

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-2/2016-17

Dated Kohima, the 23rd June, 2016.

Complainant : Miss Wedieu Kronu,
Social Activist & President,
Nagaland Public Rights Awareness and Action Forum (NPRAAF),
Grace Colony, House No. 381,
Lengrijan, Dimapur-797112,
Nagaland, Mobile No. 9862271646.

Respondents : The concerned PIO,
Home Department, Political Branch,
Nagaland, Kohima.

Public Authority : Home Department, (Political Branch), Nagaland, Kohima.

Date of hearing : 16.06.2016 at 11:00 AM.

Date of Interim Decision : 23.06.2016.

Present:

1. Shri. Kekhrieselie, Additional Secretary to the Govt. of Nagaland & PIO, Home Department, Political Branch, Nagaland, Kohima, Mobile No. 9856618854.
2. Shri. Wigiang Zeliang, Section Officer, Home Department, Political Branch, Nagaland, Kohima, Mobile No. 9402832150, 9862109913.
3. The applicant (now Complainant), Miss Wedieu Kronu, Social Activist & President, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Grace Colony, House No. 381, Lengrijan, Dimapur-797112, Nagaland, Mobile No. 9862271646.
4. Dr. Roland Lotha, Chief Advisor, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Dimapur, Mobile No. 9862267010.

FACT OF THE CASE

An applicant, Miss Wedieu Kronu, Social Activist & President, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Grace Colony, House No. 381, Lengrijan, Dimapur-797112, Nagaland, Mobile No. 9862271646, had submitted an RTI application dated 12.04.2016 addressed to the Chief Minister/PIO, Nagaland, Kohima, alongwith the prescribed application fee of Rs. 10/- in cash seeking the following information:-

- (1) *Kindly produce true, certified copies of the entire report and recommendations of "High Powered Committee on illegal/unabated taxation" which was headed by Justice H. K. Sema, former Judge, Supreme Court of India.*
- (2) *Kindly state whether the Government of Nagaland has taken any step/action based on the report and recommendations submitted by the HPC.*

The applicant had stated in her RTI application that the information may be furnished in recognition of Section 8(1) of the RTI Act, 2005 which states that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. Further, she stated that the application was addressed directly to the Chief Minister as the HPC report was submitted directly to the CM, and also taking into account the recent ruling of the Central Information Commission that Ministers in the Union and State cabinets are 'public authorities' liable to answer public questions addressed to them under the RTI Act.

As evidenced on the reply enclosed, the Deputy Secretary, Chief Minister's Secretariat, Nagaland, Kohima had, vide letter No. CMS/RTI/1/2016 dated 14.04.2016 transferred the RTI application to the Home Department, Nagaland, Kohima.

On receipt of the RTI application, Shri. Kekhrieselie, Additional Secretary to the Govt. of Nagaland, Home Department, Political Branch, Nagaland, Kohima had, vide letter No. CON-1/G/RTI/2/2014 dated 12.05.2016 furnished the following replies:-

1. Certified copy of the entire Report of the HPC:

The report of the High Powered Committee (HPC) is under active examination by a Committee under the Chairmanship of Chief Secretary, Nagaland and hence, at this stage a copy of the report of the HPC can't be furnished as requested.

2. The names of the Chairman, Members of the HPC are as follows:-

- (i) Justice H. K. Sema, Supreme Court Judge (Rtd), Chairman, HPC.*
- (ii) Shri. K. K. Sema, IAS(Rtd). Member, HPC and*
- (iii) Shri. Joel Nillo Kath, Member, HPC.*

The addresses and phone numbers of the Chairman, and Members of the Committee are personal information and hence, the same is not being furnished.

3. The High Powered Committee was initially given 90(ninety) days to submit its report. However, due to the volume and nature of the case, the time frame was extended till May 31, 2015 for submission of the report.

4. Break-up of expenditure incurred in connection with High Powered Committee is annexed as Annexure – A.

5. The State Govt. has constituted a Committee under the Chairmanship of Chief Secretary, Nagaland to examine the report. The examination of the report by the Committee is in progress.

On receipt of the above reply from the Home Department, Political Branch, Nagaland, Kohima, the applicant had submitted a complaint dated 24.05.2016 to this Commission stating that the PIO, Home Department, Nagaland, Kohima had denied the information and had requested the Commission to take necessary action against the PIO for denying the information.

The Commission has decided to hear the complaint, giving opportunity to all the parties on **16th June, 2016 (Thursday) at 11:00 AM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.** The Commission had also directed all the concerned parties to bring the files and relevant documents in question for scrutiny, on the above date and time for hearing.

OBSERVATIONS AND FINDINGS:

During the hearing, Shri. Kekhrieselie, Additional Secretary to the Govt. of Nagaland & PIO, Home Department, Political Branch, Nagaland, Kohima submitted that the RTI application was received by the Chief Minister's Secretariat on 12.04.2016 and the above application was transferred to the Home Department vide letter No. CMS/RTI/1/2016 dated 14.04.2016 which he received on 19.04.2016. On receipt of the RTI application transferred from the Chief Minister's Secretariat on 19.04.2016, he had furnished the information to the applicant(now complainant) on 12.05.2016. The applicant(now complainant) had confirmed receipt of the information on 12.05.2016.

The PIO submitted that on receipt of numerous complaints from the public and civil societies against illegal and multiple taxation and in pursuance to the Cabinet decision dated 26.06.2014, a High Powered Committee (HPC) was constituted vide Notification No. CON/LOR/8/2001 dated 05.08.2014 of the Home Department (Political Branch). The HPC was initially given 90 (ninety) days to submit its report, however, due to the volume and nature of the work, the tenure of the HPC had to be extended on 3 (three) occasions upto 31.05.2015 vide Notifications No. CON/HPC/13/2014 dated 15.01.2015, No. CON/HPC/13/2014 dated 19.03.2015 and No. CON/HPC/13/2014 dated 14.05.2015.

Further, the PIO stated that the HPC had submitted its report on **10.06.2015**, and the same put up to the Cabinet which decided to constitute another Committee vide Notification No. CON/HPC/13/2014 dated **19.06.2015** under the chairmanship of the Chief Secretary, Nagaland

to suggest appropriate course of action for implementation or otherwise of the recommendations of the HPC to the Cabinet. And that the report of the High Powered Committee (HPC) was still under active examination by the Committee, hence a copy of the report of the HPC could not be furnished at this stage. The Commission, however observed that the applicant (now complainant) was not satisfied with the above submissions of the PIO for denial of the information as sought for by her.

A copy of the RTI application submitted to the PIO by the applicant (now complainant) was also produced before the Commission during the hearing. On examination of the above RTI application, it was found that the RTI application submitted to the PIO contained 5 (five) queries and without any date while the RTI application enclosed by the applicant in her complaint to the Commission contained only 2 (two) queries and was dated 12.04.2016. Therefore, since the reply of the PIO was for 5 (five) queries, the Commission was of the view that the PIO had furnished additional points not asked for by the applicant(now complainant) in the context of the RTI application containing 2 (two) queries which was enclosed in her complaint dated 24.05.2016 to the Commission.

This being the factual position, the Commission observed that the RTI applications submitted by the applicant to the PIO and to the Commission was found to be at variance and inconsistent and that it needed to be clarified before a final decision was to be arrived at.

INTERIM DECISION:

On the above observations and findings, the Commission decided to reserve its decision for further clarifications in the next hearing which shall be notified later.

Decision pronounced in presence of all parties present on 16.06.2016.

Copy to:-

1. Shri. Kekhrieselie, Additional Secretary to the Govt. of Nagaland & PIO, Home Department, Political Branch, Nagaland, Kohima, Mobile No. 9856618854.
2. The applicant (now Complainant), Miss Wedieu Kronu, Social Activist & President, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Grace Colony, House No. 381, Lengrijan, Dimapur-797112, Nagaland, Mobile No. 9862271646.
3. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
4. Office Copy.

Sd/-
TOSHI AIER, IAS (Retd.)
Chief Information Commissioner

Sd/-
CHANBEMO LOTH
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary