

**NAGALAND INFORMATION COMMISSION**  
**Old Secretariat Complex**  
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No. NIC/Appeal-12/2016-17

Dated Kohima, the 28<sup>th</sup> November, 2016.

Appellant : Smti. Chemtila Sangtam,  
Works & Housing,  
Loan (Br),  
Nagaland Civil Secretariat,  
Kohima, Mobile No. 8731924903

Respondents : (i) Shri. Khrupi Sothu,  
Secretary & FAA,  
Nagaland Public Service Commission,  
Nagaland, Kohima.

(ii) Ms. Asangla Imti,  
Deputy Secretary & PIO,  
Nagaland Public Service Commission,  
Nagaland, Kohima.

Public Authority : Nagaland Public Service Commission, Nagaland, Kohima.

Date of hearing : 18.11.2016 at 11:00 AM.

Date of Interim Decision : 28.11.2016.

Present:

1. Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436618557.
2. Ms. Asangla Imti, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 8794145664.
3. The applicant(now appellant), Smti. Chemtila Sangtam, Works & Housing, Loan (Br), Nagaland Civil Secretariat, Kohima, Mobile No. 8731924903.

**FACT OF THE CASE**

An applicant, Smti. Chemtila Sangtam, Works & Housing, Loan (Br), Nagaland Civil Secretariat, Kohima, Mobile No. 8731924903 had submitted an RTI application dated 31.03.2016 along with the application fee of Rs 10/- (Rupees ten only) addressed to the PIO, Nagaland Public Service Commission, Nagaland, Kohima seeking the following information:

1. *Marks obtained by the Sangtam candidates both in Mains and Viva Voce, in recently declared result of NCS, NPS, NSS and allied services examination, 2014.*

On receipt of the RTI application on 31.03.2016, the Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima had, vide letter No. NPSC/RTI-2015 dated 07.04.2016 replied by stating that “individual marks can be furnished to the candidate concerned on production of Admit Card. Further, as per the Nagaland Civil Service (Probationer’s Final Examinations) Regulations, 2005 Rule-8, the marks of the successful candidates of EAC are still confidential”. The PIO had also enclosed the statement of marks obtained by the candidate.

However, on not being satisfied with the information furnished by the Deputy Secretary & PIO, the applicant had submitted a first appeal dated 16.05.2016 to the First Appellate Authority, Nagaland Public Service Commission, Nagaland, Kohima.

On receipt of the first appeal, the Secretary & FAA had, vide letter No. NPSC/RTI-2015 dated 17.06.2016 replied to her appeal stating that the results of NCS, NPS, NSS & Allied Services 2014 has been declared however, the examination process is not over as the waiting list is valid for 1 (one) year from the date of declaration of result. As such, till the examination process is over the written marks of candidates cannot be disclosed. As already disclosed by the PIO, individual marks can be furnished to the candidate concerned on production of Admit Card of the written examination or Calling Letter of the Viva-voce. Further it was stated that the marks of the selected

candidates shall be sent to department concerned as and when sought for and not to the candidates for determination of final merit list in accordance with Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008.

However, on not being satisfied with the reply of the Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, the applicant (now appellant) had submitted a second appeal dated 15.09.2016 to this Commission stating that the information sought by her is not exempted under Section 8 of the RTI Act, 2005.

Since the applicant (now appellant) was not satisfied with the information furnished by the PIO and the FAA, Nagaland Public Service Commission, Nagaland, Kohima in response to her RTI application dated 31.03.2016 and subsequent first appeal dated 16.05.2016, the Commission has decided to hear the appeal, giving opportunity to all the parties on **18<sup>th</sup> November, 2016 (Friday) at 11:00 A.M.** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.** The Commission had also notified the following concerned 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. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima.
2. Smti. Asangla Imti, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima.
3. The applicant (now appellant), Smti. Chemtila Sangtam, Works & Housing, Loan (Br), Nagaland Civil Secretariat, Kohima, Mobile No. 8731924903.

#### **OBSERVATIONS AND FINDINGS:**

The Commission had observed that since the PIO had in her reply to the application (now appellant) referred to the 'Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2005' whereas the Secretary & FAA had in his reply to the first appeal referred to the 'Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008', the Commission was of the impression that there were two set of Regulations viz. the 'Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2005' and the 'Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008' and which had created some confusion.

During the hearing, Ms. Asangla Imti, Deputy Secretary & PIO, Nagaland Public Service Commission, clarified that there is only one Regulation i.e. the 'Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008' and the year printed in her reply should be read as 2008 and not 2005. Further, she informed that she handles the establishment matters and not the examination matters, hence was not aware of the Rules and could not give proper reply.

On being asked by the Commission, how the information sought i.e. the marks obtained by candidates was confidential under Rule 8 of the Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008, Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, replied that under Rule 8 (1) (a) of the Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008, since 75% of the marks obtained at the competitive examination conducted by the NPSC are considered for determining the inter-se seniority of the NCS(Probationers), he was of the view that the examination process is not over and therefore the written marks of candidates cannot be disclosed. He had also admitted the mistakes in the reply of the PIO regarding the wrong reference of the years in the Regulations which should be 2008 instead of 2005. Further, he had pointed out that in the reply of the PIO the statement that the 'marks of the successful candidates of EAC are still confidential' should be read as 'marks of the successful candidates of **NCS/NPS/ NSS/Allied services** are still confidential'.

The Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008 under Rule -8 states that:-

#### **8. Seniority of Probationers**

*(1) The Government shall prepare a merit list of all probationers who are appointed to the service on results of the same competitive examinations. Such list shall be arranged in accordance with the aggregate marks obtained by each probationer with the weight-age against each of the following three components:-*

- |  |               |
|--|---------------|
| <i>(a) at the competitive examinations conducted by the NPSC</i>           | <i>= 75 %</i> |
| <i>(b) in respect of his record in the Institute and the District; and</i> | <i>= 10 %</i> |
| <i>(c) at the final examination</i>  | <i>= 15 %</i> |

*Provided that in determining such order of merit, no account shall be taken of marks awarded to a probationer in any subject in which he has failed to satisfy the Director.*

*Provided further that if two or more probationers have secured equal number of marks in the aggregate, their order of merit shall be the order of their dates of birth.*

*(2) The seniority inter-se of the probationers recruited on the basis of each competitive examination shall be determined in accordance with the list prepared under Sub-Regulation (1).*

However, the applicant (now appellant) pointed out that the said Regulations of 2008 was about determination of seniority of NCS probationers only which is done after the competitive examination conducted by the NPSC and not about the competitive examinations conducted by the NPSC for all the NCS/NPS/ NSS/Allied services as sought for. Further, she stated that she had sought for the marks of the Sangtam candidates only in the competitive examination of all the NCS/NPS/ NSS/Allied services and not for the EAC marks.

The Commission had also observed that the Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008 is applicable only to the NCS probationers and the Rule -8 do not have any connection with the nature of information sought. Hence, referring to the Nagaland Civil Service (Probationer's Final Examinations) Regulations, 2008 and denying the information taking the shelter of this Regulation of 2008 was wrong and irrelevant since the NCS Probationer's Final Examinations was not about the competitive examinations conducted by the NPSC but regarding the determination of the interse seniority of the NCS(Probationers) only which do not include the NPS/NSS and other allied services. Further, it was also pointed out that Section 22 of the RTI Act, 2005 had an over riding effect on anything inconsistencies contained in the Officials Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act.

Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima had submitted that since the examination process is not over as the waiting list is valid for one (1) year from the date of declaration of result, the written marks of the candidates cannot be disclosed and disclosure at this juncture may jeopardize the examination process. Further, he submitted that the information sought was exempted under section 8(d) and 8(g) of the RTI Act, 2005 as the disclosure may also endanger the life or physical safety of any person or identify the source of information.

However, the Commission had observed that the respondents (FAA and the PIO) had failed to produce any documents/rules and to prove or justify their stand regarding the denial of disclosure on the ground that since the waiting list is valid for 1 (one) year from the date of declaration of result, the examination process is not over and hence the written marks of the candidates cannot be disclosed. Further, citing some examples, the Commission had informed that in the exams conducted by the Railways and the Banks, the marks of both the passed and failed candidates are disclosed, and therefore the submission of the FAA regarding the denial of the marks obtained by the candidates under Section 8 (g) of the RTI Act, 2005 as it would endanger the life and liberty of a person was not tenable.

The Commission observed that the respondents seemed to have some confusion between the **marks obtained** by the candidates and the **Mark Sheets** of the candidates. The Commission clarified that in any examination, basing on the marks obtained by the candidates in the Mains and Viva Voce, results are prepared and results declared in the form of **result sheets**, whereas **Mark Sheets** are issued to both the passed or failed candidates on the production of their Admit Cards of the written examination or Calling Letters of the Viva-voce. Therefore, from the day results are declared, the marks obtained by the candidates becomes in public domain and ceased to be confidential and hence should be disclosed.

#### **INTERIM DECISION:**

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

1. Since the FAA could not justify or prove his stand and had also failed to produce the relevant documents and rules, the Commission was not convinced and hence decided to hear the case again with the following parties in the next hearing:-
  - (i) Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436618557.

- (ii) The Controller of Examination, Nagaland Public Service Commission, Nagaland, Kohima.
  - (iii) Shri. K. Nakhro, Deputy Secretary, Nagaland Public Service Commission, Nagaland, Kohima.
  - (iv) Ms. Asangla Imti, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 8794145664.
  - (v) The applicant(now appellant), Smti. Chemtila Sangtam, Works & Housing, Loan (Br), Nagaland Civil Secretariat, Kohima, Mobile No. 8731924903.
2. Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima is directed to come prepared with all the following mentioned documents and records in the next hearing:-
- a. Conduct of Examination Rules;
  - b. Service Rules;
  - c. Recruitment Rules;
  - d. Result of the 2014 competitive examination conducted by the NPSC for the NCS/NPS/NSS/other allied services;
  - e. justification regarding his submission that disclosure of marks obtained by the candidates would endanger life or physical safety of a person under Section 8(g) of the RTI Act, 2005;
  - f. Correction of the errors in the years of the Regulation 2008 and 2005;
  - g. A copy of the Rules wherein the waiting list is valid for 1 (one) year from the date of declaration of result and hence marks are confidential is mentioned.

The Commission reserved its decision for the next hearing which shall be notified later.

Decision pronounced in the presence of all parties present on 18.11.2016.

Copies be given to:-

1. Shri. Khrupi Sothu, Secretary & FAA, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 9436618557.
2. Ms. Asangla Imti, Deputy Secretary & PIO, Nagaland Public Service Commission, Nagaland, Kohima, Mobile No. 8794145664.
3. The applicant(now appellant), Smti. Chemtila Sangtam, Works & Housing, Loan (Br), Nagaland Civil Secretariat, Kohima, Mobile No. 8731924903.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board
5. Office Copy.

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

**Sd/-**  
**CHANBEMO LOTH**  
State Information Commissioner

Authenticated true copy:-

**(WORHONTHUNG EZUNG)**  
Secretary