

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-30/2015-16

Dated Kohima, the 21st September, 2016.

Appellant: Shri. Kielie Nakhro,
Advocate,
Upper A.G Colony,
Near Lerie Bank,
Kohima,
Mobile No. 8014214292, 8974888785.

Respondent(s) : 1) The Director & First Appellate Authority,
Directorate of Agriculture,
Nagaland, Kohima.

2) Shri. Helie Rupreo,
Joint Director & PIO,
Directorate of Agriculture,
Nagaland, Kohima.

Public Authority : Directorate of Agriculture, Nagaland, Kohima.

Date of hearing : 22.01.2016 at 1:00 PM.
Date of Decision : 25.01.2016.

Date of second hearing : 18.02.2016 at 12:00 PM.
Date of second Decision : 27.02.2016.

Date of third hearing : 11.03.2016 at 1:00 PM.
Date of third Decision : 15.03.2016.

Date of fourth hearing : 06.09.2016 at 11:00 AM.
Date of fourth Decision : 21.09.2016.

Present:

1. The Director & FAA, Agriculture, Nagaland, Kohima.
2. Shri. Helie Rüpreo, Additional Director & PIO, former Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436062336.
3. Shri. S.Sosangmar Jamir, Joint Director & APIO, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436006351.
4. Smti. Tili Kent, Superintendent, former Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9856145906.
5. Shri. Dzieseviso, AFA, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9863203392.
6. Shri. Akum Jamir, the Legal Consultant, Mobile No. 9436076328.

The applicant (now the appellant), Shri. Kielie Nakhro, Advocate, Upper A.G Colony, Near Lerie Bank, Kohima, Mobile No. 8014214292 did not appear for the hearing.

FACT OF THE CASE.

The Commission had, in its third hearing held on 11.03.2016 at 1:00 PM. passed decision dated 15.03.2016, and in compliance to Point No. 1 of the Commission's decision of even No. dated 15-03-2016, this Commission had, vide letter No. AGR/RTI-APPEAL/COMM/2014-15/390 dated 13-04-2016 received copy of the treasury challan vide No. 3 dated 05-04-2016 for Rs 1000/- (Rupees one thousand only) as the penalty amount from Smti. Tili Kent, Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima.

Also in compliance to Point No. 2 of the above same decision, this Commission had, vide letter No. AGR/RTI-APPEAL/COMM/2014-15/353-54 dated 22-03-2016 received the sworn affidavit regarding the outcome of Enquiry Committee duly signed by the PIO and the resignation letter of Mr. Imchoba Yimchunger, Driver, SDAO, Kiphire.

On receipt of the above compliances, the Commission had, in its third decision dated 15.03.2016 decided to close the case, however, Shri. Helie Rūpreo, Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima had submitted a letter vide No. AGR/RTI-APPEAL/IIC/2015-16/389 dated 13.04.2016 requesting the Commission **to review** some points in its observations and findings of the Commission's Decision dated 27-02-1016 in order to keep the correct and factual status on record for future reference.

The Commission has decided to hear the appeal on **6th September, 2016 (Tuesday) at 11:00 A.M** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Nagaland, Kohima.**

OBSERVATIONS AND FINDINGS:

The applicant (now appellant) did not appear for the hearing.

During the hearing, Shri. Helie Rūpreo, Additional Director & PIO, referring to the earlier hearing held on 18.02.2016 at 12:00 PM stated that he had petitioned to the Commission vide letter dated 13.04.2016 for review of certain observations wrongly attributed to him and which, if not corrected or set right now could give rise to a misleading picture and also negatively impact on his reputation as a career officer.

In regard to the first point of his letter dated 13.04.2016 to the Commission, the PIO clarified that "his submission before the Commission during the hearing on 18.02.2016 was a reference to a general term that 'the Department do not keep the files/records of more than 20 years old'. Since he had never stated that the concerned file was weeded out or burnt by fire at any point of time during the proceedings, the question of submitting the proof or evidence of damage by fire or theft of the files and records does not arise".

The Commission informed that since all the compliances to its last decision dated 15.03.2016 have been received including the penalty imposed and also that the resignation letter of Mr. Imchoba Yimchunger, Driver (Retd), DAO, Kiphire could be located and furnished, the Commission was satisfied and was about to close the case, however, pending disposal of the aforementioned review petition, the case could not be closed.

Shri. Akum Jamir, the Legal Consultant of the public authority also reiterated the stand of the PIO for correction of the records since it may be used as a misleading reference in the future and might become a precedent for other cases. He further opined that the statements made in the

order of the Commission could be corrected or deleted, since it was just an observation and not uttered by the PIO.

The Commission observed that the issue raised by the PIO were on the observations and findings and not on the decision of the Commission per se. Nevertheless, the Commission also agreed with the PIO regarding setting the records right since the present RTI case could be used for case study purposes.

The Commission further observed that prior to taking the above decision, three (3) hearings were held and that the submission made by the PIO to the effect that inspite of all efforts put in by his staff to search the files/records, the resignation letter of Mr. Imchoba Yimchunger, Driver (Retd), DAO, Kiphire could not be found as the information asked was more than 20 years old in the hearing held on 18.02.2016 may have given rise to the presumption that the file might have been lost or burnt or weeded out as was held by the Commission and duly reflected in its observations dated 27.02.2016.

During the hearing today also, the PIO submitted that he had never stated that the records have been weeded out or burnt but only said that the information asked was more than 20 years old, and further that the departmental staff namely, (i) Shri. S. Sosangmar Jamir, Joint Director & APIO, (ii) Smti. Tili Kent, Superintendent, former Assistant Superintendent, (iii) Shri. Dzieseviso, AFA, and (iv) Shri. Akum Jamir, the Legal Consultant who were present during the last hearing on 18.02.2016 were also present again during the hearing today and vouched that the PIO had never said it.

Since the information sought in question i.e. the resignation letter of Mr. Imchoba Yimchunger, Driver, SDAO Office, Kiphire, could be located and furnished to the applicant and that the Commission had also received a copy of the above resignation letter, the Commission was now convinced that the record in question was never weeded out or burnt or damaged by fire or theft of the files and records.

Further, the Commission noted the public authority and the PIO in putting all out efforts in tracing out the resignation letter of Mr. Imchoba Yimchunger, Driver, SDAO Office, Kiphire (which was more than 20 years old) from the Directorate and in submitting a sworn affidavit regarding the outcome of Enquiry Committee, which were furnished to the applicant (now appellatant) and to this Commission. The Commission also advised the public authority to ensure proper record maintenance in future as per the relevant Records Management guidelines/principles.

Regarding the second issue of the Commission not having given any specific rulings in respect of the multiple RTI applications which the PIO has alleged as being tampered, the Commission made its stand clear and firm that during the hearing on 18.02.2016 at 12:00 PM, the applicant(now appellatant) had, as submitted earlier that it was not tampered and that since additional information was required, he had sent his representative to replace the first RTI application dated 21.07.2015 containing two (2) queries with another RTI application dated 22.07.2015 containing three (3) queries, however, his representative had failed to do as instructed.

The Commission observed that though the multiple RTI applications had created confusion, irrespective of the multiple or tampered RTI application, since all the information had already been furnished and the penalty paid, the case needs to be closed and that no further course of action was found warranted. However, the Commission caution the applicant(now the appellatant) to be careful and that such thing should not be repeated in future.

DECISION:

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

1. Since the same staff (party to the respondent) who were present during the last hearing and also in today's hearing had vouched that the PIO had not stated that the records were burnt or weeded out, and that since the Commission was convinced that the record was never weeded out or burnt or damaged by fire or theft of the files and records as a copy of the resignation letter of Mr. Imchoba Yimchunger, Driver, SDAO Office, Kiphire, which was located and furnished to the applicant was also received, the Commission hereby decides that the Commission in the hearing on 18.02.2016 had inadvertently observed as thus: "*The PIO also submitted that the information asked was more than 20 years old and might have been weeded out or burnt..... The Commission observed that had there been damage by fire or theft of the files and records, such proof or evidence should be available and need to be produced.*" shall now stand deleted from its decision dated 27.02.2016.
2. The applicant(now appellant) is cautioned to be careful and should not repeat such thing/mistake in future.

The Commission now closes this appeal case.

Decision pronounced in the presence of the parties on 06.09.2016.

Copy be given to:-

1. The Director & FAA, Directorate of Agriculture, Nagaland, Kohima.
2. Shri. Helie Rupreo, Additional Director (now) and former Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436062336.
3. Shri. S. Sosangmar Jamir, Joint Director & APIO, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436006351.
4. Smti. Tili Kent, Superintendent, former Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9856145906.
5. Shri. Dzieseviso, AFA, Directorate of Agriculture, Nagaland, Kohima.
6. The applicant (now the appellant), Shri. Kielie Nakhro, Advocate, Upper A.G Colony, Near Lerie Bank, Kohima, Mobile No. 8014214292, 8974888785.
7. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
8. Office Copy.

Sd/-

TOSHI AIER, IAS (Retd.)
Chief Information Commissioner

Sd/-

CHANBEMO LOTH
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary