

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/Complaint-11/2014-15

Dated Kohima, the 16th March, 2015.

Complainant: Shri. E.M. David Lotha,
RTI Activist,
C/o James Lotha,
P.P. Office, Wokha,
Nagaland,
Mobile No. 9856549997/ 8413841282

Respondents: PIO,
Transport Department,
Government of Nagaland,
Nagaland, Kohima

Public Authority : Transport Department, Nagaland, Kohima.

Date of Hearing : 12.03.2015 (Thursday) at 1:30 PM.

Date of Decision : 16.03.2015.

Present:

1. The new PIO, Shri. S. Sekhose, Under Secretary, Transport Department, Nagaland, Kohima, Mobile No. 9436005526.
2. Shri. Bendang Changkiri, J.S.O, Transport Department, Nagaland, Kohima.
3. The applicant(now complainant), Shri. E.M. David Lotha, RTI Activist, C/o James Lotha, P.P. Office, Wokha, Nagaland, Mobile No. 9856549997/ 8413841282.

The former PIO, Smti. C. Temjenmenla, Under Secretary, Transport Department, Nagaland, Kohima did not appear for the hearing.

FACT OF THE CASE:

An applicant, Shri. E.M. David Lotha, RTI Activist, C/o James Lotha, P.P. Office, Wokha, Nagaland, Mobile No. 9856549997/ 8413841282 had earlier filed a RTI application dated 27.10.2014 addressed to the PIO, Office of the Chief Secretary, Nagaland, Kohima alongwith the prescribed application fee of Rs. 10/- (Rupees ten only) paid vide IPO No. 14C 447387, seeking the following information as follows:-

Some officers of the Govt. of Nagaland attached with drivers use to leave station for their homes every Saturday alongwith their drivers, and for which the drivers used to leave their family residences leaving their wife and children to their own fate for livelihood, and hence cannot attend to their family needs and legal necessities, which in reality does not constitute a duty but misuse of the Govt. drivers for their own private purposes.

- i. *Whether this action of the officers are covered by the service rules or otherwise, as to whether there is any other rules, Acts or laws to justify the action of the officers?*
- ii. *If this action of the officers are not covered or protected by the service rules or any other rule or law, what action should be instituted against the erring/delinquent officers?*
- iii. *To prevent this wrongful action, what steps or action should the Govt. initiate?*

On receipt of the above RTI application dated 27.10.2014, the PIO, Office of the Chief Secretary, Nagaland, Kohima had vide letter No. CSO/10/RTI/2014/212 dated 07.11.2014 transferred it to the PIO, Transport Department, Government of Nagaland, Nagaland, Kohima, requesting to furnish the information directly to the applicant since the information was not available in the Office of the Chief Secretary, Nagaland, Kohima. A copy of the above letter re-directing the RTI application was also endorsed to the applicant.

The applicant(now complainant) had submitted a complaint dated 08.01.2015 before this Commission enclosing a total amount of Rs. 10/- (Rupees ten only) vide IPO Nos. 14C 447858 dated 09.01.2015 for Rs. 5.00 and 14C 447857 dated 09.01.2015 for Rs. 5.00, stating that there was no response from the PIO, Transport Department, Government of Nagaland, Nagaland, Kohima within the stipulated time frame of 30 days to his RTI application dated 27.10.2014 which was transferred by the OSD, Office of the Chief Secretary, Nagaland, Kohima on 07.11.2014.

Since there was no reply to the above RTI application dated 27.10.2014 from the concerned PIO, Transport Department, Government of Nagaland, Nagaland, Kohima within the stipulated time frame of 30 days, the Commission has decided to hear the complaint, giving opportunity to the parties, on **25th February, 2015 (Wednesday) at 1:30 PM.** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

However, due to some unavoidable circumstances, the Commission had, vide it's letter of even No. dated 20.02.2015 postponed the hearing scheduled on **25th February, 2015 (Wednesday) at 1:30 PM to a later date** and informed the parties that the new date for hearing shall be intimated later.

The Commission had now rescheduled the hearing on **12th March, 2015 (Thursday) at 1:30 PM** vide it's letter of even No. dated 04.03.2015.

Meanwhile, the Commission had received a letter No. TPT/SPL-1/5/2006 dated 08.12.2014 written by Smti. C. Temjenmenla, Under Secretary, Transport Department, Nagaland, Kohima to the applicant(now complainant) requesting to furnish specific instances on misuse of the services of Government Drivers attached to Government Officers.

And on receipt of the above letter from the Under Secretary, Transport Department, Nagaland, Kohima, the applicant(now complainant) replied that the instances or reasons in requesting the information or any other personal details are not required by virtue of Section 6 (2) of the RTI Act, 2005. Further, the applicant(now complainant) reiterated to furnish the information as to under what provisions of service law or any other law it is being protected or permitted. Furthermore, he also submitted that he had condoned the period already expired and requested to furnish the information on receipt of this letter. A copy which was also endorsed to this Commission was received by the Commission on 02.02.2015.

OBSERVATIONS AND FINDINGS:

During the hearing, Shri. S. Sekhose, Under Secretary, Transport Department, Nagaland, Kohima informed the Commission that due to recent promotions in the Department, he was designated as the new PIO. And on taking charge as the new PIO and in response to the applicant's letter dated 30.01.2015, Shri. S. Sekhose, Under Secretary, Transport Department, Nagaland, Kohima had, vide letter No. TPT/SPL-1/5/2006 dated 19.02.2015 furnished the information as follows, a copy of which was also received by this Commission:-

i. *Whether this action of the officers are covered by the service rules or otherwise, as to whether there is any other rules, Acts or laws to justify the action of the officers?*

Reply: *There is no rule, Act or law to justify the action of officers to misuse attached Drivers beyond normal duty hours.*

ii. *If this action of the officers are not covered or protected by the service rules or any other rule or law, what action should be instituted against the erring/delinquent officers?*

Reply: *On receipt of specific instances of such misuse of Drivers from any source or quarter, the Controlling Authority shall enquire/investigate and take appropriate punitive/remedial action as deemed fit and proper.*

iii. *To prevent this wrongful action, what steps or action should the Govt. initiate?*

Reply: *The State Government had laid down the duty hours of Government Drivers from 8:00 AM to 4:00 PM while the officers are in respective stations.*

The Commission appreciates the prompt reply of the **new PIO**, Shri. S. Sekhose, Under Secretary, Transport Department, Nagaland, Kohima in furnishing the information to the applicant(now complainant).

During the hearing, the applicant(now complainant) submitted that there was no malafide intention in asking for the information from the Department, however, the PIO had requested him to furnish specific instances on the misuse of the services of Government Drivers attached to Government Officers. And though the information was furnished late, he had condoned the period already expired and submitted that he was **satisfied** with the information so received.

The Commission observed that under the RTI Act, the PIO should not ask the reasons, grounds or instances in asking any information by an applicant. The Commission also pointed out that the authority to condone the delay in the furnishing the information lies with the Commission and not with the applicant or the PIO.

The Commission observed that from the date of receipt of the RTI application dated 27-10-2014 on **10-11-2014** by the PIO, Transport Department, Nagaland, Kohima to the date of furnishing of the information to the applicant(now complainant) on **19-02-2015**, there was a delay of **101 days**, for which penalty is attracted.

DECISION

Basing on the above observations and findings, the Commission decided that:-

1. Under Section 20 (1) of the RTI Act, 2005, a penalty of **Rs. 25,000.00** (Rupees twenty five thousand only) is imposed on the **former PIO**, Smti. C. Temjenmenla, Under Secretary, Transport Department, Nagaland, Kohima for contributing to the delay in furnishing the information and also by seeking reasons, grounds or instances in asking the information. The penalty amount shall be paid within **three (3) months** from the date of receipt of this Commission's Decision. The penalty fine shall be deposited into the government account through treasury challan in favour of the Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima under the Head of Account given below:-
0070 - Other Administrative Services,
60 - Other Services
118 - Receipts under RTI Act, 2005.
2. Since there is no fee for filing complaints or second appeals before this Commission, the total amount of Rs. 10/- (Rupees ten only) vide IPO Nos. 14C 447858 dated 09.01.2015 for Rs. 5.00 and 14C 447857 dated 09.01.2015 for Rs. 5.00 is hereby returned to the applicant(now complainant).

The Commission declares this complaint case as **closed**.

Complaint heard in the presence of all parties present on 12.03.2015.

Copy be given to the parties:

1. The former PIO, Smti. C. Temjenmenla, Deputy Secretary, Transport Department, Nagaland, Kohima.
2. The new PIO, Shri. S. Sekhose, Under Secretary, Transport Department, Nagaland, Kohima, Mobile No. 9436005526.
3. The applicant(now complainant), Shri. E.M. David Lotha, RTI Activist, C/o James Lotha, P.P. Office, Wokha, Nagaland, Mobile No. 9856549997/ 8413841282. The IPO Nos. 14C 447858 and 14C 447857 dated 09.01.2015 are hereby returned to him.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

Sd/-

KEVININO P. MERU
Chief Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Under Secretary