

NAGALAND INFORMATION COMMISSION

Old Secretariat Complex,

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Nagaland, Kohima - 797001.

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No. NIC/Appeal-21/2015-16

Dated Kohima, the 30th November, 2015.

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.

Present:

- 1) Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436830060.
- 2) Shri. H. Chingai, JSO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No.9856905886.
- 3) Shri. Lanuyapang, JSO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9862414051.

1. The First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima informed the Commission regarding his inability to appear for the hearing.
2. The applicant(now appellant), Longri Ao, Camp: Kohima, Mobile No. 9436004162 did not appear. However, he was represented by his legal representative, Shri. Pfosekho Pfotte, Gauhati High Court, Kohima Bench, Kohima, Mobile No. 9774408129.

FACT OF THE CASE.

An applicant, Longri Ao, Camp: Kohima, Mobile No. 9436004162 had submitted an RTI application dated **10.07.2015** addressed to the PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima alongwith the prescribed application fee of Rs. 10 (Rupees ten only) paid in cash seeking the following:-

1. *Kindly furnish the name of the project and amount deducted by the Finance Department in the form of 13% departmental charges from all the Centrally Sponsored Schemes (CSS) and State Plan Projects from the year 2005-2015. Please provide the information of 13% departmental charges deduction as per Project, Amount, Department and year.*
2. *How and where was the amount utilised by the State Government of the 13% Departmental Charges Deduction from 2005-2015? Please provide the information as per Department, name of project/works, year and amount expend.*

3. *How was the amount of Rs. 100 (one hundred) crores sanctioned by the Government of India during the month of March 2015 utilised by the State Government of Nagaland? Kindly furnish Detail Break Up of Scheme/Project Department wise.*
4. *How much amount has the State Government of Nagaland received this current financial 2015-16 from the Government of India. What is the budgeted amount given to different Departments of the State? Give in detail Department wise.*

The RTI application dated 10.07.2015 was received by the Public Authority on the same date i.e. 10.07.2015 as evidenced on the body of the RTI application.

On not getting any response to his RTI application dated 10.07.2015 from the PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima within the stipulated time frame of 30 days, the applicant had submitted a first appeal dated **31.08.2015** addressed to the Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima, and enclosing with a copy of his RTI application dated 10.07.2015.

The first appeal dated 31.08.2015 was received by the Sr. PS to Finance Commissioner, Nagaland, Kohima on 10.09.2015 as evidenced on the body of the first appeal. However, since there was no response from the First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima to his first appeal dated 31.08.2015 which was submitted against the non-furnishing of information to his RTI application dated 10.07.2015, the applicant had submitted a second appeal dated 30.10.2015 before this Commission.

The applicant had written in the subject line as 'complaint under section 18(1) of the RTI Act, 2005', however, since he had filed a first appeal before the First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima, the Commission had registered the case as second appeal instead of compliant.

And since there was neither any response to his first appeal dated 31.08.2015 nor to his RTI application dated 10.07.2015, the Commission has decided to hear the appeal, giving opportunity to all the parties on **24th November, 2015 (Tuesday) at 1:00 PM in Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

OBSERVATIONS AND FINDINGS:

The applicant(now appellant), Longri Ao, Camp: Kohima did not appear for the hearing and there was no prior information regarding his absence. Instead, Shri. Pfosekho Pfoffe, Gauhati High Court, Kohima Bench, Kohima, the legal representative of the applicant(now appellant) had appeared before the Commission **after 30 (thirty) minutes** for the hearing stating that the delay was due to the late receipt of the information regarding the hearing from his client.

During the hearing, Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, had produced a letter No. FIN/REV-4/GEN/2/14 dated 23.11.2015 written by Shri. Temjen Toy, IAS, Principal Secretary & Finance Commissioner and the First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima, informing the Commission regarding his inability to attend the hearing due to emergent unavoidable circumstances.

The PIO submitted that on receipt of the RTI application dated 10.07.2015 on the same date i.e. 10.07.2015, it was transferred to the Budget Branch for processing. However, after the information was readied and when the Senior Budget Analyst put up a draft reply on **05.08.2015** to the Secretary (Budget), the RTI file went missing and was not traceable till date inspite of all efforts. Further, the PIO, however submitted that the draft reply could be retrieved from the computer and furnished to the applicant(now appellant).

During the hearing, the PIO submitted that replies could have been easily given had the RTI queries were specific. He explained that in reply to query Nos. 1 and 2, the Finance Department has no authority to withdraw any amount, however, the Treasury pays 13% less to the departments and this 13% goes into the Consolidated Fund as revenue of the government which is reflected as 'recoveries'. Further, the PIO submitted that 10 years records from 2005 to 2015 is doubtful but not impossible.

Clarifying to query No. 3, the PIO submitted that the State Government of Nagaland did not receive the amount of Rs. 100 (one hundred) crores sanctioned by the Government of India during the month of March 2015. And on the query No. 4, the PIO explained that since the current financial year, 2015-16 has not yet ended or closed, the information cannot be provided, however, if the applicant so desire, the reports for the previous years can be given.

The legal representative of the applicant requested that the above oral explanation of the PIO be given **in writing**, and that information be furnished as requested.

The PIO also informed the Commission that the First Appeal dated 31.08.2015 was also not traceable and hence no hearing of the first appeal could be held by the FAA. The Commission took a serious view of the misplacing of the RTI application dated 10.07.2015 and the First Appeal dated 31.08.2015.

DECISION:

On the above observations and findings, the Commission directs:-

1. the public authority to conduct a departmental inquiry to unearth the circumstances leading to the missing of the first appeal dated 31.08.2015 which was addressed to the First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima and received by the Sr. PS to Finance Commissioner, Nagaland, Kohima on 10.09.2015 as evidenced on the body of the first appeal, and thereafter to submit its report to the Commission latest by **10th December, 2015.**
2. the PIO to furnish the information in an elaborative manner on the queries asked by the applicant(now appellant) in his RTI application dated 10.07.2015 latest by **10th December, 2015.**
3. all parties to appear for the next hearing which is scheduled be held on **20th January, 2016 at 1:00 PM.**

Decision pronounced in presence of all parties present on 24.11.2015.

Copy be given to:-

1. Shri. Temjen Toy, IAS, Principal Secretary & Finance Commissioner and the First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima.
2. Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436830060.
3. The applicant(now appellant), Longri Ao, Camp: Kohima, Mobile No. 9436004162.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-
BUKCHEM PHOM
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Deputy Secretary