

NAGALAND INFORMATION COMMISSION
OLD SECRETARIAT COMPLEX,
POST BOX NO. 148
NAGALAND
KOHIMA – 797001

No. NIC/Compln-17/2008

Dated Kohima, the 3rd December, 2008

Complainant : Ms. Rhondeno Ezung, Government
Primary Teacher, Wokha District.
C/o Shri Shanjanthung (Typist)
Directorate of State Lotteries,
Nagaland, Kohima.

Respondent : Department of School Education
Public Authority : Govt of Nagaland
Office of the Deputy Inspector
of Schools, Wokha, Nagaland.

Date of Order on reply to show cause - 3.12.2008

Present : (1) Ms. Rhondeno Ezung, Complainant.

**Shri Tsenimo Lotha, Public Information Office (PIO) and DIS
Wokha, Nagaland was not present.**

The Commission in its decision dated 15.10.2008 had directed Shri Tsenimo Lotha PIO and DIS Wokha to show cause as to why he should not pay penalty at the rate of Rs. 250/- per each day of delay without reasonable cause for delay in furnishing information sought for the period from 4.7.2008 to 14.10.2008 subject to maximum of Rs. 25,000.00 as per section 20 of RTI Act 2005.

He had submitted reply to the show cause vide his letter No. DIS/Est-1/2008-09/360 dated 18.10.2008, wherein he stated that

- (1) he has not attended sensitizing programme on RTI and hence his inability for being non conversant with the Act.
- (2) He tried to explain to the applicant on two occasions “but failed to meet the requisite agenda,” hence he was enclosing another reply to the petitioner.

- (3) On the day of filing RTI application under section 6 of RTI Act, the applicant failed to enclose the required fee, hence the petition is deemed to be “infructus and calls for dismissal”.

He has thus prayed for condonation on his own admission of non conversant with the Act and in view of the reasons stated above. The Commission has carefully examined the reasons and circumstances explained by Shri Tsenimo.

The RTI Act 2005 was implemented in the State from 12.10.2005. Public Information Officers were duly designated by respective Public Authorities/Departments as required under the Act. The Commission also visited Wokha two times, and had meetings and discussions regarding implementation of RTI with Heads of Offices, PIOs and APIOs, the last notified visit having been on 3.10.2007 during which Shri Tsenimo PIO and DIS Wokha attended. Copies of the RTI Act 2005 were given to all and the Commission clearly explained the salient features of the Act. His statement that he was not conversant with the Act is not convincing.

The RTI application of Ms. Rhondeno was submitted and received in the Office of the Deputy Inspector of School, Wokha on 3.6.2008. When the applicant approached the PIO and DIS Wokha before the expiry of the prescribed 30 days, the PIO saying that he had not received the application, asked for and was given a copy of the application of 3.6.2008. In the statement of Shri Tsenimo made before the Commission on 10.9.2008, the explanations stated to have been given to the applicant are – to approach the Director, School Education and asking the Commission to direct her to approach higher authority, not the information sought. Hence the information/reply given on 18.10.2008 to the applicant is not another reply but first time information sought on 3.6.2008.

On receipt of RTI application on 3.6.2008, even on reminder by applicant before expiry of 30 days, the non payment of fee of Rs. 10.00 could have been raised. It was not raised all those days till reply to the show cause on 15.10.2008. The application of 3.6.2008 to be deemed to be infractous or liable to be dismissed with retrospective effect, on 15.10.2008 does not arise. The applicant could have been informed to deposit the fee.

The Commission regret that the submissions of the PIO are not reasonable nor convincing.

As per Section 20 of the RTI Act 2005, penalty at the rate of Rs. 250/- per each day of delay in furnishing the information sought, without reasonable cause is to be imposed on the PIO, subject to maximum of Rs. 25,000.00.

In this case, the delay is from 4.7.2008 to 17.10.2008 for which the penalty is imposeable.

The Commission had held hearing on 10.9.2008 during which every relevant provision of the Act was explained to both parties clearly.

Considering the lack of proper knowledge of RTI provisions on the part of both PIO and the applicant as evident from the statements made before the Commission, the Commission decides to take a lenient view for the period 4.7.2008 to 10.9.2008 and waive the penalty for this period of 69 days. However there can be no excuse of such non conversant with or indifference to the provisions of the Act after the hearing held on 10.9.2008.

The Commission therefore impose penalty on Shri Tsenimo, PIO and DIS Wokha for the period 11.9.2008 to 17.10.2008 i.e. 37 days to pay at the rate of Rs. 250/- per each day of delay, amounting to Rs. 9250.00 (Nine thousand two hundred and fifty) only for failure to furnish information sought.

He is directed to pay the amount by depositing it in the Government Treasury through Treasury Challan in favour of

**Consultant (Accounts)
Nagaland Information Commission**

Under

**Head of Account '0070' - Other Administrative Services
Minor Head 800 - Other receipts, fines under RTI Act.**

Quoting this order number, date, the name of the PIO and Department.

He may pay the penalty amount in 2 equal installments of Rs. 3000.00 each followed by a third installments of Rs. 3250.00.

The first installment should be deposited latest by 2.1.2009, the second installment latest by 2.2.2009 and the third installment latest by 2.3.2009.

One copy of the Treasury Challan showing deposit and receipt by the Treasury should be given to the Consultant (Accounts) of the Commission latest by 5.1.2009, 5.2.2009 and 5.3.2009 respectively.

The Commission in its Decision dated 15.10.2008 directed Shri Tsenimo Lotha PIO & DIS wokha to sensitise and gear up mechanism to deal with RTI applications in his office and report within 10 days to the Commission. He did not report compliance to this directive till day. A serious view of this is taken.

The Commission therefore direct the Administrative Head of the Department of School Education, Government of Nagaland, to issue strict direction to all Heads of Offices and PIOs of the Department within 10 workings days from the date of issue of this decision, to sensitise and gear up the mechanism to deal with RTI applications within a period of 1 Month. A copy of the direction issue may kindly be given to the Commission.

Pronounced in Open Proceedings today 3.12.2008.

Copies of this order be given to the Parties.

Copy be given to:

1. The Additional Chief Secretary to Government of Nagaland, Education Department, Kohima.
2. The Director of School Education. Nagaland, Kohima.
3. The District Education Officer, Wokha, Nagaland.

Sd/-

P. TALITEMJEN AO)IAS (Rtd
Chief information Commissioner,
Nagaland

Sd/-

REV.DR. W. PONGSING KONYAK
State Information Commissioner,
Nagaland

Sd/-

DR. KUHOI K ZHIMOMI
State Information Commissioner,
Nagaland.

Authenticated by

(**ADINO**)

Sr. P.S. to Chief Information Commissioner,
Nagaland.