

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-21/2015-16

Dated Kohima, the 6th February, 2016.

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.

Present:

1. Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436830060.
 2. Shri. Lukheto Sema, Under Secretary, Budget Branch, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9436402911.
 3. Shri. H. Chingai Panja, JSO, Department of Finance, Government of Nagaland, Nagaland, Kohima, Mobile No. 9856905886.
-
1. The First Appellate Authority, Department of Finance, Government of Nagaland, Nagaland, Kohima did not 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 Pfothe, Lawyer, Gauhati High Court, Kohima Bench, Kohima, Mobile No. 9774408129 and Ms. Nuksungtila, Lawyer, Gauhati High Court, Kohima Bench, Kohima, Mobile No. 9856123660.

FACT OF THE CASE.

The Commission had, on 24.11.2015 at 1:00 PM. heard the second appeal dated 30.10.2015 submitted by Longri Ao, Camp: Kohima, Mobile No. 9436004162 against the non-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.

And after hearing the parties on 24.11.2015 at 1:00 PM, the Commission had passed an interim decision vide even No. dated **30.11.2015**.

In compliance to the **point No. 1** of the decision of the Commission dated **30.11.2015**, Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima had, vide letter No. FIN/REV-4/RTI/4/14 dated **01.02.2016** submitted the report of the

internal (departmental) inquiry conducted regarding the missing of the RTI file **No. FIN/REV-4/RTI/7/14** and the first appeal dated 31.08.2015 as follows:-

- a. *The file was initiated by the Revenue Branch of the Finance Department on 16.07.2015 and submitted to the OSD(Gen) & PIO, Finance Department on the same day i.e. 16.07.2015, as recorded in the 'Outgoing Register' of the Revenue Branch and the 'Incoming Register' of the PIO. The 'Outgoing Register' of the PIO, Finance Department shows the file marked to the Budget Branch on 17.07.2015 as the information sought was dealt by the Budget Branch.*
- b. *The 'Incoming Register' of the Under Secretary of the Budget Branch shows receipt of the file on 17.07.2015 and his 'Outgoing Register' shows that it was endorsed to the Senior Budget Analyst on the same day i.e. 17.07.2015. The 'Outgoing Register' of the Senior Budget Analyst shows that the application was put up to the Secretary (Budget) on 05.08.2015 and the 'Incoming Register' of the Secretary (Budget) has also reflected receipt of the file on the same day i.e. 05.08.2015.*
- c. *The 'Outgoing Register' of the Secretary (Budget) shows that the file was received in the office of the Finance Commissioner on 06.08.2015. The 'Outgoing Register' of the Finance Commissioner shows that the file was sent back to the Secretary (Budget) on the same day i.e. 06.08.2015. From that onwards, the RTI file has not been traced despite all efforts.*
- d. *Assuming that the file may have accidentally tied to the files of other departments, a circular was also issued to all the departments on 12.01.2016 informing of the loss of the file and requesting return of the file to the Finance Department in case found. There is no information till date of the file being found.*
- e. *Another disturbing finding is that the copy of the first appeal received in the office of the Finance Commissioner on 11.09.2015 and endorsed to the Secretary (Budget) also finds no further reference or entries and remains untraced thereafter.*

In compliance to the **point No. 2** of the decision of the Commission dated **30.11.2015**, Shri. V. Kezo, OSD & PIO, Department of Finance, Government of Nagaland, Nagaland, Kohima had, vide letter No. FIN/REV-4/RTI/4/14/175 dated **05.12.2015** furnished the information in an elaborative manner on all the four (4) queries asked by the applicant(now appellants) in his RTI application dated 10.07.2015.

The Public Authority had also, vide Circular No. FIN/REV-4/GEN/2/14 dated **15.01.2016** circulated to all the officers and branches of the Finance Department to ensure that delays and avoidable errors are not committed in regards to RTI matters.

Also in order to hear the appeal, giving opportunity to all the parties, the Commission had, in its decision dated **30.11.2015** scheduled the next hearing on **20th January, 2016 at 1:00 PM.**

However, since the PIO & OSD, Finance Department had, vide letter No. FIN/REV-4/GEN/2/14/10 dated 18.01.2016 requested the Commission to re-schedule the date of hearing on account of presiding the State Level Bankers meeting on the same day i.e. 20th January, 2016 wherein representatives of all banks in the State as well as from the Regional Offices in Guwahati and Kolkata were involved, the Commission had accepted the request and had, vide letter of even No. dated 19.01.2016 rescheduled the hearing **on 4th February (Thursday) at 1:00 PM.**

OBSERVATIONS AND FINDINGS:

The applicant(now appellants), Longri Ao, Camp: Kohima did not appear for the hearing and there was no prior information regarding his absence. Instead, the legal representative of the applicant(now appellants), Shri. Pfosekho Pfothe accompanied by Ms. Nuksungtila, both Lawyers in the Gauhati High Court, Kohima Bench, Kohima, had appeared before the Commission.

During the hearing, the applicant(now appellants) submitted that he was **still not satisfied** with the information furnished by Shri. V. Kezo, OSD & PIO, Department of Finance, Nagaland, Kohima, vide letter No. FIN/REV-4/RTI/4/14/175 dated **05.12.2015.**

Regarding Query No. 1, the OSD & PIO, Department of Finance, Nagaland, Kohima submitted that as furnished earlier the Finance Department does not have any compiled information and hence the information can be obtained from the respective departments only. Also, since the 'Demands for Grants' depicts the actual total recovery of departmental charges effected by each department based on the accounts of the Accountant General, a copy of the 'Demands for Grants' for 2014-15 was furnished to the applicant (now appellant) as a reference.

During the hearing, the PIO further pointed out that there are about 82 departments in the State but the deductions are made only on about 30 to 40 departments. And to furnish such information for the last ten (10) years from 2005 to 2015 would take tremendous effort and time. However, the legal representative of the applicant (now appellant) had insisted on the furnishing of the above information for the whole ten (10) years from 2005 to 2015.

Since it would take a lots of efforts and time to furnish the information for the last 10 years from 2005 to 2015, and taking into account the budget session in the month of March during which the Finance Department will be busy, the PIO submitted that the information for the last two years i.e. for 2013-14 and 2014-15 will be furnished **within two (2) weeks time**. However, for the remaining periods from 2005 to 2013, he had requested the applicant to wait for some more time as he would request all the concerned departments to furnish the information directly to the applicant (now appellant).

Regarding Query No. 2, the OSD & PIO explained that the departmental charges are never recovered in cash but adjusted in accounts to cover supervision cost incurred by the government in the form of salaries, pensions etc. which are met from the Non-Plan budgetary provisions under the respective Demands for Grants. As it is not possible to accurately work out the supervision cost etc. in respect of each and every works, a lump-sum of 13% Departmental Charges is levied. This Departmental Charges of 13% is accounted as revenue of the government which is reflected as 'recoveries' in the 'Demands for Grants'.

Further, the OSD & PIO invited the applicant to his office for further explanation of how the government utilises the amount recovered from the various departments. However, the legal representative of the applicant(now appellant) insisted that the explanations of how the government utilises the amount recovered from the various departments be given **in writing**.

Regarding Query No. 3, the legal representative of the applicant(now appellant) pointed out that, the OSD & PIO had, during the first hearing on 24.11.2015 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, however, after the hearing and in compliance to the **point No. 2** of the decision of the Commission dated **30.11.2015**, the OSD & PIO, Department of Finance had, vide letter No. FIN/REV-4/RTI/4/14/175 dated **05.12.2015** furnished that the amount of Rs. 100 (one hundred) crores was sanctioned as Additional Special Central Assistance to the State Government for the year in addition to the Rs. 750 crore approved by the Planning Commission in the State Plan Outlay.

The OSD & PIO, while admitting that it was a mistake in the different replies, submitted that the second reply dated 05.12.2015 should be the correct one since it was furnished by the Budget Branch. Since the PIO had submitted that the second reply dated 05.12.2015 was the correct one, the legal representative of the applicant(now appellant) had requested him to furnish the utilisation of the amount of Rs. 100 (one hundred) crores sanctioned by the Government of India during the month of March 2015 by the State Government of Nagaland.

The PIO submitted that he would check his records and shall furnish to the applicant (now appellant) whatever available information **within two (2) weeks time**.

Regarding Query No. 4, the PIO submitted that the receipts of the State government will be available in the final accounts only after the close of the financial year i.e. on 31st March, 2016 and a copy of the 'Demands for Grants' for 2015-16 was furnished. However, the final report will be available only after reconciliation with the Treasury which will take about two (2) weeks, and hence, the information can be furnished by **20th April, 2016**.

On the report of the Departmental Inquiry regarding the missing RTI file and the first appeal dated 31.08.2015, the Commission had viewed very seriously since the RTI file and the

first appeal dated 31.08.2015 could not be traced out even after thorough departmental inquiry was conducted.

DECISION:

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

1. **Regarding Query No. 1**, the OSD & PIO shall furnish the information for the last two years i.e. for 2013-14 and 2014-15 to the applicant (now appellant) **within two (2) weeks** from the date of receipt of this Decision. However, for the remaining periods from 2005 to 2013, the information shall be furnished to the applicant (now appellant) latest by **20th April, 2016**.
2. **Regarding Query No. 2**, the OSD & PIO shall explain **in writing** how the amount was utilised latest by **20th April, 2016**, with a copy to the applicant (now appellant) and to this Commission.
3. **Regarding Query No. 3**, the OSD & PIO shall furnish to the applicant (now appellant) the information regarding the utilisation of the amount **within two (2) weeks** from the date of receipt of this Decision, and with a copy to this Commission.
4. **Regarding Query No. 4**, as submitted by the OSD & PIO, the information shall be furnished to the applicant (now appellant) latest by **20th April, 2016**, and with a copy to this Commission.
5. Regarding the missing of the RTI file **No. FIN/REV-4/RTI/7/14** and the first appeal dated 31.08.2015, the Commission directs the OSD & PIO to ascertain the attendance records of the Stenos, Peons and other Assistants on that day when the first appeal dated 31.08.2015 and the RTI file was out from the Office Chamber of the Finance Commissioner & FAA, Finance Department, Nagaland, Kohima and to submit it to the Commission **within two (2) weeks time** from the date of receipt of this Decision.

Decision pronounced in presence of all parties present on 04.02.2016.

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

Chief Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)

Secretary