

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



No. NIC/Appeal-1/2014-15

Dated Kohima, the 18<sup>th</sup> June, 2014.

Appellant: Shri. Vikheto Zhimomi,  
P.R. Hill,  
Kohima,  
Mobile No. 9089896123, 9615115300

Respondents: 1. Shri. T. Kiheto Sema,  
Secretary & FAA,  
Department of Food & Civil Supplies,  
Nagaland, Kohima.

2. Shri. H. Lungalang,  
Additional Secretary & PIO,  
Department of Food & Civil Supplies,  
Nagaland, Kohima.

Public Authority: Department of Food & Civil Supplies, Nagaland, Kohima.

Date & time of hearing: 11.06.2014 (Wednesday) at 12:00 Noon.

Date of decision: 18.06.2014

Present:

1. The Commissioner & Secretary and FAA, Department of Food & Civil Supplies, Nagaland, Kohima.
2. Shri. H. Lungalang, Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima.
3. The applicant(now the appellant), Shri. Vikheto Zhimomi, P.R. Hill, Kohima, Mobile No. 9089896123, 9615115300.

**FACTS OF THE CASE**

An applicant, Shri. Vikheto Zhimomi, P.R. Hill, Kohima, Mobile No. 9089896123, 9615115300 had submitted a RTI application dated **16.09.2013** addressed to the PIO, Department of Food & Civil Supplies, Nagaland, Kohima alongwith an application fee of Rs. 10/-, seeking certain information on **24(twenty four)** queries. The above RTI application dated 16.09.2013 was received by the public authority on the same day i.e. **16.09.2013** as evidenced on the photocopy of the RTI application.

In response to the RTI application dated 16.09.2013, Shri. H. Lungalang, Joint Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima had, vide letter No. SPLY-1/20/2012(Pt-II) dated **15.10.2013** informed the applicant that the information was ready and had requested to collect it during office hours, on payment of Rs. 161.00 (Rupees one hundred and sixty one only)

However, on being not satisfied with the information received from Shri. H. Lungalang, Joint Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima, the applicant had submitted first appeal dated **19.11.2013** addressed to the Appellate Authority, Department of Food & Civil Supplies, Nagaland, Kohima requesting to re-furnish the information relating to query **Nos. 1, 2, 8, 13, 19 and 22**. The first appeal dated 19.11.2013 was received by the public authority on 21.11.2013 as evidenced on the photocopy of the first appeal.

In response to the first appeal dated 19.11.2013, Shri. H. Lungalang, Joint Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima, had, vide letter No. SPLY-1/20/2012(Pt-II) dated **16.12.2013** informed the applicant that since the information requested was being sought from the Directorate of Food & Civil Supplies, Nagaland, Dimapur and also in

view of the Christmas Holidays, the Department would be able to furnish the information on or before 21.01.2014.

Later again in response to the first appeal dated 19.11.2013, Shri. H. Lungalang, Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima had, vide letter No. SPLY-1/20/2012(Pt-II) dated 28.01.2014 informed the applicant that except **queries No. 8 and 22**, no information over and above the information already furnished by the Department vide letter No. SPLY-1/20/2012(Pt-II) dated 15.10.2013 could be provided. And the replies to the **queries No. 8 and 22** were accordingly furnished.

And on being not satisfied with the information relating to query Nos. **2, 8, 13 and 19**, received from Shri. H. Lungalang, Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima, the applicant(now the appellant) had submitted second appeal dated **24.03.2014** before this Commission, stating that there was unsatisfactory response received from the Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima to his first appeal dated 19.11.2013 which was submitted against the unsatisfactory response of the Joint Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima to his RTI application dated 16.09.2013.

The Commission admitted the second appeal dated 24.03.2014 and had decided to hear the appeal, giving opportunity to the parties, on **11<sup>th</sup> June, 2014 (Wednesday) at 12:00 Noon.**

### **OBSERVATIONS & FINDINGS:**

The Commission observed that the first appeal dated 19.11.2013 submitted by the applicant(now the appellant) and received by the public authority on 21.11.2013 should have been put up to the First Appellate Authority since it was addressed to the FAA, for conduct of first appeal hearing and passing of quasi-judicial decision, as mandated by the RTI Act, 2005. However, replies to the first appeal were given by Shri. H. Lungalang, Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima. Hence, there was no hearing of the first appeal and therefore no quasi-judicial decision passed by the First Appellate Authority.

The Commission pointed out that under the RTI Act, 2005, the PIO has the responsibility to provide information whereas the FAA (who is senior in rank to the PIO) has the responsibility to deal with appeals. And therefore, the PIO and the FAA cannot be the same person or the PIO cannot act or deal with first appeals.

The PIO submitted that the file relating to the first appeal was endorsed to the FAA who approved to furnish the reply accordingly to the applicant (now appellant). However, since the FAA was newly posted to the Department and was not aware that hearing of the first appeal should be conducted, the FAA admitted that he did not call for hearing of the first appeal.

The Commission took up the appeal case for query Nos. **2, 8, 13 and 19**, since these were the points of appeal submitted by the applicant (now appellant).

1. To query No. 2, the applicant (now appellant) submitted that the PIO did not provide the terms & conditions of appointment of transporters under the Village Grain Bank (VGB) Scheme, however a copy of the Government of India's Guidelines was given, and that too there was no mention about transporters mentioned in the Guidelines. In response, the PIO replied that there was no specific document required for establishment of the Village Grain Bank Scheme and that the State Government, Department of Food & Civil Supplies had appointed the transporters i.e. MARCOFED as the State implementing agency for the VGB Scheme. And copies of the letters of the Department of Food & Civil Supplies, Nagaland, Kohima regarding recommending MARCOFED as the State implementing agency for the VGB Scheme, vide letter No. SPLY-2/17/2005 dated 16.02.2007, and extension of the term of appointment of MARCOFED as the State implementing agency for the VGB Scheme for the year 2012-13, vide letter No. SPLY-6/9/2010 dated 10.07.2012 were produced before the Commission during the hearing.

During the hearing, the PIO clarified that the Government of Nagaland do not have any guidelines, and that the Department as well as the State implementing agency for the VGB Scheme had to abide with the Government of India's Guidelines. Further, the PIO explained that during the first year of its implementation,

Department trucks were used, but from the following year, the scheme was transferred to MARCOFED since they have trucks and spread across the State. The agency was to lift the foodgrains from the FCI and reach it to the identified/established village/block. The PIO informed that the VGB Scheme has been discontinued since 2013.

2. To the query No. 8, the PIO replied that vide letter No. DEV-21/2007-08/31 dated 17.04.2008, the then Assistant Director of Supplies (ADS), Zunheboto was **verbally directed** sternly by both the AHOD and HOD to take necessary corrective measures and was later transferred out from Zunheboto district. Since then, there is no such complaint received from any corners of the district. The applicant (now appellant) questioned as to how instruction was done verbally instead of writing officially to the ADS, Zunheboto. The PIO submitted that instruction was given to the ADS over the phone and hence there is **no such record**. The PIO submitted that the then ADS of 2008 was ill and hence no action could be initiated against him, however, he was transferred out and a new ADS was posted. Since then there was no complaint till date.

The Commission observed that the instructions ought to have been done in writing, since complaint was received in writing, and warned the public authority that in future such instructions should be done officially in writing so that there will be records. Since there is no complaint till date, the Commission accepted the submission of the PIO, though the instructions were given verbally.

3. To the query No. 13, during the hearing, the PIO submitted that since voluminous questions were sought, some of the replies were missed out due to oversight, and the complete information regarding district-wise list of State Stockists of APL rice, wheat, BPL wheat, AAY rice & wheat, indicating respective district was produced to the applicant (now appellant). The applicant (now appellant) submitted that the information so received was satisfactory.
4. To query No. 19, the applicant (now appellant) submitted that the PIO did not provide the terms & conditions to GBs for maintaining the records at the time of lifting and distribution of S.K. Oil. The PIO submitted that the Village Councils have been given the FPS (Fair Price Shop) status vide Memorandum No. SPLY/FPS/87/1 dated 3.10.1988 and also clarified that as per letter No. SPLY-6/3/2010 dated 15.04.2010 and No. DSC/SKO/7/2010-11/253 dated 18.05.2010, 50% was allocated to the District Administration for distribution to non-ration card holders/Village Councils etc. Copies of which were produced before the Commission during the hearing. However, the applicant (now appellant) submitted that the OM, letters/orders be given to him.

### **DECISION/ ORDER**

Basing on the above observations and findings, the Commission, hereby decides the following:-

1. Query No. 2: the Commission directs that the copies of the letters of the Department of Food & Civil Supplies, Nagaland, Kohima regarding recommending MARCOFED as the State implementing agency for the VGB Scheme, vide letter No. SPLY-2/17/2005 dated 16.02.2007, and extension of the term of appointment of MARCOFED as the State implementing agency for the VGB Scheme for the year 2012-13, vide letter No. SPLY-6/9/2010 dated 10.07.2012 which were produced before the Commission during the hearing be provided to the applicant (now appellant) within **one (1) week** from the date of receipt of this Decision and under intimation to this Commission.
2. Query No. 8: the Commission accepted the submission of the PIO and since there is no complaint against the ADS, Zunheboto till date, the Commission decided not to proceed further with this point of appeal.
3. Query No. 13: since the complete information regarding district-wise list of State Stockists of APL rice, wheat, BPL wheat, AAY rice & wheat, indicating respective district was furnished to the applicant (now appellant) and that the

applicant (now appellant) had expressed satisfaction of the information so received, the Commission decided not to proceed further with this point of appeal.

4. Query No. 19: the Commission directs that the copies of the letters granting FPS (Fair Price Shop) status to the Village Councils vide Memorandum No. SPLY/FPS/87/1 dated 3.10.1988 and also letter No. SPLY-6/3/2010 dated 15.04.2010 and No. DSC/SKO/7/2010-11/253 dated 18.05.2010, wherein 50% was allocated to the District Administration for distribution to non-ration card holders/Village Councils etc. which were produced before the Commission during the hearing be provided to the applicant (now appellant) within **one (1) week** from the date of receipt of this Decision and under intimation to this Commission.

This appeal case shall be closed only after compliance to Sl. No. 1 and 4 above are received.

Decision pronounced in presence of all concerned.

Copy be given to:-

1. Shri. T. Kiheto Sema, Secretary & FAA, Department of Food & Civil Supplies, Nagaland, Kohima.
2. Shri. H. Lungalang, Additional Secretary & PIO, Department of Food & Civil Supplies, Nagaland, Kohima.
3. The applicant(now the appellant), Shri. Vikheto Zhimomi, P.R. Hill, Kohima, Mobile No. 9089896123, 9615115300.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. Office copy.

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

**Sd/-**  
**Bukchem Phom**  
State Information Commissioner,  
Nagaland.

Authenticated by:-

**(SOYIMNA AIER KOZA)**  
Secretary  
Nagaland Information Commission