

NAGALAND INFORMATION COMMISSION

Officers' Hill, below Raj Bhavan,

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No. NIC/Appeal-22/2016-17

Dated Kohima, the 8th November, 2018.

Appellants : (1) Shri. Moa Emchen,
Member Secretary,
PGD, NPCC,
Kohima
Mobile No.9862749595 and

(ii) Shri. Haiying,
Member,
PGD, NPCC,
Kohima
Mobile No. 9402908307.

Respondents : (i) Shri. I. Panger Jamir, IFS,
Principal Chief Conservator of Forest & FAA,
Department of Forests, Ecology, Environment & Wildlife,
Nagaland, Kohima.

(ii) The Addl. Principal Chief Conservator of Forest & PIO,
Directorate of Forests, Ecology, Environment & Wildlife,
Nagaland, Kohima.

Public Authority : Directorate of Forests, Ecology, Environment & Wildlife,
Nagaland, Kohima.

Date of first hearing : 18.01.2017 at 12:00 PM.
Date of Decision : No Decision (due to gutting down of office).

Date of second hearing : 19.09.2017 at 12:30 PM.
Date of second Decision : 25.09.2017

Date of third hearing : 08.03.2018 at 12:00 PM.
Date of third Decision : 13.03.2018.

Date of fourth hearing : 22.10.2018 at 12:00 PM.
Date of fourth Decision : 08.11.2018.

Present:

1. Shri. I. Panger Jamir, IFS, Principal Chief Conservator of Forest & Head of Forest Force and First Appellate Authority, Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima, Mobile No. 9436006403.
2. Shri. Wepretso, IFS, Addl. Principal Chief Conservator of Forest & (former) PIO(now retired), Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima, Mobile No. 9436006413.
3. Shri. Vedpal Singh, IFS, Addl. Principal Chief Conservator of Forest & PIO, O/o the Principal Chief Conservator of Forests and Head of Forest Force, Nagaland, Kohima, Mobile No. 7005694720.
4. Ms. Lhinghoikim Touthang, IFS, Deputy Conservator of Forest, Mobile No. 9612352091.
5. Dr. Prabhat Kumar, IFS, Deputy Conservator of Forest, Doyang Plantation Division, Mobile No. 8368693811.
6. Shri. Dinesh Honmam, IFS, Deputy Conservator of Forest, HQ, Mobile No. 8837459704.
7. Shri. H. Tokaho Kinimi, IFS, Deputy Conservator of Forest, Zunheboto Division, Mobile No. 8731821345.
8. Shri. T. Aochuba, IFS, Divisional Forest Officer, Mokokchung Division, Mobile No. 7085243161.

9. Shri. Velatso Demo, IFS, Divisional Forest Officer, Phek Division, Mobile No. 9436005656.
10. Ms. Rongsenlemla, IFS, Divisional Forest Officer, Kohima Division, Mobile No. 8974140485.
11. Dr. Sentitula, IFS, Divisional Forest Officer, Peren Division, Mobile No. 8575209378.
12. Dr. C. Zupeni Tsanglai, IFS, Divisional Forest Officer, Tuensang Division, Mobile No. 9410572885.
13. Shri. Raj Priy Singh, IFS, Divisional Forest Officer, Mobile No. 9863642053.
14. The applicant (now appellant), Shri. Moa Emchen, Member Secretary, PGD, NPCC, Mobile No.9862749595.

FACT OF THE CASE

The Commission had heard the second Appeal No. PGD-1/2015-16 dated 28.11.2016 for the 3rd time on 08.03.2018 at 12:00 P.M, and after the hearing, the Commission had passed its decision dated 13.03.2018 wherein the Addl. Principal Chief Conservator of Forest & PIO, Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima was directed to furnish the information relating to query Nos.1, 2, 3 and 4 to the applicants (now appellants), with a copy to the Commission and, also after collecting the information from the remaining Divisions to submit the information to the Commission as decided in its earlier decision dated 25.09.2017 within 30 days from the date of receipt of the decision.

However, on not getting any response from Shri. Wepretso (IFS), Addl. Principal Chief Conservator of Forest & PIO, the Commission had, vide letter of even No. dated 24.05.2018 directed to submit the above compliances to this Commission within 15 (Fifteen) days from the date of receipt of the directive positively.

In compliance to the decision dated 13.03.2018 and directive dated 05.07.2018, Shri. Vedpal Singh (IFS), Addl. Principal Chief Conservator of Forest (E&CC) & PIO had, vide letter No.FE-1/15/2010(RTI)/1627 dated 08.06.2018 submitted that the compliances had been submitted vide letter No.FE-1/15/2010(RTI)/203 dated 12.04.2018. However, since the documents enclosed did not pertain to this appeal case but relating to another appeal case No.NIC/Appeal-9/2017-18 pertaining to Shri. Renet Nidang vs. PCCF which the Commission had already closed on 22.06.2018, the Commission had, vide letter of even No. dated 05.07.2018 directed Shri. Vedpal Singh (IFS), Addl. Principal Chief Conservator of Forest (E&CC) & PIO to comply with the decision of the Commission dated 13.03.2018 at the earliest.

In compliance to the above directive of the Commission dated 05.07.2018, Shri. Vedpal Singh (IFS), Addl. Principal Chief Conservator of Forest & PIO, O/o the Principal Chief Conservator of Forests and Head of Forest Force, Nagaland, Kohima had, vide letter No.FE-1/4/RTI-10/2016/2452 dated 16.07.2018 informed that the **Point No. 1** of the decision of the Commission had already been complied vide letter No.FE-1/4/RTI-10/2016/205 dated 12.04.2018. A copy of the information furnished was found enclosed.

Regarding **Point No. 2** of the Commission decision dated 13.03.2018, Shri. Vedpal Singh (IFS), Addl. Principal Chief Conservator of Forest & PIO, O/o the Principal Chief Conservator of Forests and Head of Forest Force, Nagaland, Kohima had submitted that the information were still awaited from some Divisions, however the information which were received from the seven (7) Divisions namely, 1) DFO, Dimapur 2) DFO, Phek 3) Chief Wildlife Warden, Dimapur 4) DFO, Wokha 5) DFO, Peren 6) Deputy Conservator of Forests for PCCF Office, Kohima and 7) DFO, Mon with a copy to the five (5) Divisions i.e. 1) DFO, Kohima 2) DFO, Mokokchung 3)DFO, Tuensang 4) DFO, Zunheboto and 5) DFO, Doyang were submitted.

Meanwhile in response to the Addl. PCCF (E&CC&PIO) letter No.FE-1/4/RTI-10/2016/2453-57 dated 16.07.2018, the Commission had, vide letter No.Tsg-4/Admn/25/2018/244 dated 26.07.2018 received list of beneficiaries under State Fund and FDA project for 2013-14, 2014-15 and 2015-16 from Dr. C. Zupeni Tsanglai, IFS, Divisional Forest Officer, Tuensang.

The Commission had also, vide letter No.DPD/MISC-1/RTI/83/2015-16 dated 10.08.2018 received from Dr. Prabhat Kumar, IFS, Divisional Forest Officer, Doyang Plantation Division stating that the information pertaining to Doyang Plantation Division had been furnished vide letter No.DPD/MISC/1/07-08/228 dated 14.10.2016 by the then Divisional Forest Officer. A copy of the information so furnished was also found enclosed.

Though sufficient time had lapsed, since compliances to the decision of the Commission dated 13.03.2018 was not fully received and also to determine the cause of delay in furnishing the information to the applicants (now appellants), the Commission had again decided to hear the appeal giving the opportunity of being heard to all the parties on **18th September (Tuesday), 2018 at 1:00 P.M. in the Hearing Room of Nagaland Information Commission, below Raj Bhavan, Officers' Hill Colony, Nagaland, Kohima** and also notified the parties **to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing.

- i. Shri. I. Panger Jamir, IFS, Principal Chief Conservator of Forest & Head of Forest Force and FAA, Nagaland, Kohima.
- ii. Shri. Wepretso, IFS, Addl. Principal Chief Conservator of Forest (E&CC) & PIO, O/o the Principal Chief Conservator of Forest & Head of Forest Force, Nagaland, Kohima.
- iii. Shri. Sidramappa, M.C, IFS, Divisional Forest Officer (now Deemed PIO), Kohima Division.
- iv. Shri. T.N. Jamir, IFS, Divisional Forest Officer (now Deemed PIO), Mokokchung Division.
- v. Ms. Rongsenlemla, IFS, Divisional Forest Officer (now Deemed PIO), Phek Division.
- vi. Shri. T. Aochuba, IFS, Divisional Forest Officer (now Deemed PIO), Mon Division.
- vii. Dr. Sentitula, IFS, Divisional Forest Officer (now Deemed PIO), Tuensang Division.
- viii. Shri. Tokaho, IFS, Divisional Forest Officer (now Deemed PIO), Zunheboto Division.
- ix. Ms. L. Touthang, IFS, Deputy Conservator of Forest (now Deemed PIO), Doyang Division.
- x. The applicants (now appellants), Shri. Moa Emchen, Member Secretary, PGD, NPCC, and Shri. Haiying, Member, PGD, NPCC, Kohima.

On receipt of the above Notice for hearing, the PCCF & HOFF & FAA had, vide letter No. FE-1/15/2010(RTI)/4606 dated 10.09.2018 requested the Commission for deferment of the hearing on 18.09.2018 at 1:00 PM to the second week of October, 2018 in view of the series of meetings scheduled at Delhi regarding JICA starting from 18.09.2018. The Commission accepted the request and had, vide letter of even No. dated 17.09.2018 postponed the hearing and rescheduled it on **22.10.2018 at 12:00 PM.**

OBSERVATIONS AND FINDINGS:

During the hearing, the applicant (now appellant) stated that he missed the hearing on 12.09.2017 since he was on district tour. He informed that as directed by the Commission in the last hearing, he had received the information on 12.04.2018 from 12 divisions to which he had expressed satisfaction whatever he had received. He stated that the Commission had in its decision of even No. dated 25.09.2017 directed the PIO to furnish a copy of the letter dated 06.08.2016 wherein his RTI application was transferred to the respective districts and divisions directing to furnish the information, however, since he did not receive the said letter he did not know to which divisions it was sent and from which divisions replies were received. Hence, he was not sure whether he had received the full information from all the districts and the Divisions.

The new PIO, Shri. Vedpal Singh, IFS, Addl. Principal Chief Conservator of Forest, who had taken over charge on the retirement of the former PIO, Shri. Wepretso (IFS), Addl. Principal Chief Conservator of Forest from government service, stated that the information was given piecemeal since the information had to be collected from the divisions, and moreover some of the divisions had given inadequate replies for which they had to be returned. He stated that information from 12 divisions and 2 more divisions had been given and felt that the Public Authority had given the complete information and had no more to be given.

Shri. I. Panger Jamir, IFS, Principal Chief Conservator of Forest & Head of Forest Force and First Appellate Authority, Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima stated that query Nos. 1, 2, 3 and 4 were relating to Forest Management Scheme and whatever information available had been furnished to the applicant (now appellant) as directed by the Commission in the last hearing. He further stated that query Nos. 5, 6 and 7 which were relating to wildlife had been furnished earlier and the applicant (now appellant) had expressed satisfaction already.

The applicant (now appellant) insisted that the letter of the PIO dated 06.08.2016 be furnished to him so that he would know to which divisions it was sent and from which divisions replies were submitted or yet to be submitted. In response, a copy of the letter of the PIO dated

06.08.2016 was produced before the Commission during the hearing and a copy was also handed over to the applicant (now appellant). On perusal, the applicant (now appellant) stated that the information from Wokha and Zunheboto Divisions were yet to receive. However, the PIO stated that information received from all the divisions had been furnished and copies of the information whatever available and furnished to the applicant(now appellant) was produced before the Commission during the hearing.

Section 7(1) of the RTI Act, 2005 stipulates that on receipt of a request, the PIO shall furnish the information as expeditiously as possible, and in any case within thirty(30) days of the receipt of the request. Further, under Section 5 (4) and & (5) of the RTI Act, 2005, the PIO can seek assistance of any other officer he/she considers necessary and when an officer whose assistance has been sought shall be considered as '*deemed PIO*' for that particular case. Hence, the Commission observed that since the PIO of the PCCF had transferred the RTI application dated 21.07.2016 to the DFOs of all the divisions and the districts on 06.08.2016 and followed by a reminder dated 26.09.2016, the DFOs in the districts and divisions have become '**Deemed PIOs**'. Further, the Commission had also referred to the DOPT's O.M No.1/14/2008-IR dated 28th July, 2008 which explained that:

"..... The import of sub-section (5) of section 5 is that, if the officer whose assistance is sought by the PIO, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the PIO."

Basing on the documents submitted and considering the 30 days time limit given to the PIO and the Deemed PIOs to furnish the information, the Commission had calculated the days of delays for the following Divisions as shown below:-

Sl. No.	Divisions	Date of receipt of the PIO's letter dated 06-08-2016	Date of reply	No. of days	No. of days of delay after the 30 days time limit
1	DFO, Peren	23-08-2016	02-09-2016	10	No delay
2	DFO, Dimapur	11-08-2016	30-08-2016	19	No delay
3	DCF(SF), Kohima	06-08-2016	30-08-2016	24	No delay
4	CWLW, Dimapur	11-08-2016	08-09-2016	28	No delay
5	DFO, Mon	03-10-2016	30-01-2017	119	119-30 = 89
6	DFO, Mokokchung	11-08-2016	07-09-2016	27	No delay

The DFO, Mokokchung informed that since he was newly posted to the division two (2) months ago after the retirement of the then DFO & PIO, Shri. T.N Jamir, IFS, he had no knowledge of the RTI application received in the division. However, on scrutiny of the documents received earlier by the Commission, it was observed that Mokokchung Division had received the PIO's letter and had even furnished the information on 07.09.2016.

It was also informed that the office of the Conservator of Forest(Northern Territorial Circle), Mokokchung had also received the PIO's letter dated 26.09.2016, however since it do not deal with the scheme, no record or information are available.

The DFOs of Kohima, Wokha and Phek Divisions submitted that the PIO's letter of 06.08.2016 was **never received** and only the reminder letter of the PIO dated 26.09.2016 was received. And on receipt of the PIO's reminder letter dated 26.09.2016, the replies were given as per the dates shown below:-

Sl. No.	Divisions	Date of receipt of the PIO's Reminder dated 26-09-2016	Date of reply	No. of days	No. of days of delay after the 30 days time limit
7	DFO, Kohima	28-09-2016	06-10-2016	8	No delay
8	DFO, Wokha	06-10-2016	13-10-2016	7	No delay
9	DFO, Phek	05-10-2016	02-11-2016	28	No delay

The Commission had observed that there was no record of the date of receipt of the PIO's letter dated 06.08.2016 and the PIO's reminder dated 26.09.2016 in respect of Tuensang, Zunheboto and Doyang. However, during the hearing, Dr. C. Zupeni Tsanglai, IFS, DFO, Tuensang stated that the PIO's letter was received on 05.12.2016 and before the information could be furnished, since the first appeal was received, the information was not furnished and was waiting for the decision on the appeal. She also stated that on the directive of the PIO, PCCF vide letter No. FE-1/4/RTI-8/2016/9007-9015 dated 09.03.2018, the information was submitted on 26.03.2018 and a copy of the above letter was also produced before the Commission.

The then DFO, Zunheboto, Shri. H. Tokaho Kinimi, IFS, stated that he was not certain of the date when the PIO's letter was received. He however, recalled that the letter was received after the DPDB meeting which was held on 09.11.2016 and only on the receipt of the reminder letter from the PIO, PCCF on 09.11.2016 at Dimapur, he had furnished the information on 10.04.2018. However, he could not produce any documentary proof before the Commission.

The DFO, Doyang submitted that the PIO's letter was received on 13.10.2016 and on the next day i.e. on 14.10.2016, the reply was given and a copy of the letter was also produced before the Commission in the hearing.

Hence, basing on the above submissions of the DFOs of Tuensang, Zunheboto and Doyang during the hearing before the Commission, the days of delay after taking into account the 30 days time limit to furnish the information were calculated as shown below:-

Sl. No.	Divisions	Date of receipt of the PIO's Letter/reminder	Date of reply	No. of days	No. of days of delay after the 30 days time limit
10	DFO, Tuensang	05-12-2016	26-03-2018	476	476-30=446
11	DFO, Zunheboto	09-11-2016	10-04-2018	517	517-30=487
12	DFO, Doyang	13-10-2016	14-10-2016	1	No delay

The Commission had observed that the PIO of the PCCF & HOFF had, on receipt of the RTI application dated 21.07.2016 on 22.07.2016 transferred the RTI application to the divisions on 06.08.2016, however considerable delay was caused by the divisions of Tuensang, Mon and Zunheboto, for which penalty was attracted. Section 20(1) provides for imposing penalty @ Rs. 250/- per day of delay subjected to a maximum of Rs. 25,000/- which is for a maximum of 100 days of delay, and the Commission had, basing on the days of delay contributed by each of the three (3) 'deemed PIOs' worked out the penalty proportionally as shown below:-

Sl. No.	Divisions	Received PIO's Reminder 26-09-2016 on	Date of reply	No. of Days taken to furnish	No. of days of delay	Penalty imposed @ Rs. 250/- per day of delay
1	DFO, Tuensang	05-12-2016	26-03-2018	476	476-30=446	Rs. 11,000.00
2	DFO, Zunheboto	09-11-2016	10-04-2018	517	517-30=487	Rs. 12,000.00
3	DFO, Mon	03-10-2016	30-01-2017	119	119-30=89	Rs. 2000.00
					Total:	Rs. 25,000.00

On scrutiny of the records and as per the list of PIOs for 2016-17, the Commission had observed that the following DFOs & PIOs were posted in the Divisions and gave the replies at the time when the RTI application was received in 2016:-

1. **Shri. H. Tokaho Kinimi, IFS**, DFO, Zunheboto Division now posted as Deputy Conservator of Forest.
2. In Mon Division the then DFO was **Shri. T. Aochuba, IFS**, now posted as Divisional Forest Officer, Mokokchung Division.
3. In Tuensang Division the then DFO was **Dr. Sentitula, IFS**, now posted as Divisional Forest Officer, Peren Division.

Shri. I. Panger Jamir, IFS, Principal Chief Conservator of Forest & Head of Forest Force and FAA stated that there was reshuffle in the department and the DFOs were recently posted in the

divisions and due to their ignorance of the RTI Act and its procedures, he had pleaded condoning of the penalty. However, the Commission made its stand clear that ignorance of the RTI Act was not an excuse and that the Commission had to uphold the law.

DECISION:

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

1. Since the applicant(now appellant) had submitted that the information pertaining to Wokha and Zunheboto Divisions were yet to be received, the PIO shall re-furnish the information free of cost to the applicant(now appellant) and with a copy to this Commission **within seven (7) days** from the date of receipt of this decision.
2. On receipt of the above information, the applicant (now appellant) shall confirm his satisfaction or non-satisfaction with the information so furnished to him to the PIO with a copy to the Commission **within five (5) days** from the date of receipt of the information.
3. Under Section 20(1) of the RTI Act, 2005, maximum penalty amounting to Rs. 25,000/- (Rupees twenty five thousand only) is imposed for the failure to furnish the information sought within the prescribed period of 30 days without reasonable cause, as it exceeded the maximum of 100 days of delay. The penalty amount shall be shared among the following three (3) ‘**deemed PIOs**’ of Tuensang, Mon and Zunheboto Divisions for contributing to the delay in furnishing the information to the applicant (appellant).

Hence, the following three (3) ‘**deemed PIOs**’ are show caused as to why they should not pay the following penalties at the rate of Rs. 250/- for each day of delay for contributing to the delay in furnishing the information to the applicant (now appellant) as shown below:-

Sl. No.	Divisions	Penalty imposed @ Rs. 250/- per day of delay
1	Dr. Sentitula, IFS, DFO, Tuensang (now posted in Peren Division)	Rs. 11,000.00
2	Shri. H. Tokaho Kinimi, IFS DFO, Zunheboto	Rs. 12,000.00
3	Shri. T. Aochuba, IFS DFO, Mon (now posted in Mokokchung Division)	Rs. 2000.00
Total:		Rs. 25,000.00

The above penalty amount shall be paid within **fifteen (15) days** from the date of receipt of this Commission’s Decision. The penalty fine shall be deposited into the Government account through **treasury challan** in favour of the Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima under the Head of Account given below, with a copy of the treasury challan in original to this Commission:-

0070 – Other Administrative Services
60 – Other Services
118 – Receipts under RTI Act, 2005.

Decision pronounced in the presence of all the parties present on 22.10.2018 at 12:00 PM.

Copy be given to:-

1. Shri. I. Panger Jamir, IFS, Principal Chief Conservator of Forest & Head of Forest Force and First Appellate Authority, Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima, Mobile No. 9436006403.
2. Shri. Wepretso, IFS, Addl. Principal Chief Conservator of Forest & (former) PIO(now retired), Directorate of Forests, Ecology, Environment & Wildlife, Nagaland, Kohima, Mobile No. 9436006413.
3. Shri. Vedpal Singh, IFS, Addl. Principal Chief Conservator of Forest & PIO, O/o the Principal Chief Conservator of Forests and Head of Forest Force, Nagaland, Kohima, Mobile No. 7005694720.

4. Ms. Lhinghoikim Touthang, IFS, Deputy Conservator of Forest, Mobile No. 9612352091.
5. Dr. Prabhat Kumar, IFS, Deputy Conservator of Forest, Doyang Plantation Division, Mobile No. 8368693811.
6. Shri. Dinesh Honmam, IFS, Deputy Conservator of Forest, HQ, Mobile No. 8837459704.
7. Shri. H. Tokaho Kinimi, IFS, Deputy Conservator of Forest, Zunheboto Division, Mobile No. 8731821345.
8. Shri. T. Aochuba, IFS, Divisional Forest Officer, Mokokchung Division, Mobile No. 7085243161.
9. Shri. Velatso Demo, IFS, Divisional Forest Officer, Phek Division, Mobile No. 9436005656.
10. Ms. Rongsenlemla, IFS, Divisional Forest Officer, Kohima Division, Mobile No. 8974140485.
11. Dr. Sentitula, IFS, Divisional Forest Officer, Peren Division, Mobile No. 8575209378.
12. Dr. C. Zupeni Tsanglai, IFS, Divisional Forest Officer, Tuensang Division, Mobile No. 9410572885.
13. Shri. Raj Priy Singh, IFS, Divisional Forest Officer, Mobile No. 9863642053.
14. The applicant (now appellant), Shri. Moa Emchen, Member Secretary, PGD, NPCC, Mobile No. 9862749595.
15. The Consultant (Accounts), Nagaland Information Commission, Nagaland, Kohima.
16. The Computer Programmer, Nagaland Information Commission for uploading on the Commission's website and Notice Board.
17. Office Copy.

Sd/-
CHANBEMO LOTHIA
Chief Information Commissioner

Sd/-
G. H. RAMLIA
State Information Commissioner

Authenticated true copy:-

(WORHONTHUNG EZUNG)
Secretary