

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/Appeal-18/2013-14

Dated Kohima, the 20th March, 2014.

Appellant: The applicants, Shri. N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001872 and Shri. K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001640.

Respondent: 1. The Principal Director & FAA, School Education, Nagaland, Kohima.
2. The Joint Director & PIO, School Education, Nagaland, Kohima.

Public Authority: The Directorate of School Education, Nagaland, Kohima.

Date of hearing: 20/03.2014

Date of decision: 20/03.2014

Present:-

1. Shri K. Yhome, IAS, Principal Director & FAA, School Education, Nagaland, Kohima.
2. Shri Y. Vihokhe Sema, Jt. Director & PIO, School Education, Nagaland, Kohima.
3. Shri. K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001640.
4. Appellant, Shri N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001872 did not appear. However, in his absence Shri. S. Supongmeren, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9856458005 represented him.

Facts of the case

1. Under Section 19 of the Right to Information Act, 2005, the Nagaland Information Commission received a Second Appeal dated 31.01.2014 from the two (2) applicants/appellants namely, Shri. N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001872 and Shri. K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001640, stating

that there was no response from the Director & FAA, School Education, Nagaland, Kohima to their first appeal dated 18.12.2013 which was submitted against the non-response of the PIO, School Education, Nagaland, Kohima to their RTI application dated **17.10.2013**.

II. Earlier the applicants had submitted a RTI application dated **17.10.2013** addressed to the PIO, Department of School Education, Nagaland, Kohima along with an application fee of Rs. 10/-, seeking information relating to the National Programme Nutritional Support to Primary Education (NDM) Scheme during 2008-09 to 2012-13, on the following:-

1. Total amount of funds under Nutritional Support – Mid Day Meal from (both GOI and State share) received from 2008-09 to 2012-2013. Furnish year-wise of GOI and State share separately.
2. Give detailed amount of expenditure year-wise from 2008-09 to 2012-2013.
3. Give the details of amount of releases made/sub-allocation to each District Education Officer (DEO)/ Sub-Divisional Education Officer (SDEO) from 2008-09 to 2012-2013, year-wise.
4. What is the total number of students covered from 2008-09 to 2012-2013? Furnish district-wise in year-wise and the quantity of food grains entitled per student per day.

III. The RTI application dated 17.10.2013 was received by the public authority on the same day i.e. **17.10.2013** as evidenced on the photocopy of the above RTI application.

On not getting any response from the concerned PIO, School Education, Nagaland, Kohima within the stipulated time frame of the 30 days under the RTI Act, 2005, the applicants had preferred a first appeal dated **18.12.2013** before the Director & FAA, School Education, Nagaland, Kohima. The first appeal dated 18.12.2013 was received by the public authority on the same day i.e. **18.12.2013** as evidenced on the photocopy of the above RTI application.

IV. On not getting any response from the Director & FAA, School Education, Nagaland, Kohima to his first appeal dated 18.12.2013, the applicants (now the appellants) had preferred second appeal dated **31.01.2014** before the Commission.

V. Since there was neither any response to their RTI application dated 17.10.2013 from the PIO, School Education, Nagaland, Kohima nor to their subsequent first appeal dated 18.12.2013 from the Director & FAA, School Education, Nagaland, Kohima, the Commission admitted the appeal and decided to hear the appeal on 5th March, 2014 (Wednesday) at 1:00 PM in the Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.

VI. The NIC also directed the following officers and appellants etc. to appear before this Commission on 05.03.2014 and also to bring the files and relevant documents in question for scrutiny, on the above date and time for hearing:-

- a. The Director & FAA, School Education, Nagaland, Kohima.
- b. The concerned PIO, School Education, Nagaland, Kohima.

- c. The applicants (now appellants), Shri. N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001872 and Shri. K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001640.

Observations of the NIC during hearing on 20.03.2014

This is the case where the Public Authority has failed to take any action at the level of PIO or the First Appellate Authority. The Commission viewed this lapse very seriously. It is, however, recorded here that the present Principal Director, School Education and current FAA had not assumed office at the time of filing the First Appeal on 18.12.2013 before the former Principal Director & FAA, School Education, Nagaland, Kohima.

Shri N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima and Shri K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima had filed RTI application to the Joint Director & PIO, School Education on 17.10.13 seeking 5 items of information as already highlighted in the preceding paragraphs.

The PIO received this RTI application of **17.10.2013 on 17.10.2013** itself as per the records on the file. The PIO should have furnished the information sought to the applicant by **17.11.2013**. However, the PIO failed to do so.

On **18.12.13**, on not getting any response from PIO, the applicant (now appellant) filed the 1st appeal before the Principal Director, School Education and FAA, Shri M. Patton. However, the Principal Director & FAA, School Education did not hold any hearing nor pass any orders nor did he take any action whatsoever. On this subject of the 1st appeal filed on 18.12.13, the current Principal Director & FAA, School Education and the Joint Director & PIO, School Education stated that this 1st appeal filed on 18.12.13 was never received by them and hence not processed for action. However, this 1st appeal has been acknowledged by some employee/staff in the Directorate of School Education on the same date. This copy of the 1st appeal in question had also been given to the Nagaland Information Commission. On not getting any response from the Principal Director & FAA, School Education, the appellants filed 2nd appeal before the Nagaland Information Commission which admitted the appeal and fixed hearing on 5.3.2014. However, the hearing had to be deferred to 20.03.2014, on the request of the Directorate of School Education for the grounds the NIC considered valid.

As admitted by both the Joint Director & PIO, School Education and Principal Director & FAA, School Education, this is a case where the Public Authority (School Education Deptt.) had failed to furnish the information to the appellants within the stipulated time provided in the RTI Act, 2005. In fact, taking into account the date of filing of application before the Joint Director & PIO, School Education on 17.10.2013, no information was ever furnished till the time of hearing of the appeal by the NIC on 20.03.2014. This involved total delay of over 4 (four) months which is totally unwarranted, especially since the information sought was not very elaborate or complex.

The Principal Director & FAA, School Education and Joint Director & PIO, School Education informed the Commission that they had brought the replies to the 4 (four) queries and sought advice of the Commission. Since the whole case revolved around information sought by the appellants way back on 17.10.13 which was the main issue at stake, the Commission granted permission to the Principal Director & FAA, School Education and Joint Director & PIO, School Education to handover copy of the reply to the 4 (four) queries to the appellants who were present and with a copy to the Nagaland Information Commission. The Commission also gave an opportunity to the appellants to quickly go through the information furnished well after the dead line and give their reaction. After scrutiny of the information furnished to them, the appellants complained that information to query No.1 did not cover the period of 2008-2009 and also to 2009-2010. Secondly, they also mentioned that the reply to the query No.2 did not cover 2012-2013. They, however, expressed satisfaction with the reply furnished to the queries No.3 and 4.

ORDER

I. Against the back drop of the facts of the case and the records available in the case file, the Commission is firmly convinced that the **inaction** of the Directorate of School Education resulting in failure to provide the information sought even at the levels of PIO and FAA is highly unwarranted and unjustifiable. The delay by the Joint Director & PIO, School Education attracts maximum penalty for failing to **furnish any information within the stipulated time** provided under Section 20(1) of the RTI Act, 2005. Hence, the Commission orders that the Joint Director & PIO, School Education be imposed penalty of Rs. 25,000/- (Rupees twenty five thousand only) at the rate of Rs.250/- (Rupees two hundred and fifty only) **per day** of delay since the cumulative delay exceeded 100 (Hundred) days. The Joint Director & PIO, School Education was given reasonable opportunity of being heard before the penalty was pronounced. He acknowledged that no information has ever been furnished by him to the applicant/appellant within the time frame provided in the RTI Act, 2005. He also admitted his lapse and, though, he was offered an opportunity to stagger the payment of penalty, **agreed to pay it in one instalment**. Hence, the penalty imposed amounting to Rs.25,000/- (Rupees twenty five thousand only) may be deposited into the Government account by the Joint Director & PIO, School Education within 30th April, 2014 through Treasury Challan under Major Head: 0070-Other Administrative Services, Sub-Major Head:60-Other Services, Minor Heads: 118-Receipts under RTI Act, 2005.

II. The Principal Director & FAA (SE) had stated that the 1st appeal filed before the former Principal Director & FAA (SE) Mr Patton had never been traced or processed in file and put up to the Principal Director & FAA, School Education nor to the Joint Director & PIO, School Education. This 1st appeal copy had been acknowledged by some staff of the Directorate but never put up to Joint Director & PIO, School Education or to the Principal Director & FAA, School Education. The Principal Director & FAA, School Education requested that this copy of the 1st appeal filed on 18.12.13 be provided to him so that internal enquiry could be conducted and accountability fixed. The photo copy of the 1st appeal filed on 18.12.13 shall be

furnished to the Principal Director & FAA, School Education for conduct of internal enquiry and fixing of accountability.

III. The information not furnished by the Joint Director & PIO, School Education to query No. 1 & 2 of the RTI application for which replies were handed over to the appellants only on the date of hearing viz. on **20.3.14** by the Public Authority shall be furnished to the appellants by **20.4.2014** with a copy to the Nagaland Information Commission.

IV. Under the provision of Section 25(5) of the RTI Act, 2005, the Commission recommends that the School Education Department sensitises its officers and staff on RTI matters and if found feasible to even appoint more subject specific PIOs to expedite furnishing of information under RTI Act, 2005.

This appeal case shall be closed only after compliance of the above Sl. No. 1, 2, & 3 is received by NIC.

Decision pronounced in presence of all concerned on 20.3.14.

Copy be given to:-

1. Shri K. Yhome, IAS, Principal Director & FAA, School Education, Nagaland, Kohima.
2. Shri Y. Vihokhe Sema, Jt. Director & PIO, School Education, Nagaland, Kohima.
3. Shri. K. Wetsah, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001640.
4. Shri N. Yona Konyak, Member, Vigilance Cell, NPCC, Congress Bhavan, Kohima, Mobile No. 9436001872.
5. The Computer Programmer, NIC for uploading on the NIC's website.
6. Office copy.

Sd/-
(Lalhuma) IAS (Rtd)
Chief Information Commissioner,
Nagaland, Kohima

Sd/-
Kevinino P. Meru
State Information Commissioner,
Nagaland

Sd/-
Bukchem Phom
State Information Commissioner,
Nagaland.

Authenticated by

Secretary
Nagaland Information Commission

