

NAGALAND INFORMATION COMMISSION

**Below Raj Bhawan,
Officers' Hill Colony,
Post Box No. 148**

Nagaland, Kohima - 797001.

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No. NIC/Appeal-21/2015-16

Dated Kohima, the 12th September, 2017.

Appellant: Longri Ao,
Camp: Kohima,
Mobile No. 9436004162.

Respondent(s) : 1) The First Appellate Authority,
Department of Finance,
Government of Nagaland,
Nagaland, Kohima.

2) The concerned PIO
Department of Finance,
Government of Nagaland,
Nagaland, Kohima.

Public Authority : Department of Finance, Nagaland, Kohima.

Date of hearing : 24.11.2015 at 1:00 PM.
Date of Decision : 30.11.2015.

Date of Second hearing : 04.02.2016 at 1:00 PM.
Date of Second Decision : 06.02.2016.

Date of Third hearing : 26.07.2016 at 1:00 PM.
Date of Third Decision : 06.08.2016.

Date of Fourth hearing : 07.09.2017 at 11:00 AM.
Date of Fourth Decision : 12.09.2017.

Present:

1. Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436830060.
2. Shri. Y. Kikheto Sema, IAS, former Secretary(Budget), Finance Department and present Secretary, Land Resources Department, Nagaland, Kohima, Mobile No. 9436000186.

FACT OF THE CASE.

The Commission had, after the third hearing of the parties on 26.07.2016 at 1:00 PM., passed its decision vide even No. dated **06.08.2016**. And in compliance to the **point No. 1** of the decision of the Commission dated **06.08.2016**, Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima had, vide letter No. FIN/REV-4/GEN/2/14/158 dated **11.08.2016** furnished the explanation against Query Nos. 2 and 3 to the applicant (now appellant).

Also, in compliance to **Point No. 2** of the decision of the Commission dated 06.08.2016, the applicant (now appellant) had, on receipt of the information vide letter dated 16.11.2016 confirmed **satisfaction** of the information so furnished to him, however, stated that since he had undergone tremendous mental pressure and inconveniences while seeking the information, he had requested the Commission to take necessary action(s) or pass any necessary order(s) against the errant government official(s) for the ends of justice.

On receipt of the above compliances, and as decided earlier at **Point No. 3** in its decision dated 06.08.2016 to ascertain the delay in furnishing the information due to the misplacement or loss of the RTI file, the Commission had decided to hear the appeal case, giving an opportunity of being heard to the OSD & PIO, Department of Finance and the **Deemed PIO** i.e. former Secretary(Budget) and now Secretary, Land Resources Department on **19th January (Thursday), 2017 at 1:30 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

However, Shri. Y. Kikheto Sema, IAS, former Secretary(Budget), Finance Department and present Secretary, Land Resources Department, Nagaland, Kohima had, vide email dated **18.01.2017** informed the Commission that he was in Delhi for some official duty from 15th to 20th January, 2017, and hence requested the Commission to postpone and refix the hearing. The Commission had accepted the request and postponed the hearing for a later date.

Meanwhile, the Old Secretariat Complex wherein many offices and establishments including the Nagaland Information Commission were located was completely destroyed by fire on 02.02.2017 during the public unrest in connection with the issue of the ULB (Urban Local Bodies) elections, and no items and properties such as office files, case files, documents, records, IT equipments and office furniture etc. could be retrieved. And with no office building, the Commission had to function from the out-house of the official quarter of the State Information Commissioner at Agri Farm Colony on a stop-gap arrangement basis till an alternative office accommodation was allotted.

On the request of the Commission, the public authority i.e. the Finance Department had submitted copies of all correspondences, documents and records relating to the case for reconstruction of the case file, and the process of which could be completed only after shifting of the office to a new location around the 1st week of August 2017.

With the reconstruction of the case file and shifting of the office into a new building, the Commission has decided to hear the case again giving opportunity of being heard to the OSD & PIO, Department of Finance and the **Deemed PIO** i.e. former Secretary(Budget) and now Secretary, Land Resources Department on **7th September (Thursday), 2017 at 11:00 AM** in the Hearing Room of the Nagaland Information Commission, Below Raj Bhawan, Officers' Hill Colony, Nagaland, Kohima.

OBSERVATIONS AND FINDINGS:

Since the applicant(now appellent), Longri Ao, Camp: Kohima had submitted satisfaction with the information furnished to him, the Commission had not summoned him to appear for the hearing.

The Commission heard the case in the presence of the PIO and the Deemed PIO.

During the hearing, the Deemed PIO, Shri. Y. Kikheto Sema, IAS, former Secretary(Budget), Finance Department and now the present Secretary, Land Resources Department, Nagaland, Kohima stated that there was no record of file movement regarding the file being sent to him by the Finance Commissioner, Nagaland, Kohima. He also stated that the RTI application was received when the department was busy with the Thirteenth Finance Commission and the preparation of the Vote on Accounts and hence the RTI application might have been tied with some of the thick files by mistake and the peon might have misplaced it. However, inspite of checking all the files, the RTI file could not be found.

However, the Commission was not convinced with the above submission of the Deemed PIO since the Inquiry Report dated 01.02.2016 submitted by the public authority clearly indicated that the delay in furnishing the information to the applicant (now the appellent) was due to the missing of the RTI file containing the RTI application and the draft reply when it was endorsed by the Finance Commissioner to the then Secretary (Budget) on 06.08.2015 as reflected in the **'Out Registers'** and **'In Registers'** and which was further confirmed from the parties to the respondent present during the third hearing on 26.07.2016 at 1:00 PM. Hence, the statement made by the Deemed PIO that there was no file movement register and that too in such a very important department was **not tenable**.

The Commission took a serious view on the above deemed PIO for not taking RTI matter seriously and cautions him to take RTI matters seriously.

DECISION:

On the above observations and findings, under Section 20(1) of the RTI Act, 2005, the Commission decided to impose the maximum penalty of Rs. 25,000.00 (Rupees twenty five thousand only) on the '**Deemed PIO**' i.e Shri. Y. Kikheto Sema, IAS, former Secretary(Budget), Finance Department and now the present Secretary, Land Resources Department, Nagaland, Kohima, for contributing to the delay in furnishing the information to the applicant (now appellant).

The penalty fine shall be deposited into the Government account through **treasury challan** in favour of the Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima under the Head of Account given below, with a copy of the treasury challan to this Commission:-

0070 – Other Administrative Services
60 – Other Services
118 – Receipts under RTI Act, 2005.

The above penalty amount shall be paid within **two (2) weeks** from the date of receipt of this Commission's Decision. On receipt of the above Treasury Challan, the Commission shall declare this appeal case as closed.

Decision pronounced in presence of all parties present on 07.09.2017.

Copy be given to:-

1. Shri. Temjen Toy, IAS, Principal Secretary & Finance Commissioner & First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436000096.
2. Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436830060.
3. Shri. Y. Kikheto Sema, IAS, former Secretary(Budget), Finance Department and now the present Secretary, Land Resources Department, Nagaland, Kohima, Mobile No. 9436000186.
4. The applicant(now appellant), Longri Ao, Camp: Kohima, Mobile No. 9436004162.
5. The Consultant (Accounts), Nagaland Information Commission for information.
6. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
7. Office Copy.

Sd/-
TOSHI AIER, IAS (Retd.)
Chief Information Commissioner

Sd/-
CHANBEMO LOTHIA
State Information Commissioner

Sd/-
KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary