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-13/2015-16 Dated Kohima, the 4th June, 2015.

Subject: Notice for Hearing on 23rd June, 2015 (Tuesday) at 3:00 PM.

WHEREAS under Section 19 of the Right to Information Act, 2005, the Nagaland Information Commission had on 02.06.2015 received a second appeal dated 24.05.2015 from Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector -52, Ardee City, Gurgaon, Haryana – 122001, Mobile No. 91-8415068612, email: ateau@hotmail.com, stating that in response to her RTI application dated 12.12.2014, the PIO, DRDA, Kohima, Nagaland had knowingly furnished wrong, incomplete and misleading information and that in response to her subsequent first appeal dated 05.03.2015, the FAA had illegally, malafidely and contrary to the provisions of the RTI Act rejected her appeal merely on the ground that the applicant was not present during the hearing.

AND WHEREAS, the above applicant had earlier submitted two (2) RTI applications dated **12.12.2014** addressed to the PIO, Directorate of Rural Development, Nagaland, Kohima, Nagaland Civil Secretariat - 797003, requesting for:-

i. **copies of sanction orders and drawal of VDB Welfare Fund Scheme funded for Zhadima Village by VDB** alongwith the prescribed application fee of Rs. 10 (Rupees ten only) paid vide IPO No. 17E 659363 dated 12.12.2014; and
ii. **copies of Fixed Deposit Certificate and Matching Cash Grant (MCG) sanctioned and drawal orders for Zhadima Village by VDB** alongwith the prescribed application fee of Rs. 10 (Rupees ten only) paid vide IPO No. 69E 930395 dated 12.12.2014 **for the periods of**:-
    i. 2004-2005
    ii. 2005-2006
    iii. 2006-2007
    iv. 2007-2008
    v. 2008-2009
    vi. 2009-2010
    vii. 2010-2011
    viii. 2011-2012
    ix. 2012-2013
    x. 2013- 31st March, 2014.

AND WHEREAS, the RTI applications dated 12.12.2014 were received on **16.12.2014** by the Additional Director & PIO, Rural Development, Nagaland, Kohima as evidenced on the receipt issued to the applicant.

AND WHEREAS, on receipt of the above RTI application dated 12.12.2014 on **16.12.2014**, Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima had, vide letter No. DRD/ME/RTI-16/2014-15 dated **17.12.2014** transferred it to the Project Director & PIO, DRDA, Kohima, Nagaland alongwith the following documents from 2004 till 31st March,2014 regarding Zhadima Village under Chiephobouzou Block and with a request to furnish directly to the applicant and under intimation to him on or before 07.01.2015.

i. Fixed Deposit Certificate and Matching Cash Grant (MCG) sanction and drawal orders by VDB.
ii. Sanctioned Orders and drawal of NRLM.
iii. Sanctioned Orders and drawal of Micro-Finance Scheme.
iv. Detailed project schemes approved by DPB alongwith scheme utilization Certificates and post office time deposit account, documents submitted by BDO, Chiephobouzou to the Department.
v. Sanctioned Orders and drawal of GIA to VDBs
vi. Sanctioned Orders and drawal of MGNREGS
vii. DPRs submitted to DRDA by Zhadima VDB.

viii. Completion of works by Zhadima VDB intimated to BDO that the Plan activities have been completed for the year.
ix. Sanctioned Orders and drawal of VDB Welfare Fund Scheme.

AND WHEREAS, the Project Director & PIO, DRDA, Kohima had, by **e-mail dated 19.01.2015** informed the applicant that the information was ready which consisted of 69 pages i.e. **Rs. 138.00** (Rupees one hundred and thirty eight only). And the applicant had replied to the Project Director & PIO, DRDA, Kohima, by **e-mail dated 04.02.2015** that she would send someone to pay the cost of information and had requested to mail her the information, while she would collect the hard copies of the information when she come to Kohima.

AND WHEREAS, on receipt of an amount of **Rs. 140.00** (Rupees one hundred and forty only) vide Receipt No. 28 dated **06.02.2015** towards the cost of information from the applicant, Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Nagaland had, vide letter No. DRDA/002/RTI/CPU/2012/36-38 dated **07.01.2015** furnished the information (which was received from the concerned BDO & APIO, Chiephobouzou Block) to the applicant and under intimation to the Director & FAA, Rural Development, Nagaland, Kohima. The applicant had personally received the information on **19.02.2015.**

AND WHEREAS, however, on receipt of the information on **19.02.2015** from the Project Director & PIO, DRDA, Kohima, the applicant had, by Speed Post vide No. ED550636907IN dated 05.03.2015 submitted a first appeal dated **05.03.2015** to the Director & FAA, Directorate of Rural Development, Nagaland, Kohima against the above two (2) RTI applications, stating the grounds of her appeal as malafidely denied information, knowingly giving incorrect and misleading information thereby obstructed giving information. Further, the applicant(now appellant) had also requested that the PIO be directed to provide the information **free of cost.**

AND WHEREAS, on receipt of the above appeal, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014 dated **19.03.2015** fixed a hearing on **31.03.2015**. However, the applicant(now appellant) had, vide letter dated **30.03.2015** submitted that **since she had been threatened of dire consequences by the Village Chairman of Zhadima Village if she attended the hearing**, she had requested the FAA for deferment of the hearing for four (4) weeks where she would appear through an authorised person in future.

AND WHEREAS, accordingly, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014/44 dated **06.04.2015** deferred the hearing to **28.04.2015 at 12:00 PM** allowing the appellant to appear through an authorised person on the condition that authorisation letter should be produced.

AND WHEREAS, however, on **28.04.2015,** before the commencement of the hearing **at 12:00 PM**, the applicant(now appellant) had, at **09:53 AM** sent a **Written Argument** to the Director & FAA by email, since she was held up in Delhi due to the treatment of her husband.

AND WHEREAS, after hearing of the first appeal on **28.04.2015 at 12:00 PM**, the Director & FAA had, vide letter No. DRD/ME/RTI/AA-4/2014/44 dated **28.04.2015** passed an exparte quasi-judicial decision stating that inspite of the Director & FAA graciously accepting the request of the applicant(now appellant) for deferment of the hearing and allowing an authorised representative, neither the applicant(now appellant) nor her authorised representative had turned up for the hearing on 28.04.2015. Instead, a messenger was sent with a written argument against her appeal without citing any reasons for her inability to attend the hearing summoned by the Director & FAA. Further, the Director & FAA submitted that the appellant's attitude towards the Appellate Authority had been found to be disrespectful and without any regard as the applicant (now appellant) had wasted precious time of the officers concerned from allowing them to attend to their duties. And hence with the right vested with the Appellate Authority, the Director & FAA decided to close the case and that future appeals regarding the case would not be entertained.

AND WHEREAS, however, on receipt of the first appeal decision dated 28.04.2015 from the Director & FAA, Directorate of Rural Development, Nagaland, Kohima on 11.05.2015, the applicant(now appellant) had preferred Second Appeal dated 24.05.2015 before this Commission, stating that **the reply to query No. 1 & 9 were incomplete, wrong, vague and**

misleading information, and therefore the PIO had deliberately refused to give the correct information. Further, the applicant(now appellant) stated that notice for hearing is issued to ensure principle of natural justice. Attending hearing is voluntary and not compulsory in nature, however, if the applicant(now appellant) did not attend the hearing, the FAA is required to decide the matter based on material record. Thus, the FAA had erred in rejecting the appeal merely on the ground that the applicant was not present during the hearing. Since there is no mandatory provision under the RTI Act to call the appellant for hearing, rejection of the appeal for the reason that the appellant was not present for the hearing is illegal, malafide and contrary to the provisions of the RTI Act. Hence, the decision of the FAA dated 28.04.2015 is illegal, malafide and not consistent with the provisions of the RTI Act. Furthermore, the applicant(now appellant) had sought that:-

i. the PIO be directed to provide the information free of cost;
ii. withdraw the decision of the FAA dated 28.04.2015;
iii. and impose penalty of Rs. 25,000.00 on the PIO for malafide denial of information.

AND WHEREAS, the Commission has decided to hear the appeal, giving opportunity to all the parties, on **23rd June, 2015 (Tuesday) at 3:00 PM** in the **Hearing Room of the Nagaland Information Commission**, **Old Secretariat Complex, Kohima.**

NOW THEREFORE, it is notified that the following concerned are directed to appear before this Commission and **also to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing.

1. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima
2. Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima.
3. Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Nagaland.
4. Smti. Avinuo Rio, BDO & APIO, RD Block, Chiephobozou, Kohima.
5. Smti. Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector -52, Ardee City, Gurgaon, Haryana–122001, Mobile No. 91-8415068612, email: ateau@hotmail.com.

Sd/-
KEVININO P. MERU
Chief Information Commissioner

No. NIC/Appeal-13/2015-16 Dated Kohima, the 4th June, 2015.

Copy to:-

1. The P.P.S to the Chief Information Commissioner, Nagaland Information Commission for kind information of the CIC.
2. The P.A to the State Information Commissioner, Nagaland Information Commission for kind information of the SIC.
3. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima.
4. Shri. Hilo Semp, Additional Director & PIO, Rural Development, Nagaland, Kohima.
5. Shri. Kevipodi Sophie, Project Director & PIO, DRDA, Kohima, Nagaland.
6. Smti. Avinuo Rio, BDO & APIO, RD Block, Chiephobozou, Kohima.
7. Smti. Zeneisüle Ate Loucü, C 1/6, 2nd Floor, Sector -52, Ardee City, Gurgaon, Haryana–122001, Mobile No. 91-8415068612, 09971020809, email: ateau@hotmail.com.
8. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
9. Office Copy.

(WORHONTHUNG EZUNG)
Under Secretary