

NAGALAND INFORMATION COMMISSION
Old Secretariat Complex,
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No. NIC/Appeal-20/2013-14

Dated Kohima, the 20th June, 2014.

Subject: Notice for hearing on 30th July, 2014 (Wednesday) at 12:00 PM.

WHEREAS, under Section 19 of the Right to Information Act, 2005, the Nagaland Information Commission have received a Second Appeal dated 02.01.2014 from two (2) applicants, Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang – 798612, Mobile No. 9402294729 and Shri. Y. Thungti, Secretary, Fact Finding Committee, Chingmei Village, Tuensang, Mobile No. 9402805795, stating that they did not receive any information from the PIO, DRDA, Tuensang to their RTI application dated 24.04.2012 nor from the Deputy Commissioner & FAA, Tuensang District, Nagaland to their first appeal dated Nil within the stipulated time frame under the RTI Act, 2005.

AND WHEREAS, the applicants had in their RTI application dated 24.04.2012 addressed to the PIO, DRDA, Tuensang sought information on:-

- i. The total amount of Grant-in-aid sanctioned for Chingmei Village during 2010-2011;
- ii. The percentage allotted for youth share and women share.

AND WHEREAS, on not getting any response or information to their RTI application dated 24.04.2012, Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang, Mobile No. 9402294729; Shri. L. Shangju Chang, Vice President, Chingmei Students' Union, Mobile No. 9863543630 and Shri. Y. Thungti, Secretary, Fact Finding Committee, Chingmei Village, Mobile No. 9402805795 preferred first appeal dated Nil to the Deputy Commissioner & FAA, Tuensang District, stating that the court of Chang Village Council Chairman Union had, vide letter dated 17.08.2012 summoned them before the district GB's Court, Tuensang on **22.08.2012** and had imposed a fine of Rs. 15,000.00 on the ground that the applicants had not complied to the resolution No. 1 of the Chang Village Council Chairman Union which states that, *'From the year 2012, under the jurisdiction of Chang Village Council Chairman Union, no application for information under RTI Act, 2005 should be applied without the approval knowledge from the concerned VCC/VDB for information from any department'*. The applicants(now appellants) had also requested that necessary action may be initiated against the Chang Village Council Chairman Union and refund the fine of Rs. 15,000.00 which was imposed on them.

AND WHEREAS, in response to the first appeal dated Nil, Shri. Sushil Kumar Patel, IAS, SDO(C) & PIO, Office of the Deputy Commissioner, Tuensang had, vide letter No. RTI/2005/TSG/2012-13/96 dated **03.12.2012** wrote to Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang; the PIO, DRDA, Tuensang and the Chairman, Chang Village Council that the fine imposed on the applicants by the Chang Village Council was null and void because the RTI Act, 2005 gives every right to an individual, and had further advised the Project Director, DRDA, Tuensang to furnish the information to the applicant at the earliest.

AND WHEREAS, the applicants had, vide letter dated Nil further submitted to the Deputy Commissioner, Tuensang stating that the Chang Village Council Chairman Union had again summoned them to the district GB's Court, Tuensang on **13.12.2012**, and cited that the person had to deposit Rs. 1.00 lakh to the Court for ignorance of the resolution No. 1 of the Chang Village Council Chairman Union.

AND WHEREAS, Shri. Sushil Kumar Patel, IAS, SDO(C) & PIO, Office of the Deputy Commissioner, Tuensang had, vide letter No. RTI/2005/PIO/2012-13/115 dated 18.01.2013 summoned Shri. N. Yemjong, VCC, President, Chang Village Council Chairman Union, Tuensang; Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang; and the Secretary, Fact Finding Committee, Chingmei Village to report to the Deputy Commissioner, Tuensang on 22.01.2013 at 11:00 AM as the matter could not be settled.

AND WHEREAS, on 07.11.2013, Shri. Y. Thungti, Secretary, Fact Finding Committee, Chingmei Village and Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang had again written to the Deputy Commissioner & FAA, Tuensang that the information sought had not been provided within the stipulated time frame of 30 days and hence requested to initiate necessary action.

AND WHEREAS, Shri. Sushil Kumar Patel, IAS, ADC & PIO, Office of the Deputy Commissioner, Tuensang had, vide letter No. RTI/2005/PIO/TSG/2013-14/251 dated 19.11.2013, informed Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang clarifying that:-

1. *One need not take permission of VCC/VCMs/GBs/Elders to apply RTI to the PIO/Appellate Authority of the district;*
2. *Every right is given to all individual by an Act of Parliament;*
3. *If anyone is obstructing the right then he/she shall be penalised as per law;*

AND WHEREAS, the ADC & PIO, Office of the Deputy Commissioner, Tuensang had, vide letter No. RTI/2005/TSG/2012-13/255 dated 20.11.2013 forwarded the first appeal to the Director & FAA, Rural Development, Nagaland, Kohima for further action.

AND WHEREAS, on the above circumstances, the Commission had, vide letter of even No. dated 6.03.2014 directed the Project Director, DRDA, Tuensang and the BDO incharge of Chingmei Village, DRDA, Tuensang to furnish the two very basic and fundamental items of information sought **by 25.03.2014** to the applicants(now appellants), with a copy to this Commission.

AND WHEREAS, the Commission had also, vide letter of even No. dated 06.03.2014 directed the Deputy Commissioner, Tuensang, who is also the Chairman of all VDBs under Tuensang District to ensure that the Project Director, DRDA, Tuensang and the BDO incharge of Chingmei Village, DRDA, Tuensang furnish the two very basic and fundamental items of information sought **by 25.03.2014** to the applicants(now appellants); confirm return of the Rs. 15,000/- fine imposed on the appellants; and order that the decision of the Chang Village Council Chairman Union under Resolution No. 1 pertaining to seeking information under the RTI Act, 2005 is in violation of the Constitution and the letter and spirit of the RTI Act. And a copy of the action taken report submitted to this Commission.

AND WHEREAS, the Commission had also, vide letter of even No. dated 6.03.2014 directed the Director & First Appellate Authority, Rural Development, Nagaland, Kohima, to hold hearing of the first appeal with the above applicants (now appellants), the Project Director, DRDA, Tuensang and the BDO incharge of Chingmei Village, DRDA, Tuensang and pass quasi-judicial decision latest by **25th March, 2014 positively**, with a copy to the applicant (now appellant) and to this Commission.

AND WHEREAS, in compliance to the directive of the Commission, the Director & First Appellate Authority, Rural Development, Nagaland, Kohima had, vide No. DRD/ME/RTI/AA-3/2013/14 dated 20.03.2014 informed the Project Director & PIO, DRDA, Tuensang, the BDO & APIO, Noklak Block and the applicants(now appellants) to be present during the hearing of the first appeal on 25.03.2014 at 12:00 noon.

AND WHEREAS, the Director & First Appellate Authority, Rural Development, Nagaland, Kohima had, vide No. DRD/ME/RTI/AA-3/2013/14 dated 25.03.2014 submitted a copy of the decision of first appeal hearing held on 25.03.2014, enclosing the following documents:-

1. A copy of the letter No. DRDA/TSG/RTI-1/2008-09 dated 21.03.2014 wherein Shri. M. Shayung Phom, Project Director & PIO, DRDA, Tuensang stated that the RTI application dated 24.04.2012 was received and transferred to the APIO, RD Block, Noklak, since the village for which the information was sought falls under the Noklak Block, and also informed that the APIO, RD Block, Noklak, had already furnished the information to the applicants vide letter No. RDB/RTI-1/12-13 dated 08.05.2012. A copy of the letter of Shri. Imtiangshi, the then Project Director & PIO, DRDA, Tuensang vide letter No. DRDA/TSG/RTI-1/2008-09 dated 24.04.2012 forwarding the RTI application to the BDO, RD Block, Noklak with a request to furnish the information and submit to him on or before 5th May, 2012, and a copy of the letter of Smti. Y. Hijila, the then BDO, RD Block, Noklak vide No. RDB/NLK/RTI-1/12-13 dated 08.05.2012 forwarding the information to the Project Director & PIO, DRDA, Tuensang were also attached.
2. A copy of the letter from the office of the Village Council Chingmei, Tuensang dated 23.03.2014 addressed to the Project Director & PIO, DRDA, Tuensang stating that the BDO had replied the matter to the Committee and the Village Council and on receipt of the reply, the Village Council had called the Committee to compare the income and expenditure of the fund, however, the Committee did not come and instead reported the matter to the ADC, Noklak. Consequently, Smti. S. Tainiu, ADC, Noklak had vide circular No. JUD/RTI/2012-13/288 dated 19.07.2012 and letter No. CON/RTI/2012-13/300 dated 23.07.2012 convened a meeting on 21.07.2012 at 11:00 AM in Chingmei Village Council Hall in connection with the RTI query.

The meeting was held on 21.07.2012 and a copy of the minutes of the meeting was also attached, wherein the parties had resolved that *'the matter was discussed minutely and agreed to compromise the issue and decided to work together for the welfare of the village.'*

AND WHEREAS, one of the appellants, Shri. Bumatyano, Chairman, Fact Finding Committee, Chingmei Village, Tuensang had vide letter dated 12.02.2014 sought clarification and appropriate action from the Commission regarding **Resolution No. 1, 2012** of the Chang Village Council Chairman Union which states that *'under the jurisdiction of the Chang Village Council Chairman, no application under the RTI Act, 2005 should be applied without the approval or knowledge of the concerned VCC/VDB for information from any departments'* and also **Resolution No. 3, 2011** of the Chingmei Range VDB Union that *'if any Chingmei Range wishes to undertake RTI, it should be done so in the knowledge of the village elders and Village Council. Otherwise the appellant will be doing at his/her own risk'*.

AND WHEREAS, on receipt of the decision of the first appeal vide No. DRD/ME/RTI/AA-3/2013/14 dated 25.03.2014 from the Director & First Appellate Authority, Rural Development, Nagaland, Kohima, the Commission had observed that though hearing of the first appeal was held on 25.03.2014, aside from the findings and observations, no firm directives or speaking orders have been passed. Also that, at Point No. 4 of the first appeal decision dated 25.03.2014 requesting the Commission to examine the findings and dismiss the case is not good in law as many pertinent issues have not yet been addressed such as, furnishing of information to the applicants (now appellants) has not been confirmed since there was no endorsement to the applicants (now appellants) in the letter of the BDO, RD Block, Noklak, and whether the illegal fine of Rs. 15,000/- imposed on the applicants (now appellants) by the Chang Village Council Chairman Union have been refunded is not confirmed.

And therefore, the Commission had, vide letter of even No. dated 23.04.2014 directed the Director & First Appellate Authority, Rural Development, Nagaland, Kohima to pass firm directives or speaking orders and also confirm the receipt of the information so provided by the DRDA, Tuensang and the refund of the illegal fine of Rs. 15,000/- imposed on the applicants (now appellants) by the Chang Village Council Chairman Union, latest by **20th May, 2014 positively**, with a copy to the applicant (now appellant) and to this Commission.

AND WHEREAS, the Commission had also, vide letter of even No. dated 23.04.2014, while reminding the Deputy Commissioner & Chairman of VDBs, Tuensang District, Nagaland to comply with the directives of the Commission, also directed to submit a copy of the action taken report latest by **20.05.2014**, regarding sensitisation of the Chang Village Council Chairman Union which barred or obstructed seeking of information by the applicants(now appellants) about the provisions of the RTI Act, 2005 and the rights of individuals to seek information unless it falls under the exempted category of information under Section 8 of the RTI Act, 2005.

AND WHEREAS, in compliance to the directive of the Commission dated 23.04.2014, Shri. Robert Longchari, Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner Tuensang District, Nagaland had, vide letter No. RTI-2005/PIO/Tsg/2014-15/555 dated 08.05.2014 instructed all outpost Administrative Officers under Tuensang district to sensitise all Village Councils under their respective jurisdiction about the provisions of the RTI Act, 2005.

AND WHEREAS, the applicants(now appellants) had, vide letter dated 05.05.2014 complained to the Commission that inspite of the directives, the concerned public authority had neither furnished the information nor returned the fine imposed on them.

AND WHEREAS, the Commission has decided to hear the appeal, giving opportunity to the parties, on **30th July, 2014 (Wednesday) at 12:00 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

NOW THEREFORE, it is notified that the following concerned are directed 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. T. Mhabemo Yanthan, Deputy Commissioner & Chairman of VDBs, Tuensang District, Nagaland.
2. Shri. Sushil Kumar Patel, IAS, the then Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner Tuensang District, Nagaland.
3. Shri. Robert Longchari, the new Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner Tuensang District, Nagaland.
4. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima.
5. Shri. M. Shayung Phom, Project Director & PIO, DRDA, Tuensang.
6. Shri. Imtiangshi, former Project Director & PIO, DRDA, Tuensang
7. Smti. K. Shongmao, BDO & APIO, Noklak Block, Tuensang.
8. Smti. Y. Hijila, former BDO, RD Block, Noklak, Tuensang.
9. The applicants(now appellants):-
 - a. Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang – 798612, Mobile No. 9402294729;
 - b. Shri. Y. Thungti, Secretary, Fact Finding Committee, Chingmei Wedoshi Thangjam, Chingmei Village, Tuensang – 798612, Mobile No. 9402805795.
 - c. Shri. L. Shangju Chang, Vice President, Chingmei Students' Union, Mobile No. 9863543630.
10. Shri. N. Yemjong, VCC, President, Chang Village Council Chairman Union, K/ Khel, Tuensang Village, Tuensang – 798612.

11. Shri. N. Marang, General Secretary, Chang Village Council Chairman Union, Tuensang – 798612.
12. The Chairman, Chingmei Range VDB Union, HQ EAC Post, Chingmei, Tuensang – 798612.
13. Shri. N. Matbou, Chairman, Village Council Chingmei, Tuensang – 798612.
14. Shri. C. N. Mongba, Head GB, Secretary, Village Council Chingmei, Tuensang – 798612.
15. Shri. N. Y. John, President, Chingmei Wedoshi Thangjam, Chingmei Village, Tuensang – 798612.

Sd/-

KEVININO P. MERU

State Information Commissioner

Dated Kohima, the 20th June, 2014.

No. NIC/Appeal-20/2013-14

Copy to:-

1. The P.A to the State Information Commissioner(K), Nagaland Information Commission for kind information of the SIC.
2. The P.A to the State Information Commissioner(B), Nagaland Information Commission for kind information of the SIC.
3. Shri. T. Mhabemo Yanthan, Deputy Commissioner & Chairman of VDBs, Tuensang District, Nagaland.
4. Shri. Sushil Kumar Patel, IAS, the then Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner Tuensang District, Nagaland.
5. Shri. Robert Longchari, the new Additional Deputy Commissioner & PIO, Office of the Deputy Commissioner Tuensang District, Nagaland.
6. Shri. Metsubo Jamir, Director & FAA, Rural Development, Nagaland, Kohima.
7. Shri. M. Shayung Phom, Project Director & PIO, DRDA, Tuensang.
8. Shri. Imtiangshi, former Project Director & PIO, DRDA, Tuensang
9. Smti. K. Shongmao, BDO & APIO, Noklak Block, Tuensang.
10. Smti. Y. Hijila, former BDO, RD Block, Noklak, Tuensang.
11. The applicants(now appellants):-
 - a. Shri. Bumatyano Chang, Chairman, Fact Finding Committee, Chingmei Village, Tuensang – 798612, Mobile No. 9402294729;
 - b. Shri. Y. Thungti, Secretary, Fact Finding Committee, Chingmei Wedoshi Thangjam, Chingmei Village, Tuensang – 798612, Mobile No. 9402805795.
 - c. Shri. L. Shangju Chang, Vice President, Chingmei Students' Union, Mobile No. 9863543630.
12. Shri. N. Yemjong, VCC, President, Chang Village Council Chairman Union, K/ Khel, Tuensang Village, Tuensang – 798612.
13. Shri. N. Marang, General Secretary, Chang Village Council Chairman Union, Tuensang – 798612.
14. The Chairman, Chingmei Range VDB Union, HQ EAC Post, Chingmei, Tuensang – 798612.
15. Shri. N. Matbou, Chairman, Village Council Chingmei, Tuensang – 798612.
16. Shri. C. N. Mongba, Head GB, Secretary, Village Council Chingmei, Tuensang – 798612.
17. Shri. N. Y. John, President, Chingmei Wedoshi Thangjam, Chingmei Village, Tuensang – 798612.
18. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
19. Office copy.

(SOYIMNA AIER KOZA)

Secretary