

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 25th January, 2016.

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

Respondent(s) : 1) Shri. Bendangyanger
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.

Present:

1. Shri. Bendangyanger, Director, Directorate of Agriculture, Nagaland, Kohima.
2. Shri. Helie Rupreo, Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima.
3. Smti. Tili Kent, Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima.
4. Shri. Dzieseviso, AFA, Directorate of Agriculture, Nagaland, Kohima.

The applicant (now the appellant), Shri. Kielie Nakhro, Advocate, Upper A.G Colony, Near Lerie Bank, Kohima, Mobile No. 8014214292, 8974888785 **did not appear** for the hearing.

FACT OF THE CASE.

An applicant, Shri. Kielie Nakhro, Advocate, Upper A.G Colony, Kohima, Mobile No. 8014214292 had submitted an RTI application dated 21.07.2015 addressed to the PIO, Directorate of Agriculture, Nagaland, Kohima alongwith the prescribed application fee of Rs. 10/- (Rupees ten only) paid in cash seeking the following information for public interest:-

- i. *copy of the application for resignation in r/o Shri. Inchoba Yimchunger, Driver(Retd) under DAO, Kiphire.*
- ii. *Copy of the list of all the employees from the designation of SDAO and below during the year 1991.*
- iii. *The name of the incumbent appointed in place of Shri. Inchoba Yimchunger, Driver(Retd).*

The above RTI application dated 21.07.2015 was received by the public authority and a copy of the receipt of Rs. 10/- vide No. 60 dated 21.07.2015 was enclosed.

On not getting any information or response to his RTI application dated 21.07.2015 within the stipulated time frame from the PIO, Directorate of Agriculture, Nagaland, Kohima, the applicant had submitted a first appeal dated 06.10.2015 to the Appellate Authority, Directorate of Agriculture, Nagaland, Kohima.

In response to the above RTI application dated 21.07.2015, Shri. Bendangyanger, Director, Directorate of Agriculture, Nagaland, Kohima had, vide letter No. AGR/RTI-2/2014-15/220-21 dated **30.10.2015** furnished the information to the applicant.

On not getting all the information and the reason for not providing the information, the applicant (now appellant) had submitted a second appeal dated 14.12.2015. Further, he stated that the First Appellate Authority, Directorate of Agriculture, Nagaland, Kohima did not adhere to the penalty provision under Section 20 of the RTI Act, 2005 during the hearing of the first appeal dated 06.10.2015 on 02.11.2015. However, no record of hearing of the first appeal dated 06.10.2015 on 02.11.2015 was found enclosed.

The Commission has decided to hear the appeal, giving opportunity to all the parties on **22nd January, 2016 (Friday) at 1:00 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

OBSERVATIONS AND FINDINGS:

The applicant (now the appellant) had on 21.01.2016, submitted to the Commission a letter dated NIL requested for adjournment of the hearing scheduled on 22.01.2016 at 1:00 PM and to refix the hearing in the following week. However, the Commission did not accept the request for postponement of the hearing and had decided to hear the case exparte.

During the hearing on 22.01.2016 at 1:00 PM, Shri. Helie Rupreo, Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima had submitted that on receipt of the RTI application dated 21.07.2015 on the same day i.e. 21.07.2015, he had endorsed it to the Registrar. The PIO had informed that the Registrar had retired from government service on 30.11.2015, and had produced a statement from Smti. Anungla Longchar, Registrar (Retd.) stating that on receipt of the RTI application dated 21.07.2015 from the RTI Cell on 21.07.2015, she had asked the information from the UDA, Office of the District Agriculture Officer, Kiphire on 22.07.2015. And the information received from the DAO, Kiphire, was handed to Smti. Tili Kent, Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima, however, the information was misplaced and never reached her table. However, again the same information was obtained from the DAO, Kiphire and re-furnished to the applicant.

Smti. Tili Kent, Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima, who was present during the hearing submitted that she had personally received the information from the DAO, Kiphire sometime in the 3rd week of August, 2015. And since the Registrar was on leave, she had left the information on the table of the Registrar. However, since it was reported that the information was found missing, the information was obtained again from the DAO, Kiphire and furnished to the applicant.

The PIO also pointed out to the Commission that he had received two (2) RTI applications – one application dated 21.07.2015 from the applicant regarding two(2) queries and again another similar RTI application but dated 22.07.2015 with three(3) queries on the same subject matter. On scrutiny, the Commission also observed that besides the above two RTI applications, the RTI application enclosed by the applicant in his second appeal was dated 21.07.2015 and with three(3) queries on the same subject matter.

Shri. Bendangyanger, Director, Directorate of Agriculture, Nagaland, Kohima submitted that on receipt of the first appeal dated 06.10.2015, he had called the applicant for a meeting on 02.11.2015, wherein the information was furnished to the applicant. Further, it was also submitted that the applicant had demanded for imposing penalty by the FAA and that the penalty amount be given to the applicant. The Director & FAA submitted that due to ignorance, there was no record of the meeting regarding the first appeal.

The Commission observed that the information had already been furnished to the applicant (now appellant) though belatedly. However, on the demand of the applicant for imposing penalty by the FAA and the penalty amount, the Commission clarified that under the RTI Act, 2005, the FAA has no authority to impose any penalty since the power to impose penalty lies with the Commission only and that the applicant has no right to demand penalty amount. The Commission also pointed out that as per the Nagaland State Right to Information

(Regulation of Fee and Cost) Rules, 2005, the penalty amount is deposited into the Government Treasury through a treasury challan.

DECISION:

On the above observations and findings, since the applicant (now the appellant) did not appear for the hearing, the Commission decided to give opportunity of being heard to the applicant (now the appellant) in the next hearing which was fixed on **18th February (Thursday), 2016 at 12:00 PM.**

Decision pronounced in the presence of the respondents only on 22.01.2016.

Copy be given to:-

1. Shri. Bendangyanger, Director, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436001634.
2. Shri. Helie Rupreo, Joint Director & PIO, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9436062336.
3. Smti. Tili Kent, Assistant Superintendent, Directorate of Agriculture, Nagaland, Kohima, Mobile No. 9856145906.
4. The applicant (now the appellant), Shri. Kielie Nakhro, Advocate, Upper A.G Colony, Near Lerie Bank, Kohima, Mobile No. 8014214292, 8974888785.
5. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
6. Office Copy.

Sd/-
BUKCHEM PHOM
Chief Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary