

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-8/2012-13

Dated Kohima, the 18th June, 2013.

Appellant: Mr. Vitoshe Kinimi,
Chairman,
Diphupar Village Council,
4th Mile, Dimapur,.

Respondents: 1. Director & First Appellate Authority,
SCERT,
Nagaland, Kohima.

2. Shri. Kegwalo Thyug,
Research Associate & PIO,
SCERT, Nagaland, Kohima.

Public Authority: Directorate of SCERT,
Nagaland, Kohima

Date of hearing: 12.06.2013

Date of (interim) Decision: 18.06.2013.

Present:

- i. Shri. Vipralhou Kesiezie, Director & FAA, SCERT, Nagaland, Kohima;
- ii. Shri. Kegwalo Thyug, Research Associate & PIO, SCERT, Nagaland, Kohima;
- iii. The appellant, Mr. Vitoshe Kinimi, Chairman, Diphupar Village Council, 4th Mile, Dimapur.
- iv. Representatives of the appellant, Shri. A. Yephthomi, Advocate and Ms. Inaholi Kinny, Advocate.

FACT OF THE CASE:

Mr. Vitoshe Kinimi, Chairman, Diphupar Village Council, 4th Mile, Dimapur, had submitted a Second Appeal dated 09/07/2012 to the Nagaland Information Commission, stating that there was no response of the Director & First Appellate Authority, SCERT, Nagaland, Kohima to his First Appeal dated 15.04.2012 and also from the PIO, Office of the Director, SCERT, Nagaland, Kohima to the applicant's RTI application dated 13.03.2012 submitted alongwith the prescribed fee of Rs. 10/- paid vide IPO No. 69E 928393 dated **12.03.2012**.

On receipt of the Second Appeal dated 09/07/2012, the Commission had, vide its directive letter of even No. dated **21.07.2012**, directed the Director & First Appellate Authority, SCERT, Nagaland, Kohima and the PIO, Office of the Director, SCERT, Nagaland, Kohima to furnish the information sought **within 2(two) weeks** time to the applicant(now appellant) from the date of

receipt of the Commission's directive. And also to explain before this Commission why the Director & First Appellate Authority, SCERT, Nagaland, Kohima had not acted upon the First Appeal dated 15.04.2012 and the PIO, Office of the Director, SCERT, Nagaland, Kohima on the RTI application dated 13.03.2012.

And in compliance to the Commission's directive dated **21.07.2012**, Shri. Vipralhou Kesiezie, Director & FAA, SCERT, Nagaland, Kohima had, vide letter No. SCERT/RTI/2010-2011/411 dated 07/08/2012 wrote to the Commission that the department did not receive any RTI applications addressed to the PIO, SCERT on 12.03.2012 and First Appeal to the FAA, SCERT on 15.04.2012 respectively. However, on the Commission's directive dated 21.07.2012 and on the basis of the copies of the RTI applications and First Appeal received from the Commission, the necessary information has already been furnished to the applicant vide letter No. SCERT/RTI/2010-2011 dated 07.08.2013.

On receipt of the compliance of the Director & FAA, SCERT, Nagaland, Kohima, the Commission had, vide its letter of even No. dated **17.08.2012**, directed the Director & FAA, SCERT, Nagaland, Kohima, that though the information was purportedly furnished late, to forward to the Commission a copy of the information furnished by the PIO, SCERT to the applicant(now appellants), and that since First and Second Appeals have been filed, the Commission need to keep records of such documents for future exigencies and to satisfy that the information seeker has been furnished the information as sought.

On not receiving any response from the Director & FAA, SCERT, Nagaland, Kohima, the Commission had, vide its letter of even No. dated **22.11.2012**, directed once again to forward to the Commission, a copy of the information furnished by the PIO, SCERT to the above applicant(now appellants) **within two (2) weeks** from the date of receipt of the Commission's directive, as the Commission need to keep records of such documents for future exigencies and to satisfy that the information seeker has been furnished the information as sought.

The applicant had submitted a complaint letter dated **05.11.2012**, stating that the information provided by the First Appellate Authority (FAA), SCERT, Kohima, vide letter No. SCERT/RTI/2010-11/412 dated 07.08.2012 was misleading in respect of query Nos. (a), (b), (c), (j) and (k) of his RTI application dated 12.03.2012. The applicant had also enclosed a copy of the letter No. SCERT/RTI/2010-11/867 dated **09.01.2012** in which the information was furnished by Shri. Kegwalo Thyug, Research Associate & PIO, SCERT, Nagaland, Kohima.

In compliance to the Commission's directive of even No. dated **22.11.2012**, the Director & FAA, SCERT, Nagaland, Kohima, had vide letter No. SCERT/RTI/2010-11/684 dated 27.11.2012 informed the Commission that a copy was already forwarded vide letter No. SCERT/RTI/2010-11/432 dated 27.08.2012.

The Commission had, vide its letter of even No. dated **05.01.2013**, directed the First Appellate Authority to furnish the clarifications to the issues raised by the appellants on the above mentioned queries and under intimation to this Commission by **20.01.2013**.

In compliance to the Commission's directive of even No. dated **05.01.2013**, the Director & FAA, SCERT, Nagaland, Kohima, had vide letter No. SCERT/RTI/2010-11/755 dated 18.01.2013, submitted the clarifications to the Commission.

The applicant had submitted a complaint letter dated **04.02.2013** to the Commission that he had not received any response from the Director & First Appellate Authority, SCERT, Nagaland, Kohima, thus violating the directive of this Commission vide letter of even No. dated 05.01.2013.

The Commission had, vide letter of even No. dated **13.02.2013**, informed the Director & First Appellate Authority, SCERT, Nagaland, Kohima, that though the clarifications to the issues raised by the appellant had been furnished as mentioned in his letter No. SCERT/RTI/2010-11/755 dated 18.01.2013, the Commission had received a complaint letter dated 04.02.2013 from the appellant, stating that he had not received any response, thus violating the directive of this Commission vide letter of even No. dated 05.01.2013.

The Commission had observed that the Director & First Appellate Authority, SCERT, Nagaland, Kohima had furnished the clarifications to the issues raised by the appellant to the Commission **and not to the applicant(now appellant)**, and hence lacks understanding of the procedures and responsibilities of First Appellate Authority and had failed to understand the content of this Commission's directive vide letter of even No. dated 05.01.2013.

The Commission had, vide letter of even No. dated **13.02.2013** directed the Director & First Appellate Authority, SCERT, Nagaland, Kohima to forward to the applicant(now appellant), a copy of the clarifications to the issues raised by the appellant **within two (2) weeks** from the date of receipt of the Commission's directive, under intimation to this Commission.

The applicant had submitted a letter dated **17.04.2013** to the Commission that he had not received any response even after the Commission had issued directions vide letter of even No. dated 13.02.2013, and therefore re-appealed and prayed that the Commission may direct the Director & First Appellate Authority, SCERT, Nagaland, Kohima to furnish the information without causing further inconvenience and hardship to the appellant/public and also initiate punitive measures against the defaulting officer whose attitude of indifference is a contempt of the Commission.

The Commission had, vide letter of even No. dated **23.04.2013**, directed the Director & First Appellate Authority, SCERT, Nagaland, Kohima to act on the Commission's directive dated 13.02.2013 **by 02.05.2013**, failing which the Commission shall undertake necessary action as deem fit under the RTI Act, 2005.

There was no compliance to the Commission's directive nor any response from the Director & First Appellate Authority, SCERT, Nagaland, Kohima till the date of today's hearing.

OBSERVATIONS:

The PIO, SCERT submitted that, on the direction of the Commission's directives, had furnished the information and also the clarifications to the appellant, however, the appellant denied having received it. The PIO also submitted that he had provided on 29.04.2013, but the information was collected only on 06.05.2013 by a representative of the appellant, Shri. Inato Achumi.

As observed earlier by the Commission, the PIO also admitted that the clarifications to the issues raised by the appellant was sent to the Commission **but not to the applicant(now appellant)**, and hence the appellant did not receive it leading to this appeal.

However, during the hearing, the PIO, SCERT produced the same copy of the information so furnished to the appellant. And after having received the information during the hearing, the appellant requested for some time to examine the documents/information so as to ascertain satisfaction or non-satisfaction of the information so provided.

DECISION (interim):

Since the PIO, SCERT had provided the documents/information during the hearing, and that the appellant had requested for some time to study it, the Commission, hereby, direct the appellant to intimate his satisfaction or non-satisfaction of the information so provided to the Commission **within two (2) weeks** from the date of receipt of this Decision Order.

The final decision is being reserved for the next hearing to be held on **30.07.2013 at 2:30 PM.**

Decision pronounced on this day, the 12th June, 2013.

Copy be given to the parties:-

1. Shri. Vipralhou Kesiezie, Director, SCERT, Nagaland, Kohima;
2. Shri. Kegwalo Thyug, Research Associate & PIO, SCERT, Nagaland, Kohima;
3. Mr. I. Vitoshe Kinimi, Chairman, Diphupar Village Council, 4th Mile Dimapur.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

(BUKCHEM PHOM)
State Information Commissioner,
Nagaland Information Commission.

(SOYIMNA AIER KOZA)
Secretary