

NAGALAND INFORMATION COMMISSION

Below Raj Bhavan, Officers' Hill Colony

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No. NIC/Complaint-13/2015-16

Dated Kohima, the 10th March, 2018.

Complainant : Shri. . Chubatangit Jamir,
Social Activist Nagaland,
Near Office of the Commissioner of Taxes,
Dimapur, House No. 252,
Mobile No. 9436073062, 9615661525

Respondent : The concerned PIO,
Office of the Chief Engineer,
Power,
Nagaland, Kohima.

Public Authority : Office of the Chief Engineer, Power, Nagaland, Kohima.

Date of first hearing : 21.04.2016 at 12:00 PM.

Date of Interim Decision : 26.05.2016.

Date of second hearing : 06.03.2018 at 2:00 PM.

Date of second Decision : 10.03.2018.

Present:

1. Er. V. Kezo, Executive Engineer(D2) & APIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima, Mobile No. 9436002732.

The following did not appear for the hearing:-

1. The PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima.
2. The applicant (now complainant), Shri. I. Chubatangit Jamir, Social Activist, Near Office of the Commissioner of Taxes, Dimapur, House No. 252, Mobile No. 9436073062, 9615661525.

FACT OF THE CASE

The Commission had, on 21.04.2016 at 12:00 P.M heard the Complaint dated 02.03.2016 submitted by Shri. I. Chubatangit Jamir, Social Activist, Nagaland, Dimapur, against the non-response of the PIO, Power Department, Nagaland, Kohima to his RTI application dated 24.11.2015 within the stipulated time. And after the hearing, the Commission had passed its decision of even No. dated 26.05.2016 directing the PIO to furnish the full/complete information to the applicant (now complainant) within forty five (45) days, with a copy to the Commission.

On not receiving any compliance to its decision dated 26.05.2016, the Commission had, vide its Directive of even No. dated **02.09.2016** directed the PIO, Office of the Chief Engineer, Power, Nagaland, Kohima to furnish the information to the applicant (now complainant) within fourteen (14) days.

And in compliance to the decision of the Commission of even No. dated 26.05.2016 and the subsequent Directive dated 02.09.2016, the PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima had, vide letter No. CEL/TB/RTI-ESTT/2016-17/1524(A) dated **11.07.2016** furnished the information to the applicant (now complainant). However, since the Commission did not receive any copy of the information furnished to the applicant (now complainant), the Commission had again, vide its Directive of even No. dated **28.09.2016** directed the PIO, O/o the Chief Engineer, Department of Power, Nagaland, Kohima to submit copies of the information furnished to the applicant (now complainant) and also confirm satisfaction or non-satisfaction of information furnished to the applicant (now complainant) within one week.

In compliance to the directive of the Commission dated 28.09.2016, the PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima had, vide letter of No. CEL/TB/RTI-ESTT/2016-17/1608(A) dated **05.10.2016** submitted copies of the information to this Commission and further informed that the applicant (now complainant) had not collected the information inspite of informing him through phone.

The Commission had, vide letter of even No. dated 22.12.2016 directed the PIO, Office of the Chief Engineer, Power, Nagaland, Kohima to confirm whether the applicant (now complainant) had collected the information and had submitted satisfaction or non-satisfaction with the information. And in response to the directive of the Commission dated 22.12.2016, the PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima had, vide letter No. CEL/TB/RTI-ESTT/2016-17/1746 dated 10.01.2017 submitted that the applicant (now complainant) had **not collected** the information yet and inspite of informing him through phone **in July, 2016**.

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, as a stop-gap arrangement the Commission was functioning from the guard house of the official quarter of the State Information Commissioner at Agri Farm Colony for collection of documents and reconstruction of files. And on the request of the Commission, the public authority 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.

With the completion of the reconstruction of the case file and shifting of the office into a new building, the Commission had, vide Notice for Hearing of even No. dated 16.10.2017 notified to hear the Complaint on **09.11.2017 at 2:00 P.M.**, however, the hearing could not be conducted since the concerned PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima did not appear for the hearing without any reason and prior information to the Commission.

The Commission had, vide its Directive of even No. dated **20.11.2017** directed the PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima to **submit an explanation within two (2) weeks**, however, there was no compliance till date.

Since there was delay in furnishing the information to the applicant (now complainant) and no compliance received to the directive dated **20.11.2017** of the Commission till date, the Commission has decided to hear the complaint again giving opportunity of being heard to all the parties on **6th March (Tuesday), 2018 at 2:00 P.M in the Hearing Room of Nagaland Information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and

had also notified the parties **to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing.

OBSERVATIONS AND FINDINGS:

The concerned PIO did not appear for the hearing, however, Er. V. Kezo, Executive Engineer(D2) & APIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima, had appeared representing the PIO.

The Commission observed that the PIO was directed to **submit an explanation within two (2) weeks** for failing to appear for the last hearing on **09.11.2017 at 2:00 P.M.**, however, there was no compliance till date. The concerned PIO had again failed to appear for the hearing this time without any reason or prior information to the Commission. The Commission took a serious view in the casual attitude of the PIO towards RTI matters and in not complying to the directives of the Commission.

During the hearing, the APIO, Er. V. Kezo, Executive Engineer(D2), O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima, who represented the PIO had apologised for the absence of the PIO. He informed that the earlier PIO who appeared in the last hearing has now become the Chief Engineer and that he could not submit the reply to the explanation call due to some communication gap.

He also informed that the Department of Power consists of three (3) offices viz. office of the Engineer-in-Chief, Chief Engineer(T&G) and Chief Engineer(D&R). And since the information sought by the applicant (now complainant) was relating to the two Offices of Chief Engineer, the information was collected and had tried to furnish it to the applicant (now complainant). Further, he admitted the delay in furnishing the information to the the applicant (now complainant) and owned responsibility in contributing to the delay.

The Commission observed that from the date of receipt of the RTI application dated 24.11.2015 on **24.11.2015** to the date of furnishing the information to the applicant (now complainant) on **11.07.2016**, the number of days was **230 days**. And considering the **30 days** prescribed for the PIO to furnish the information, the number of days of delay becomes (230 – 30) days = **200 days** for which penalty was attracted. Further, in view of the Christmas and New Year holidays, the Commission took a lenient view and condoned another **10 days**, and the number of days of delay becomes (200-10) days = **190 days**. However, Section 20(1) provides for imposing penalty subjected to a maximum amount of Rs. 25,000.00 which is for 100 days of delay.

The Commission also observed that though sufficient time had lapsed, the applicant (now complainant) had not collected the information till date and there was no further complaint from him, suggesting that the applicant (now complainant) was no longer interested in obtaining the information and in pursuing the case further.

DECISION:

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

1. The former PIO who is now the Chief Engineer shall submit his explanation for the failure to appear for the hearing on **09.11.2017 at 2:00 P.M.**, without any reason and prior information to the Commission.
2. Case has been separated for the APIO and 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 imposed on Er. V. Kezo, Executive Engineer(D2), O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima for owning responsibility for the failure to furnish the information sought within the prescribed period of 30 days without reasonable cause.

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

3. A copy of the appointment of the FAAs and PIOs in the Department of Power viz. Office of the Engineer-in-Chief, Chief Engineer(T&G) and Chief Engineer(D&R) be submitted to the Commission.

The above three (3) compliances shall be submitted to the Commission within **fifteen (15) days** from the date of receipt of this decision. On receipt of the above compliances, the Commission shall consider for closure of the Case.

Decision pronounced in presence of only the respondent on 06.03.2018.

Copy be given to:-

1. Er. V. Kezo, Executive Engineer(D2) & APIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima, Mobile No. 9436002732.
2. The PIO, O/o the Chief Engineer (D&R), Department of Power, Nagaland, Kohima.
3. The applicant (now complainant), Shri. I. Chubatangit Jamir, Social Activist Nagaland, Near Office of the Commissioner of Taxes, Dimapur, House No. 252, Mobile No. 9436073062, 9615661525.
4. The Consultant (Accounts), Nagaland Information Commission for information.
5. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
6. Office Copy.

Sd/-

CHANBEMO LOTHIA
Chief Information Commissioner

Sd/-

G. H. RAMLIA
State Information Commissioner

Sd/-

KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary