

NAGALAND INFORMATION COMMISSION
Old Secretariat Complex,
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Nagaland, Kohima - 797001.
Tel: 0370-2291041, Fax: 2291774, Website: www.nlsic.gov.in

No. NIC/Compln-7/2011-12

Dated Kohima, the 5th March, 2012.

To,

The Director & First Appellate Authority,
Rural Development,
Nagaland, Kohima.

Subject: Complaint under RTI Act, 2005.

Sir,

I am directed to refer to a complaint letter dated 17/11/2011 received from Shri. Yanrenthung Kikon, Peshkar, DC's Office, Wokha, Nagaland - 797111, for non-response to his RTI application within the stipulated time frame, which he had submitted on 30.09.2011 addressed to the PIO, DRDA, Wokha seeking information pertaining to payment of MGNREGS for Wokha Village under Wokha District with effect from 2007 to 2011 under the RTI Act, 2005.

On receipt of the RTI request, the PIO, Shri. Hilo Semp, Project Director & DPC(MGNREGA), DRDA, Wokha had written to the APIO, Shri. Nchumthung Ngullie, BDO, RD Block, Wokha to furnish the information on at least three occasions vide letter Nos. DRDA/WKA/RTI/2007-08/648-03 dated 30.09.2011, DRDA/WKA/RTI/2007-08 dated 21.10.2011 and DRDA/WKA/RTI/2007-08 dated 10.01.2012.

The Commission had written a letter to the PIO vide No. NIC/Compln-7/2011-12 dated 21.12.2011 directing to provide the information within 30 days and confirm action taken by sending a copy of letter written to the applicant in providing the information sought. In response, the PIO had intimated this Commission vide DRDA/WKA/RTI/2007-08/395-05 dated 24.01.2012 that a letter was issued to the APIO to furnish the information. However, as the APIO had taken over charge recently, he had expressed his inability to furnish the information in the absence of Shri. Lanu Longkumer, Technical Assistant (MGNREGA), RD Block, Wokha who is holding the records. The APIO served a letter to the Technical Assistant (MGNREGA), RD Block, Wokha to report for duty vide letter No. RDB/WKA/ESTT-21/2010-11 dated 12/01/2012 and in the meantime requested the PIO vide letter No. RDB/WKA/RTI-16/2011-12 dated 24.01.2012 to give more time to furnish the information as the Technical Assistant did not report for duty despite letter issued.

The PIO intimated the Commission that the information had been provided to the applicant vide letter No. DRDA/WKA/RTI/2007-08 dated 03.02.2012.

In this connection, attention is drawn to the Government of India, **DOPT's OM. No. 1/14/2008-IR dated 28th July, 2008** which explains that a Public Information Officer (PIO) may seek the assistance of any other officer for proper discharge of his/her duties under Sub-sections

(4) and (5) of section 5 of the Right to Information Act, 2005. The officer, whose assistance is so sought, shall render all assistance to the PIO and shall be treated as a PIO for the purpose of contravention of the provisions of the Act. It has been brought to the notice of this Department that some PIOs, using the above provision of the Act, transfer the RTI applications received by them to other officers and direct them to send information to the applicants as deemed PIO. Thus, they use the above referred provision to designate other officers as PIO.

According to the Act, it is the responsibility of the officer who is designated as the PIO by the public authority to provide information to the applicant or reject the application for any reasons specified in sections 8 and 9 of the Act. The Act enables the PIO to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to designate any other officer as PIO and direct him to send reply to the applicant. The import of sub-section (5) of section 5 is that, if the officer whose assistance is sought by the PIO, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the PIO.

On the above circumstances, the Nagaland Information Commission has taken a serious view and therefore, strongly recommends that Shri. Lanu Longkumer, Technical Assistant (MGNREGA), RD Block, Wokha, who holds the records and hence considered as the '**deemed PIO**' be cautioned to refrain from repeating such action in future.

The PIO is also reminded of the above mentioned DOPT's OM and to furnish information relating to RTI under his name and signature in future.

Yours faithfully,

(SOYIMNA AIER KOZA)

Secretary

Dated Kohima, the 5th March, 2012.

No. NIC/Compln-7/2011-12

Copy to:-

1. The P.P.S. to the Hon'ble Chief Information Commissioner, Nagaland Information Commission for kind information of the CIC.
2. The P.A to the State Information Commissioner(K), Nagaland Information Commission for kind information of the SIC.
3. The P.A to the State Information Commissioner(B), Nagaland Information Commission for kind information of the SIC.
4. Shri. Hilo Semp, Project Director & DPC(MGNREGA) & PIO, District Rural Development Agency, Wokha, Nagaland.
5. Shri. Nchumthung Ngullie, BDO & APIO, R D Block, Wokha, Nagaland.
6. Shri. Lanu Longkumer, Technical Assistant (MGNREGA), RD Block, Wokha, Nagaland.
7. Office Copy.

(SOYIMNA AIER KOZA)

Secretary