

NAGALAND INFORMATION COMMISSION

Below Raj Bhavan, Officers' Hill Colony

Post Box No. 148

Nagaland, Kohima-797001

Tel: 0370-2242366 | Fax: 0370-2242368

Email: cic.nagaland@gmail.com | Website: www.nlsic.nagaland.gov.in



No. NIC/Complaint-2/2016-17

Dated Kohima, the 27th April, 2018.

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 : Shri. Kekhrieselie,
Secretary & PIO,
Home Department, Political Branch,
Nagaland, Kohima.

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

Date of first hearing : 16.06.2016 at 11:00 AM.

Date of Interim Decision : 23.06.2016.

Date of second hearing : 17.04.2018 at 12:00 PM.

Date of second Decision : 27.04.2018.

Present:

1. Shri. Kekhrieselie, Secretary to the Govt. of Nagaland & PIO, Home Department, Political Branch, Nagaland, Kohima, Mobile No. 9856618854/7005015242.
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. 9862271646/7005506116.
3. Dr. Roland Lotha, Chief Advisor, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Dimapur, Mobile No. 9862267010/7005111421.

FACT OF THE CASE

The Commission had on 16.06.2016 at 11:00 A.M heard the complaint dated 24.05.2016 submitted by Miss Wedieu Kronu, Social Activist & President, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Grace Colony, House No. 381, Lengrijan, Dimapur-797112, Mobile No. 9862271646 against the denial of information by the PIO, Home Department, Political Branch, Nagaland, Kohima to her RTI application dated **12.04.2016**. After the hearing, the Commission had passed interim decision vide letter of even No. dated 23.06.2016 reserving its decision for further clarification in the next hearing. However, before the next hearing could be fixed, the Office building of the Commission was burnt down completely on 02.02.2017 wherein all the office files and records, office equipment/machines and office furniture were completely destroyed in the fire and no items and properties whatsoever could be retrieved.

On the request of the Commission, the Public Authority had submitted copies of all the correspondences and documents for re-construction of the case file and after the reconstruction of the case file, the Commission had notified to hear the complaint again on 16th February, 2018 (Friday) at 1:00 P.M. However, the Secretary & PIO, Home Department, Political Branch, Nagaland, Kohima had, vide letter No. CON-1/G/RTI/2/2014 dated 09.02.2018 requested for postponement of the hearing due to the engagement of the Public Authority in the Nagaland

Assembly Election, 2018. The Commission had accepted the request and had, vide letter of even No. dated 14.02.2018 postponed the hearing of the appeal case to a later date.

On completion of the processes and conduct of the Nagaland Assembly Election 2018 has been completed, the Commission had decided to hear the complaint giving opportunity of being heard to all the parties on **17th April, 2018 (Tuesday) at 12:00 P.M** in the **Hearing Room of Nagaland Information Commission, Below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and directed the following parties to appear before this Commission and **also to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. Shri. Kekhrieselie, Secretary to the Govt. of Nagaland & PIO, Home Department, Political Branch, Nagaland.
2. Miss Wedieu Kronu, Social Activist & President, Nagaland Public Rights Awareness and Action Forum (NPRAAF), Grace Colony, House No. 381, Lingrijan, Dimapur.

OBSERVATIONS AND FINDINGS:

Though the hearing was scheduled at 12:00 PM, the applicant(now complainant) had appeared only at 2:30 PM. The Commission expressed its displeasure for having kept waited when another hearing was scheduled on the same day at 1:00 PM. The applicant(now complainant) tendered apology to the Commission and also to the public authority for the delay.

The Commission recalled that the complaint case was earlier heard on 16.06.2016, however had reserved its decision for further clarification since there were two separate RTI applications – RTI application **dated NIL** containing **five (5) queries** received and replied by the PIO, Home Department and the RTI application dated **12.04.2016** containing **two (2) queries** which was not received by the PIO, Home Department but found enclosed in her complaint to the Commission.

During the hearing, the applicant(now complainant) stated that the RTI application was first submitted to the Chief Minister's Office, and on receipt by the Chief Minister's Office, the RTI application was transferred to the Chief Secretary's Office which was further transferred to the Home Department. And since the Home Department **had misplaced it**, another RTI application was submitted on the advice of the PIO of Home Department. The applicant(now complainant) had also stated that the reply was never received.

However, the PIO, Home Department had stated that he **had not advised** the applicant to file another RTI application. The RTI application dated NIL containing 5 (five) queries was received on **19.04.2016** and reply furnished on **12.05.2016**, whereas the RTI application dated **12.04.2016** containing **2 (two) queries** was never received. He further stated that the reply was sent to the applicant however, he was not sure whether the information was actually received by the applicant since there was no acknowledgement or proof of receipt of the information.

On being asked by the Commission as to whether the applicant(now complainant) had received the reply/information, the applicant(now complainant) replied that the information was **received tentatively** from the PIO stating that it was a sensitive issue and was under consideration and hence cannot be considered as furnished. However, the PIO stated that he had furnished the information vide letter No. CON-1/G/RTI/2/2014 dated **12.05.2016** as per office records. The Commission made its point clear that the PIO had in his capacity and responsibility, and under his name and signature had given the information and hence it is official since the PIO represent the public authority.

The applicant(now complainant) stated that since she had not brought any documents, file or the records, she had requested the Commission to spell out the queries sought by her. The Commission observed that the applicant (now complainant) had come very much unprepared and had not even brought any documents to make his/her point, and hence seemed to be mis-leading and confusing the Commission and the public authority.

The five (5) queries sought in the RTI application dated NIL were:-

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 provide the names, proper addresses and valid phone numbers of the HPC members.*
3. *Kindly provide information on the time given to the HPC for submission of report and the duration of time extended for the HPC to submit its final report.*
4. *Kindly furnish how much amount of money the Government of Nagaland incurred in connection with the HPC members, their salaries, remunerations, vehicles, TA/DA and other related expenditures. Kindly furnish all break-up expenditures and expenditures of all members may also be provided in break-up.*
5. *Kindly state whether the Government of Nagaland has taken any step/action based on the report and recommendations submitted by the HPC.*

The applicant(now complainant) stated that she **was satisfied** with the replies to query Nos. **2, 3, and 4**, however, since she was **not satisfied** with the replies to **query Nos. 1 and 5**, another RTI application dated 12.04.2016 was submitted and had requested the Commission to consider the case.

The Commission also observed that since the two (2) queries contained in the RTI application dated 12.04.2016 were exactly the same as **query Nos. 1 and 5** of the RTI application dated NIL, the Commission had accepted the request.

During the hearing, the PIO, Home Department stated that **Query No. 1** cannot be disclosed at present on the following grounds explained below:-

The High Powered Committee Report on illegal taxation is presently under active examination by a Committee headed by the Chief Secretary, Nagaland. The suggestions of the Committee are to be finally placed before Cabinet for final decision. Since the report is a Cabinet Paper under Section 8 (1) (i) of the RTI Act, 2005, a copy of the report cannot be furnished at this stage as requested.

Secondly, in the report there are individuals, persons and groups who had volunteered and came forward with very sensitive information and issue. Hence, if the report or any part of the report is made public, it may endanger the physical safety and security, life of such persons. As such, it cannot be disclosed under Section 8 (1) (g) of the RTI Act, 2005.

Thirdly, the report relates to inquiry including witnesses and if disclosed, the witnesses may not come forward with sensitive information which would impede the process of investigation and therefore under Section 8 (1) (h) of the RTI Act, 2005, it cannot be disclosed.

He further informed that after the first hearing held on 16.06.2016, similar RTI application was received from the NPCC and reply was given stating that the report could not be disclosed at that stage since it was a Cabinet paper under Section 8 (1)(i) of the RTI Act, 2005. In the present case, the applicant was not satisfied since through oversight, no specific reasons were given, which was highly regretted.

Regarding **Query No. 2**, the PIO also stated that it cannot be disclosed or given since the High Powered Committee (HPC) Report is not yet finalised as the cabinet had not taken any decision on the HPC.

The Commission had also agreed with the above submission of the PIO that the High Powered Committee (HPC) Report cannot be disclosed at this stage under the sub-sections of Section 8 (1) of the RTI Act, 2005 pointed out by the PIO, and further since the Cabinet had not taken any decision on the report, no step/action had been taken by the Government of Nagaland on the recommendations made by the HPC. The Commission also observed that there was no delay and hence no penalty was attracted.

The applicant (now complainant) stated that since the PIO had explained that the information sought i.e. the HPC being a sensitive issue cannot be disclosed and that the Commission had also agreed with the submission of the PIO, she had **expressed satisfaction**.

DECISION:

On the above observations and findings, the Commission decided that since the applicant (now complainant) was not satisfied with the replies to the two (2) queries, the PIO shall furnish the replies giving sufficient grounds and reasons as submitted during the hearing to the applicant (now complainant) **within two (2) weeks** from the date of receipt of this decision and with a copy to this Commission.

Since the applicant (now complainant) had expressed satisfaction with the explanation of the PIO and had also satisfied with the decision of the Commission, on receipt of the above compliance, the Commission shall declare the case as **closed**.

Decision pronounced in presence of all parties present on 17.04.2018.

Copy be given to the parties:-

1. Shri. Kekhrieselie, 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/-

CHANBEMO LOTH
Chief Information Commissioner

Sd/-

G. H. RAMLIA
State Information Commissioner

Sd/-

KEVIZATUO MIACHIEO
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary