (iii) There are no grounds to ‘drop the case’ as requested by the Project Director & PIO, DRDA, Wokha particularly at this stage where the appeal of the appellant has already been admitted by First Appellate Authority and by the Nagaland Information Commission and hearing fixed on 06.06.2012.

OBSERVATIONS

The Commission also takes a serious view of the absence of the Director, Rural Development and FAA without the formality of requesting leave of absence in writing. His “representation” by Addl. Director, Rural Development who is the PIO at the Directorate and Not the FAA is not admissible. He is reminded to dispose all appeal cases filed before him as per laid down procedure and pass a quasi judicial decision instead of merely remanding appeals to his PIOs or subordinate officers.

The Commission notes with displeasure the undue delay in furnishing the information sought by appellant for which the Project Director & PIO, DRDA, Wokha and BDO, W/Ralan Block, the deemed PIO are held responsible. It was only during the hearing on 06.06.2012 that the BDO, W/Ralan produced a copy of a letter

NO.RDB/WR/RTI/2007-08 dt. Wokha 22nd March, 2012 addressed to Project Director & PIO, DRDA, Wokha containing information sought by appellant Shanchamo Lotha of Shaki village.

The official copy of the **same information under reference** was also submitted to the Secretary, Nagaland Information Commission by Project Director & PIO, DRDA, Wokha on 06.06.2012 during hearing. The role of the Project Director & PIO, DRDA, Wokha and BDO, W/Ralan in this whole episode instead of being pro-active appears to be **obstructive**. They should ensure **prompt response** to RTI applications in future.

Such **sketchy information** sought by the appellant should have been furnished within the stipulated time by the Project Director & PIO, DRDA, Wokha or BDO, W/Ralan at the stage RTI application was filed by appellant within the stipulated time.

DECISION

Taking into consideration the facts of the case and the statement of the appellant, the Project Director & PIO, DRDA, Wokha, the Commission decides as follows:

- (i) The copy of the letter containing information sought by Shanchamo Lotha furnished today (06.06.2012) by the Project Director & PIO, DRDA, Wokha to the Secretary, NIC and copy furnished to Project Director & PIO, DRDA, Wokha by BDO, W/Ralan Block be handed over to the appellant Shanchamo Lotha and **not only acknowledged but his satisfaction recorded.**
- (ii) The proposal submitted by Project Director & PIO, DRDA, Wokha to drop the case and to infer that the present RTI application does not come under the purview of RTI is not tenable and his wrong inference rejected.
- (iii) The Project Director & PIO, DRDA, Wokha and the BDO, W/Ralan who is a 'deemed PIO by virtue of having received the RTI application forwarded by the Project Director & PIO, DRDA, Wokha are both liable for imposition of penalty under Section 20(1) of the RTI Act, 2005 mainly for **not** furnishing the information sought by the applicant/petitioner within the stipulated time and in fact **much beyond** the time specified in the RTI Act for which they

have not **produced any reasonable cause** for the **avoidable** delay.

After giving them reasonable opportunity of being heard, and after their own admission of gross **delay** in submitting the information sought, the Commission announces the imposition of a penalty of Rs.25,000/- (Rupees twenty five thousand) only which shall be **equally borne** @ Rs.12,500/- (Rupees twelve thousand five hundred) **EACH** by the Project Director and PIO, DRDA, Wokha and BDO, W/Ralan.

The penalty shall be deposited under Head of Account 007-OAS, Minor Head 800-Receipts and fines under RTI in favour of Consultant (Accounts), Nagaland Information Commission, Kohima.

This penalty shall be paid in two equal installments within two (2) months from the receipt of this order.

Decision made in the presence of all present on this day the 06.06.2012

Copy be given to all concerned:-

1. Mr Waichiba, Addl. Director, RD Directorate, Nagaland, Kohima.
2. Mr Hilo Semp, Project Director & PIO, DRDA, Wokha.
3. Mr Imtilepden, BDO, W/Ralan, Wokha, Nagaland.
4. Mr Shanchamo Lotha, Senior Citizen, Shaki village, Wokha District, Nagaland.

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

Secretary
Nagaland Information Commission

