

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-13/2015-16

Dated Kohima, the 26th June, 2015.

Appellant: Smti. Zeneisüle Ate Loucü,
C 1/6, 2nd Floor,
Sector -52, Ardee City,
Gurgaon, Haryana – 122001,
Mobile No. 91-8415068612, 09971020809,
email: ateau@hotmail.com,

Respondent(s) : 1) Shri. Metsubo Jamir
Director & First Appellate Authority,
Rural Development,
Nagaland, Kohima.

2) Shri. Hilo Semp,
Additional Director & PIO,
Rural Development,
Nagaland, Kohima.

3) Shri. Kevipodi Sophie,
Project Director & PIO,
DRDA, Kohima, Nagaland.

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

Date of hearing : 23.06.2015 at 3:00 PM.

Date of Decision : 26.06.2015.

Present:

1. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima.
2. Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima.
3. Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Nagaland.
4. Smti. T. Achila Quinker, DPO & APIO, DRDA, Kohima, Nagaland.
5. Smti. Avinuo Rio, BDO & APIO, RD Block, Chiephobozou, Kohima.
6. The applicant(now appellant), Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector - 52, Ardee City, Gurgaon, Haryana – 122001, Mobile No. 91-8415068612, 09971020809, email: ateau@hotmail.com.

FACT OF THE CASE.

An applicant, Smti. Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector -52, Ardee City, Gurgaon, Haryana – 122001, Mobile No. 91-8415068612, 09971020809, email:

ateau@hotmail.com, had had earlier submitted **two (2)** RTI applications dated **12.12.2014** addressed to the PIO, Directorate of Rural Development, Nagaland, Kohima, Nagaland Civil Secretariat - 797003, requesting for:-

- i. **copies of sanction orders and drawal of VDB Welfare Fund Scheme funded for Zhadima Village by VDB** alongwith the prescribed application fee of Rs. 10 (Rupees ten only) paid vide IPO No. 17E 659363 dated 12.12.2014 **for the periods:-**; and
- ii. **copies of Fixed Deposit Certificate and Matching Cash Grant (MCG) sanctioned and drawal orders for Zhadima Village by VDB** alongwith the prescribed application fee of Rs. 10 (Rupees ten only) paid vide IPO No. 69E 930395 dated 12.12.2014 **for the periods of:-**

- i. 2004-2005
- ii. 2005-2006
- iii. 2006-2007
- iv. 2007-2008
- v. 2008-2009
- vi. 2009-2010
- vii. 2010-2011
- viii. 2011-2012
- ix. 2012-2013
- x. 2013- 31st March, 2014.

The RTI applications dated 12.12.2014 were received on **16.12.2014** by the Additional Director & PIO, Rural Development, Nagaland, Kohima as evidenced on the receipt issued to the applicant.

And on receipt of the above RTI application dated 12.12.2014 on **16.12.2014**, Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima had, vide letter No. DRD/ME/RTI-16/2014-15 dated **17.12.2014** transferred it to the Project Director & PIO, DRDA, Kohima, Nagaland alongwith the following documents from 2004 till 31st March,2014 regarding Zhadima Village under Chiephobouzou Block and with a request to furnish directly to the applicant and under intimation to him on or before 07.01.2015.

- i. Fixed Deposit Certificate and Matching Cash Grant (MCG) sanction and drawal orders by VDB.
- ii. Sanctioned Orders and drawal of NRLM.
- iii. Sanctioned Orders and drawal of Micro-Finance Scheme.
- iv. Detailed project schemes approved by DPB alongwith scheme utilization Certificates and post office time deposit account, documents submitted by BDO, Chiephobouzou to the Department.
- v. Sanctioned Orders and drawal of GIA to VDBs
- vi. Sanctioned Orders and drawal of MGNREGS
- vii. DPRs submitted to DRDA by Zhadima VDB.
- viii. Completion of works by Zhadima VDB intimated to BDO that the Plan activities have been completed for the year.
- ix. Sanctioned Orders and drawal of VDB Welfare Fund Scheme.

Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima had, by **e-mail dated 19.01.2015** informed the applicant that the information was ready which consisted of 69 pages i.e. **Rs. 138.00** (Rupees one hundred and thirty eight only). And the applicant had replied to the Project Director & PIO, DRDA, Kohima, by **e-mail dated 04.02.2015** that she would send someone to pay the cost of information and had requested to mail her the information, while she would collect the hard copies of the information when she come to Kohima.

On receipt of an amount of **Rs. 140.00** (Rupees one hundred and forty only) vide Receipt No. 28 dated **06.02.2015** towards the cost of information from the applicant, Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Nagaland had, vide letter No. DRDA/002/RTI/CPU/2012/36-38 dated **07.01.2015** furnished the information (which was received from the concerned BDO & APIO, Chiephobouzou Block) to the applicant and under intimation to the Director & FAA, Rural Development, Nagaland, Kohima. The applicant had personally received the information on **19.02.2015**.

However, on receipt of the information on **19.02.2015** from the Project Director & PIO, DRDA, Kohima, the applicant had, by Speed Post vide No. ED550636907IN dated 05.03.2015 submitted a first appeal dated **05.03.2015** to the Director & FAA, Directorate of Rural Development, Nagaland, Kohima against the above two (2) RTI applications, stating the grounds of her appeal as malafidely denied information, knowingly giving incorrect and misleading information thereby obstructed giving information. Further, the applicant(now appelland) had also requested that the PIO be directed to provide the information **free of cost**.

On receipt of the above appeal, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014 dated **19.03.2015** fixed a hearing on **31.03.2015**. However, the applicant(now appelland) had, vide letter dated **30.03.2015** submitted that **since she had been threatened of dire consequences by the Village Chairman of Zhadima Village if she attended the hearing**, she had requested the FAA for deferment of the hearing for four (4) weeks where she would appear through an authorised person in future.

And accordingly, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014/44 dated **06.04.2015** deferred the hearing to **28.04.2015 at 12:00 PM** allowing the appelland to appear through an authorised person on the condition that authorisation letter should be produced.

However, on **28.04.2015**, before the commencement of the hearing **at 12:00 PM**, the applicant(now appelland) had, at **09:53 AM** sent a **Written Argument** to the Director & FAA by email, since she was held up in Delhi due to the treatment of her husband.

And after hearing of the first appeal on **28.04.2015 at 12:00 PM**, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014/44 dated **28.04.2015** passed an exparte quasi-judicial decision stating that inspite of the Director & FAA graciously accepting the request of the applicant(now appelland) for deferment of the hearing and allowing an authorised representative, neither the applicant(now appelland) nor her authorised representative had turned up for the hearing on 28.04.2015. Instead, a

messenger was sent with a written argument against her appeal without citing any reasons for her inability to attend the hearing summoned by the Director & FAA. Further, the Director & FAA submitted that the appellant's attitude towards the Appellate Authority had been found to be disrespectful and without any regard as the applicant (now appellant) had wasted precious time of the officers concerned from allowing them to attend to their duties. And hence with the right vested with the Appellate Authority, the Director & FAA decided to close the case and that future appeals regarding the case would not be entertained.

However, on receipt of the first appeal decision dated 28.04.2015 from the Director & FAA, Directorate of Rural Development, Nagaland, Kohima on 11.05.2015, the applicant(now appellant) had preferred Second Appeal dated 24.05.2015 before this Commission, stating that **the reply to query No. 1 & 9 were incomplete, wrong, vague and misleading information,** and therefore the PIO had deliberately refused to give the correct information. Further, the applicant(now appellant) stated that notice for hearing is issued to ensure principle of natural justice. Attending hearing is voluntary and not compulsory in nature, however, if the applicant(now appellant) did not attend the hearing, the FAA is required to decide the matter based on material record. Thus, the FAA had erred in rejecting the appeal merely on the ground that the applicant was not present during the hearing. Since there is no mandatory provision under the RTI Act to call the appellant for hearing, rejection of the appeal for the reason that the appellant was not present for the hearing is illegal, malafide and contrary to the provisions of the RTI Act. Hence, the decision of the FAA dated 28.04.2015 is illegal, malafide and not consistent with the provisions of the RTI Act. Furthermore, the applicant(now appellant) had sought that:-

- i. the PIO be directed to provide the information free of cost;
- ii. withdraw the decision of the FAA dated 28.04.2015;
- iii. and impose penalty of Rs. 25,000.00 on the PIO for malafide denial of information.

Since the applicant(now appellant) had submitted a second appeal dated 24.05.2015 before this Commission, stating that in response to her RTI application dated 12.12.2014, the PIO, DRDA, Kohima, Nagaland had knowingly furnished incorrect, misleading and illegible documents and that in response to her subsequent first appeal dated 05.03.2015, the FAA had illegally, malafidely and contrary to the provisions of the RTI Act rejected her appeal merely on the ground that the applicant was not present during the hearing, the Commission had decided to hear the appeal, giving opportunity to all the parties, on **23rd June, 2015 (Tuesday) at 3:00 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

OBSERVATIONS AND FINDINGS:

During the hearing, the Commission observed that there was some confusion since the same applicant had filed 9 (nine) different RTI applications, all dated 12.12.2014 and five (5) First Appeals to the same public authority. And on being asked as to why the applicant had filed the 9 (nine) RTI applications instead of in a single application, the applicant submitted that as she had experienced in Delhi in the past, in order to avoid the possibility of some queries being skipped or missed, the queries were asked in separate RTI applications.

Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima had also submitted that the confusions could have been avoided, had the applicant filed all the nine (9) queries in a single RTI application since the information sought were all pertaining to Zhadima Village.

The applicant(now appellant) had submitted that out of the 9 (nine) different RTI applications, since she was satisfied with the information and reply to three (3) RTI applications, she did not file any appeal. However, to the remaining six (6) RTI applications, since she had received unsatisfactory information, she had filed a total of five (5) first appeals i.e 2 (two) first appeals dated 21.01.2015 and 3 (three) first appeals dated 05.03.2015.

During the hearing, the applicant(now appellant) had submitted that since the PIO had informed her that the two queries /RTI applications regarding **Sanctioned Orders and drawal of VDB Welfare Fund Scheme from 2004 to 2014** and **Fixed Deposit Certificate and Matching Cash Grant (MCG) sanction and drawal orders by VDB from 2004 to 2014** were related, she had filed against the unsatisfactory information received on the above two queries /RTI applications i.e **No. 1 and No. 9** in a combined First Appeal dated 05.03.2015.

Smti. T. Achila Quinker, DPO & APIO, DRDA, Kohima submitted that on receipt of the above RTI application dated 12.12.2014 on **18.12.2014** transferred from Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima vide letter No. DRD/ME/RTI-16/2014-15 dated **17.12.2014**, the information was furnished on receipt of the cost of information.

During the hearing, the applicant(now appellant) had submitted that the reply of the PIO was **vague and not clear**, since instead of the copies of the **Sanctioned Orders and drawal of VDB Welfare Fund Scheme from 2004 to 2014** which she had asked, Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima had, on 07-01-2015 replied that **'the fund is directly credited to VDB's Fixed Deposit Account'**.

Also during the hearing, regarding her other RTI application, the applicant(now appellant) had submitted that the information furnished was **wrong and incomplete** since instead of the copies of the **Fixed Deposit Certificate and Matching Cash Grant (MCG) sanction and drawal orders by VDB from 2004 to 2014** which she had asked, Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima had, on 07-01-2015 furnished **a total of 10 Fixed Deposit Receipts** pertaining to the year 2014 only and not for the remaining periods sought.

Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima, clarified that due to the interest accrued, the amount of figures in the Fixed Deposits keep on changing over the periods of time. And had the applicant(now appellant) asked for the Fixed Deposits amount as **on a specific date**, the allegation of the different amounts of the Fixed Deposits or **wrong and incomplete** information might not arise.

Further, the applicant(now appellant) had pointed out that since there were some amount of figures which were hand written and over-writings on some FDRs, the applicant(now appellant) had requested the FAA to certify them. However, the Director & FAA, Rural Development, Nagaland, Kohima replied that since the FDRs and TDRs

were bank documents and issued by the banks, the Public Authority has no authority to certify.

Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima, had also submitted that the amounts are directly credited to the Fixed Deposits of each VDB accounts. And on examination of the Fixed Deposit Receipts (FDRs) also known as Term Deposit Receipts (TDRs), the FDRs and TDRs are still intact indicating that no money has been drawn.

Further, the applicant(now appellant) had also submitted that in response to her first appeal dated **05.03.2015**, the FAA had passed a decision dated **28.04.2015** which was non-satisfactory since the FAA had illegally, malafidely and contrary to the provisions of the RTI Act rejected her appeal merely on the ground that the applicant was not present during the hearing.

Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima also submitted that the First Appeals were rejected on the ground that when the public authority wanted to discuss personally by calling for a hearing in two occasions, the applicant(now appellant) had failed to appear in both the two hearings. Further, instead the applicant(now appellant) had submitted a **Written Argument** through a representative without any authorisation.

The Commission observed that the PIO, DRDA, Kohima had furnished some information to the applicant(now the appellant) though the information was not complete and legible. The Commission also observed that the Decision dated **28.04.2015** passed by the Director & FAA, Rural Development, Nagaland, Kohima on the First Appeal dated 05.03.2015, rejecting her appeal merely on the ground that the applicant was not present during the hearing was **not tenable**.

The Commission also noted the threat on her life as expressed by the applicant (now appellant) during the hearing and had advised that if any threat is perceived, to bring it to the notice of the Commission with sufficient evidence.

DECISION:

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

1. since the applicant(now appellant) had submitted that the information pertaining to her **two (2) queries/RTI applications** dated 12.12.2014 were incomplete, wrong, vague, unclear and misleading; and that the Commission had over ruled the decision of the FAA dated 28.04.2015 on the First Appeal dated 05.03.2015, the Director & FAA, Rural Development, Nagaland, Kohima is directed to hear **again** the case at a convenient date of both the parties i.e. the public authority and the applicant(now appellant) wherein after clarifying the unclear, vague, wrong, incomplete and misleading information, the information shall be furnished to the satisfaction of the applicant(now appellant). And after the hearing, the decision of the Director & FAA, Rural Development, Nagaland, Kohima shall be submitted to the Commission on or before the **14th August, 2015**.

2. the applicant(now appellant) is advised to attend the hearing when the Director & FAA, Rural Development, Nagaland, Kohima schedules the date of hearing of her First Appeal dated 05.03.2015 and further directs the applicant(now appellant) to inform the Commission should any threat on her life is perceived on the day of the hearing.

Decision pronounced in presence of all parties present on 23.06.2015.

Copy be given to:-

1. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima, Mobile No. 9436601002.
2. Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima, Mobile No.9436000693.
3. Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Mobile No. 9436005096.
4. Smti. T. Achila Quinker, DPO & APIO, DRDA, Kohima, Mobile No. 9436009166.
5. Smti. Avinuo Rio, BDO & APIO, Chiephobozuo, Kohima, Mobile No. 9436016610.
6. The applicant(now appellant), Smti. Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector -52, Ardee City, Gurgaon, Haryana-122001, Mobile No. 91-8415068612, 09971020809, email: atEAU@hotmail.com.
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Sd/-

KEVININO P. MERU

Chief Information Commissioner

Sd/-

BUKCHEM PHOM

State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)

Under Secretary