

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-16/2014-15

Dated Kohima, the 25th March, 2015.

Appellant: Shri. Katovi Chishi,
C/o N. Y. K. Villa,
House No. 348,
Below Fernwood School,
Upper Agri. Colony,
Kohima,
Mobile No. 9856277686/ 8794754880

Respondent(s): 1) The Secretary & First Appellate Authority,
Rural Development Department,
Nagaland, Kohima.

2) Shri. Niehusa Nakhro,
Deputy Secretary & PIO,
Rural Development Department,
Nagaland, Kohima.

Public Authority: Rural Development Department,
Nagaland, Kohima.

Date of hearing: 23.03.2015 (Monday) at 12:00 PM

Date of Decision: 25.03.2015.

Present:

1. Shri. Kelei Zeliang, Secretary & First Appellate Authority, Rural Development Department, Nagaland, Kohima, Mobile No. 9436435636.
2. Smti. Martha Ritse, Joint Secretary, Rural Development Department, Nagaland, Kohima, Mobile No. 9436161800.
3. Shri. Niehusa Nakhro, Deputy Secretary & PIO, Rural Development Department, Nagaland, Kohima, Mobile No. 9615087917.
4. Shri. Benri Patton, JSO & APIO, Rural Development Department, Nagaland, Kohima, Mobile No. 9436607893.
5. The applicant(now appellant), Shri. Katovi Chishi, C/o N. Y. K. Villa, House No. 348, Below Fernwood School, Upper Agri. Colony, Kohima, Mobile No. 9856277686.

FACT OF THE CASE

An applicant, Shri. Katovi Chishi, C/o N. Y. K. Villa, House No. 348, Below Fernwood School, Upper Agri. Colony, Kohima, Mobile No. 9856277686/ 8794754880, had submitted a RTI application dated 05.08.2014 addressed to the PIO, Rural Development Department, Nagaland, Kohima alongwith the prescribed application fee of Rs. 10/- (Rupees ten only) in cash, requesting to furnish the following information:-

- i. *The Nos. of BDOs/other Gazetted posts appointed in the Department from the year 2010-11 till date (i.e. July, 2014) with copies of appointment orders.*
- ii. *Date of appointment, mode of appointment and rules under which appointment orders were issued alongwith the present posting of the incumbent officers.*
- iii. *Copies of Departmental Service Rules, specific reasons (if any) of not applying the provisions of service rules in the course of appointment made in the Department, and also extract of file in which the decision were taken for appointment.*
- iv. *Bio-data of the officers selected for appointment in the Department:-*
 - i. *Father's Name*
 - ii. *Date of Birth*
 - iii. *Qualifications*

- iv. *Tribe*
- v. *Present address and methodology applied/ selection criteria for appointment against each officers.*

The public authority had received the above RTI application dated 05.08.2014 on the same day i.e. **05.08.2014**, as evidenced on the copy of the receipt issued.

On receipt of the above RTI application dated 05.08.2014, the then PIO & Joint Secretary, Rural Development Department, Nagaland, Kohima had, on 07.08.2014 forwarded the RTI application to the PIO of the Directorate of Rural Development Nagaland, Kohima.

However, the PIO of the Directorate of Rural Development Nagaland, Kohima had, on 12.08.2014 transferred back the RTI application to the Government i.e. Rural Development Department, Nagaland, Kohima under section 6(3)(i) & (ii) of the RTI Act, 2005 stating that the information was available at the office of the PIO in the Secretariat.

And on not getting any response or information, the applicant had preferred First Appeal dated **01.10.2014** addressed to the Appellate Authority, Rural Development Department, Nagaland, Kohima and with a copy to this Commission and the PIO, Rural Development, Nagaland.

The first appeal dated 01.10.2014 was received by the public authority on the same day i.e. 01.10.2014, as evidenced on the body of the first appeal.

And on receipt of the First Appeal dated 01.10.2014, Shri. Niehusa Nakro, Under Secretary & PIO, Rural Development Department, Nagaland, Kohima had, vide letter No. RD/RTI-34/2011 dated 09.10.2014 informed the applicant that there would be a hearing and deliberation relating to the RTI application before the Appellate Authority, Rural Development Department, Nagaland, Kohima on **21.10.2014 at 11:00 AM.**

However, the applicant (now appellant) had vide letter dated NIL wrote to the Appellate Authority, Rural Development Department, Nagaland, Kohima that since no information had been given till date, unless he receive the information as sought for, it would not be appropriate for him to attend any meeting with the Department concerning the matter. And he had once again requested the Department to immediately furnish the information so that depending on the information provided, the case could be further pursued.

The Rural Development Department, Nagaland, Kohima had held the hearing of the first appeal dated 01.10.2014 on 21.10.2014 as scheduled with the following:-

1. Shri. V. Sakhrie, Commissioner & Secretary and First Appellate Authority, Rural Development Department, Nagaland, Kohima.
2. Shri. Hilo Semp, Addl. Director, Rural Development, Nagaland, Kohima.
3. Shri. Niehusa Nakhro, Under Secretary & PIO, Rural Development Department, Nagaland, Kohima.
4. Shri. Benri, Junior Section Officer & APIO, Rural Development Department, Nagaland, Kohima.

And after the hearing on 21.10.2014, Shri. V. Sakhrie, Commissioner & Secretary and First Appellate Authority, Rural Development Department, Nagaland, Kohima had, vide No. RD/RTI-34/2011 dated **21.10.2014** issued an ex-parte order stating that the applicant (now appellant) might not be well versed with the proceedings laid down under the RTI Act and seemed to had deliberately failed to appear in the hearing which tantamount to undermine the Appellate Court and lost his liberty and opportunity to redress his grievances, and had further observed that the applicant (now appellant) was either not genuinely interested in the matter or doing it so for reasons best known to him and accordingly the case stand disposed off without any prejudice.

However, on receipt of the Order dated 21.10.2014 of the First Appellate Authority, Rural Development Department, Nagaland, Kohima on **22.12.2014**, the above applicant (now appellant) had preferred a second appeal dated 14.01.2015 before this Commission stating that even after the expiry date i.e. 05.09.2014, the PIO, Rural Development Department, Nagaland, Kohima had denied the information. Further, even before filing the first appeal, several

‘unofficial’ meetings were held with the officers wherein he was repeatedly assured that the information would be given to him, however, the information was not furnished to him. And since both the PIO and the First Appellate Authority had arbitrarily hidden the information, they had failed in their respective duties as per the RTI Act to disclose information, and hence he had lost faith with the Department to attend any meeting.

Meanwhile the public authority i.e. the Rural Development Department, Nagaland, Kohima had, vide No. RD/RTI-34/2011 dated 22.01.2015 informed the Commission that lately in the form of “Open Letter” addressed to this Commission by the above applicant regarding the RTI matter had appeared in the local papers, however, the matter had been disposed off after the hearing held on 21.10.2014 wherein the applicant did not appear, though an opportunity of being heard was given to him.

On not receiving any information from the First Appellate Authority, Rural Development Department, Nagaland, Kohima with respect to his First Appeal dated 01.10.2014 which was submitted against the non furnishing of information by the PIO, Rural Development Department, Nagaland, Kohima to his RTI application dated 05.08.2014 even after the expiry of the stipulated time, the applicant (now appellant) had preferred a Second Appeal dated 14.01.2015 before this Commission.

Since even after hearing of the First Appeal dated 01.10.2014 and passing of ex-parte order dated **21.10.2014**, no information have been furnished till date, the Commission has decided to hear the appeal, giving opportunity to the parties, on **23rd March, 2015 (Monday) at 12:00 PM**, in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima**. The Commission also directed the parties **to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing.

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellant) submitted that after he had submitted the RTI application, he had approached the Department several times and the Department had also assured him that the information would be furnished, however, the information was never furnished to him. And when the then First Appellate Authority (FAA) had called for a hearing of his first appeal on **21.10.2014 at 11:00 AM**, the applicant (now appellant) submitted that he chose not to attend the hearing stating that unless he received the information as sought for, it would not be appropriate for him to attend any meeting with the Department concerning the matter.

The Commission observed that when the then FAA had given the applicant (now appellant) an opportunity of being heard on **21.10.2014 at 11:00 AM**, it was a mistake on the part of the applicant (now appellant) for choosing not to attend the hearing and hence the applicant (now appellant) had missed his opportunity of being heard. The Commission also observed that the reason given by the applicant for not attending the hearing of his first appeal on 21.10.2014 was **not tenable**, since hearing was conducted to give opportunity of being heard, and further cautioned the applicant (now appellant) to honour the Appellate Authority and not to miss such opportunity of being heard in future. And the applicant (now appellant) had apologised before the Commission for choosing not to attend the hearing of his first appeal.

And regarding the “Open Letter” which appeared in the local papers given by the applicant (now appellant), the Commission observed that the Commission has no obligation to take up any case on the basis of publication in the newspapers unless a formal complaint or appeal is received by the Commission.

The Commission observed that the applicant (now appellant) had deliberately failed to attend the hearing of the first appeal on 21.10.2014 and chose to seek intervention of the Commission.

During the hearing, the applicant (now appellant) also submitted that since the Department had appointed their kith and kin, he requested the Commission to cancel their appointments. However, the Commission pointed out that cancelling of appointments is not within the jurisdiction of the Commission and advised the applicant (now appellant) to approach other appropriate forums or platforms.

The Commission also observed that the decision dated 21.10.2014 passed by the then FAA mentioned only the events of the RTI application leading to the first appeal and dismissing the case on the pretext of non-appearance of the applicant for the first appeal hearing but not regarding the failure in furnishing the information sought or any direction to furnish the information.

During the hearing, Shri. Kelei Zeliang, Secretary & First Appellate Authority, Rural Development Department, Nagaland, Kohima submitted that he joined the Department recently after the former First Appellate Authority, Shri. V. Sakhrie, Commissioner & Secretary, Rural Development Department, Nagaland, Kohima retired from Government service. The present FAA also submitted that since the applicant (now appellant) had deliberately failed to appear in the hearing of the first appeal on 21.10.2014, it was like a contempt of court, undermining the Appellate Authority, and questioned why the applicant (now appellant) filed the first appeal if he chose not to attend the first appeal hearing? Further, he submitted that the information is now ready and can be furnished to the applicant (now appellant).

The Commission observed that the then FAA did not give the information since the applicant (now appellant) had failed to appear in the hearing of his first appeal indicating that the applicant (now appellant) was not serious or has no interest in getting the information.

DECISION:

On the above observations and findings, the Commission decided that:-

1. from the date of receipt of this Commission's Decision, Shri. Kelei Zeliang, Secretary & First Appellate Authority, Rural Development Department, Nagaland, Kohima shall hear the case again with all the parties present and furnish the information **free of cost** to the applicant (now appellant) **within 15th April, 2015**, and with a copy to this Commission.
2. And on receipt of the information so furnished, the applicant (now appellant) shall submit satisfaction or non-satisfaction to the Rural Development Department, Nagaland, Kohima and with a copy to this Commission within **one (1) week**.

Decision pronounced in the presence of all parties present on 23.03.2015.

Copy be given to:-

1. Shri. Kelei Zeliang, Secretary & First Appellate Authority, Rural Development Department, Nagaland, Kohima, Mobile No. 9436435636.
2. Shri. Niehusa Nakhro, Deputy Secretary & PIO, Rural Development Department, Nagaland, Kohima, Mobile No. 9615087917.
3. The applicant(now appellant), Shri. Katovi Chishi, C/o N. Y. K. Villa, House No. 348, Below Fernwood School, Upper Agri. Colony, Kohima, Mobile No. 9856277686.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-

KEVININO P. MERU
Chief Information Commissioner

Sd/-

BUKCHEM PHOM
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Under Secretary