

NAGALAND INFORMATION COMMISSION

Below Raj Bhavan, Officers' Hill Colony

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No.NIC/Appeal-34/2015-16

Dated Kohima, the 28th September, 2017.

Appellant : Shri. Alok,
S/o Shri. Mehar Singh,
H.No.1508, Urban Estate,
Jind-126102, Haryana,
Mobile No. 09996701508.

Respondent(s) : i.Dr. Imotemsu Ao, Director-cum-Registrar & FAA,
The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

ii.Shri. Keluozie Kesiezie, AAO & PIO,
The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

Public Authority : The Global Open University Nagaland,
Sodzulhou Village, P.O – ARTC, NH-39,
Dimapur, Nagaland – 797115.

Date of first hearing : 27.10.2016 at 11:00 AM.
Date of first Decision : 24.11.2016

Date of second hearing : 22.09.2017 at 11:00 AM.
Date of second Decision : 28.09.2017

Present:

Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9774418461.

Did not appear for the hearing:

1. Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9436070457; and
2. The applicant (now appellant), Shri. Alok, S/o Shri. Mehar Singh, H.No.1508, Urban Estate, Jind-126102, Haryana, Mobile No. 09996701508.

FACTS OF THE CASE

The Commission had, on 27.10.2016 at 11:00 AM heard the appeal case in the presence of Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority and Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland and had passed decision dated 24.11.2016 with the following directives:

1. Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland shall submit the date of the receipt of the RTI application dated **17.10.2015** within **one(1) month** from the date of issue of the decision.
2. Since the information had already been furnished to the applicant (now appellant), the PIO shall obtain from the applicant (now appellant) satisfaction or non-satisfaction of information furnished to him and submit a copy to this Commission.

On receipt of the Commission's decision dated 24.11.2016, Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland had, vide letter No. GOUN/2-

14/16/B/378 dated 30.11.2016 and No. GOUN/2-14/16/B/05 dated 14.01.2017 submitted compliance to this Commission.

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 guard 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 Global Open University Nagaland 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.

Sufficient time has lapsed however, since the Commission has not received any confirmation regarding the satisfaction or non-satisfaction of the information furnished to the applicant (now appellant) and in order to ascertain the delay in furnishing the information to the applicant (now appellant), the Commission had decided to hear the case again on **22nd September (Friday), 2017 at 11:00 A.M** in the Hearing Room of Nagaland information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima.

OBSERVATIONS AND FINDINGS

The applicant (now appellant), Shri. Alok and Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Dimapur did not appear for the hearing, and the hearing was conducted only in the presence of Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland.

During the hearing, Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO informed that in the early part of 2016, the office of The Global Open University Nagaland (TGOUN) of Kohima campus was fully shifted to Dimapur campus. He submitted that in compliance to the directives of the Commission, he had issued reminders to the applicant (now appellant) vide letter No. GOUN/2-14/16/B/378 dated 30.11.2016 and No. GOUN/2-14/16/B/05 dated 14.01.2017, however, there was no response from the applicant (now appellant) till date.

Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO, The Global Open University Nagaland formerly Kohima Campus (now Dimapur Campus) had, earlier vide letter No. GOUN/2-14/16/B/378 dated 30.11.2016 submitted to this Commission that the RTI application dated 17.10.2015 was received by the Public Authority on **14.01.2016**. However, on examination of the Receipt Registers and the files produced before the Commission during the hearing, it was found that the RTI application was actually received by Shri. Mhonchumo, LDC, The Global Open University Nagaland, Dimapur Campus on **02.11.2015** who later transferred it to Smti. Ruth Difusa, the then Assistant Administrative Officer & PIO of Dimapur Campus on **14.01.2016**. In the meantime, while Smti. Ruth Difusa, the then Assistant Administrative Officer & PIO of Dimapur Campus had started processing the file, the Kohima campus was shifted to Dimapur. Shri. Keluozie Kesiezie, the Assistant Administrative Officer & PIO, Kohima campus had also got shifted and posted to Dimapur Campus. And after having shifted from Kohima Campus to Dimapur Campus, he received the file containing the RTI application on **01.03.2016** which was evidenced on the file noting of the RTI file produced during the hearing. The file was then endorsed to the Controller of Examination who furnished the information to the applicant (now appellant) vide letter No. TGOUN/EX/8-5/15 B/157 dated **06.04.2016**.

On being asked by the Commission as to why the information was furnished by the Controller of Examination and not by the PIO, Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO submitted that since the RTI application was regarding the issuance of Degree Certificate and as the Controller of Examination dealt with the issuance of the Degree Certificates, the file containing the RTI application was endorsed to the Controller of Examination for issuance of the Degree Certificate to the applicant (now appellant). However, the Assistant Administrative Officer & PIO could not furnish any proof of date on which the file pertaining to the RTI application was endorsed to the Controller of Examination.

The Commission had observed that the information was furnished to the applicant(now appellant) only on **06.4.2016** i.e. after **156 days** from the date of receipt of the RTI application dated 17.10.2015 on **02.11.2015**. On scrutiny of the **Receipt Registers** and the **file notings** of the RTI files which were produced before the Commission during the hearing, the Commission observed that the delay in furnishing the information to the applicant (now the appellant) was contributed by the following persons as per the details shown below, and therefore, under Section 5(5) of the RTI Act, 2005, they have now become '**Deemed PIOs**'.

Name of Deemed PIO	Date of receipt of RTI application	Date of transfer/ furnishing	No. of days taken
Shri. Mhonchumo, LDC, Dimapur Campus.	02.11.2015	14.01.2016	73 days
Smti. Ruth Difusa, AAO & PIO, Dimapur Campus.	14.01.2016	01.03.2016	47 days
Shri. Keluozie Kesiezie, AAO & PIO, Kohima Campus (now Dimapur Campus)	01.03.2016	06.04.2016	36 days
Total number of days taken to furnish information			156 days

From the date of expiry of the **30 days** prescribed for the PIO to furnish the information, the number of days of delay becomes (156 – 30) days = **126 days**. However, since Section 20(1) provides for imposing penalty for maximum of 100 days of delay, the Commission had worked out the days of delay contributed by each of the three (3) '**deemed PIOs**' as shown below:-

Name of Deemed PIO	No. of days of delay
Shri. Mhonchumo, LDC, Dimapur Campus.	47 days
Smti. Ruth Difusa, AAO & PIO, Dimapur Campus.	30 days
Shri. Keluozie Kesiezie, AAO & PIO, Kohima Campus (now Dimapur Campus)	23 days
Total=	100 days

The Commission had also observed that inspite of its directive and reminder to the Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland to hear and pass decision on the first appeal dated 14.12.2015, the FAA had, though issued notice for the hearing of the first appeal on 10.03.2016 at 12:00 PM, he had, very lately passed his decision dated 19.10.2016 which was only after the Commission had on 12.10.2016 issued Notice for the hearing to be held on 27.10.2016. The Commission, therefore, gives the benefit of doubt that the FAA had actually heard the hearing of the first appeal as directed. As also observed during the first hearing held on 27.10.2016 at 11:00 AM, the Commission had again viewed very seriously the lackadaisical attitude of both the Director-cum-Registrar & First Appellate Authority and the AAO & PIO, The Global Open University Nagaland in handling the RTI matter. Therefore, the public authority is advised to sensitise its employees on RTI and also cautioned to take RTI matters seriously.

DECISION

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

1. The PIO shall issue a last reminder to the applicant (now appellant) to submit confirmation of satisfaction or non-satisfaction of information furnished to him **within one (1) month** from the date of receipt of this decision, with a copy to this Commission. If the applicant (now appellant) does not respond to the reminder within the above stipulated time, the information furnished to him shall be considered as satisfied.
2. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for the total delay of 100 days, amounting to Rs. 25,000/- (Rupees twenty five thousand only) is to be imposed for failure to furnish the information sought within the prescribed period of 30 days without reasonable cause. The penalty amount shall be shared among the following three (3) '**deemed PIOs**' for contributing to the delay in furnishing the information to the applicant (appellant).

Hence, the following three (3) ‘**deemed PIOs**’ are show cause as to why they should not pay the following penalties at the rate of Rs. 250/- for each day of delay for contributing to the delay in furnishing the information to the applicant (now appellant):-

Name of Deemed PIO	No. of days of delay	Penalty @ Rs. 250/- per day of delay
Shri. Mhonchumo, LDC, Dimapur Campus.	47 days	Rs. 11,750.00
Smti. Ruth Difusa, AAO & PIO, Dimapur Campus.	30 days	Rs. 7500.00
Shri. Keluozie Kesiezie, AAO & PIO, Kohima Campus (now Dimapur Campus)	23 days	Rs. 5750.00
Total=	100 days	Rs. 25,000.00

The penalty amount shall be paid within **one (1) month** from the date of receipt of this decision. The penalty amount shall be deposited into the Government account through **treasury challan** in favour of the Consultant (Accounts), Nagaland Information Commission, Kohima under the Head of Account given below, with a copy to this Commission:

0070 - Other Administrative Services

60 - Other Services

118 – Receipts under RTI Act, 2005

Decision pronounced in presence of only the respondent on 22.09.2017.

Copy be given to:

1. Dr. Imotemsu Ao, Director-cum-Registrar & First Appellate Authority, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115.
2. Shri. Keluozie Kesiezie, Assistant Administrative Officer & PIO -I, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115, Mobile No. 9774418461.
3. Smti. Ruth Difusa, Assistant Administrative Officer & PIO -III, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115.
4. Shri. Mhonchumo, LDC, The Global Open University Nagaland, Sodzulhou Village, P.O – ARTC, NH-39, Dimapur, Nagaland – 797115.
5. The applicant (now appellant), Shri. Alok, S/o Shri. Mehar Singh, H.No.1508, Urban Estate, Jind-126102, Haryana, Mobile No. 09996701508.
6. The Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima for information.
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 LOTHIA
State Information Commissioner

Sd/-

KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary