

**NAGALAND INFORMATION COMMISSION**

**Old Secretariat Complex**

**Post Box No. 148**

**Nagaland, Kohima – 797001.**

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No. NIC/Appeal-5/2016-17/

Dated Kohima, the 2<sup>nd</sup> November, 2016.

Appellant(s):

- 1) Shri. Moa Emchen,  
Member Secretary,  
PGD, NPCC,  
Kohima, Mobile No. 9862749595.
- 2) Shri. Kedou Wetsah,  
Member,  
PGD, NPCC,  
Kohima, Mobile No. 9436001640.

Respondent(s):

- 1) The Director General of Police & First Appellate Authority,  
PHQ, Nagaland, Kohima.
- 2) The concerned PIO, Office of the Director General of Police,  
PHQ, Nagaland, Kohima.

Public Authority : Office of the Director General of Police, Nagaland, Kohima.

Date of first Hearing : 29.07.2016 at 12:00 P.M  
Date of first Decision : 18.08.2016.

Date of second Hearing : 26.10.2016 at 1:00 P.M  
Date of second Decision : 02.11.2016.

Present:

1. Shri. L.L. Doungel, IPS, Director General of Police & FAA, Office of the DGP, PHQ, Nagaland, Kohima, Mobile No. 9436144116.
2. Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, Office of the DGP, PHQ, Nagaland, Kohima, Mobile No. 9436012953.
3. Shri. Imlisunep, Deputy Inspector General of Police (MOD), Office of the Director General of Police, PHQ, Nagaland, Kohima, Mobile No. 9436005941.
4. Shri. M. K. R. Pillai, Consultant (MTO), Office of the Director General of Police, PHQ, Nagaland, Kohima, Mobile No. 9436000333.
5. The applicant(now appellant), Shri. Kedou Wetsah, Member, PGD, NPCC, Kohima, Mobile No. 9436001640.

**FACTS OF THE CASE.**

The Commission had, on 29.07.2016 at 12:00 P.M heard the second appeal vide No. PGD-1/2015-16 dated 09-06-2016 submitted by Shri. Moa Emchen, Member Secretary, PGD, NPCC, Mobile No. 9862749595 and Shri. Kedou Wetsah, Member, PGD, NPCC, Mobile No. 9436001640 against the non response of the First Appellate Authority, Office of the DGP, Nagaland, Kohima, to their First Appeal vide letter No. PGD-1/2015-16 dated NIL which was submitted against the non-furnishing of information by the PIO to their RTI application dated NIL.

The Commission had, after hearing the case on 29.07.2016 at 12:00 P.M passed decision of even No. dated 18.08.2016. In compliance to the **Point No. 1** of the decision of the Commission dated 18.08.2016, Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, Office of the DGP, PHQ, Nagaland, Kohima had, vide letter No. PHQ(CON-II)185/RTI/2015-16/3814 dated **18.08.2016** furnished the information relating to **Query Nos. 1, 2 and 3** to the applicants(now appellants).

Also, in compliance to the **Point Nos. 2, 3 and 4** of the decision of the Commission dated 18.08.2016, the PIO had, vide letter No. PHQ(CON-II)185/RTI/2015-16 dated **08.09.2016** furnished the information relating to **Query Nos. 6, 8, 9 and 10** to the applicants(now appellants).

On receipt of the above information from the PIO, the applicants(now appellants) had, vide letter No. PGD-1/2015-16 dated **20.09.2016** informed the Commission that they were **satisfied** with the information so furnished to them.

And in compliance to the **Point Nos. 5 and 6** of the decision of the Commission dated 18.08.2016, Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, Office of the DGP, PHQ, Nagaland, Kohima had, vide letter No. PHQ(CON-II)185/RTI/2015-16 dated **14.09.2016** informed the Commission regarding the date of transferring of the RTI application and the date of furnishing the information as under:-

- For Decision Point No. 5, on cross-checking of the records, it was found that the **query Nos. 1, 2 to 3** of the RTI application dated NIL pertaining to the crime related data was **not transferred** to the SP (Crime) as it was presumed that the information was still under the exempted category, and not as deposed during the last hearing on 29.07.2016.
- For Decision Point No. 6 (a & b), the **query Nos. 4 to 10** of the RTI application dated NIL pertaining to the scheme of Modernisation was transferred to the Deputy Inspector General of Police (MOD), Nagaland, Kohima, vide letter No. PHQ(CON-II)185/RTI/2015-16/119 dated **07.03.2016**.
- On receipt of the RTI application on the same date i.e. 07.03.2016, the DIGP (MOD) had further transferred to the MTO(PHQ) and not to the Police Engineering Project, though work orders were issued by the Chief Engineer (Police Engineering Project), since the MTO(PHQ) deals with the subject matter and all records are in his possession.
- on **02.06.2016** the MTO(PHQ) had submitted the information to the DIG(MOD) as evidenced on the copy of the file noting.
- the DIGP (MOD) had, vide letter No. PHQ(MOD)RTI/2014-15 dated 02.06.2016 submitted the information to the PIO through the Branch on 03.06.2016 which the PIO had received only on **06.06.2016**.

Though the Commission had, in its decision dated 18.08.2016 decided to hear the **'Deemed PIOs'** i.e., DIG (MOD), Chief Engineer (PEP) and SP(Crime) in the next hearing, however, on the above submission of the PIO, the Commission has now decided to hear again the appeal, giving opportunity to the IGP(HQ) & PIO, DIGP(MOD) and MTO(PHQ) on **26<sup>th</sup> October, 2016 (Wednesday) at 1:00 P.M** and had also directed all the concerned parties to bring the files and relevant documents in question for scrutiny, on the above date and time for hearing.

### **OBSERVATIONS AND FINDINGS**

The Commission had in its earlier decision dated 18.08.2016 observed that since the RTI application dated Nil was received by the Public Authority on 25.02.2016 and that the information was furnished only on 20.06.2016, there was a delay of **116 – 30 = 86 days** for which penalty was attracted. However, on scrutiny of the documents provided to the Commission which was submitted to the Commission in compliance to the decision of the Commission dated 18.08.2016 by the IGP (HQ) & PIO, it is clarified that the information was furnished to the applicants (now appellants) on **18.06.2016** and that the applicant had received and submitted their satisfaction on **20.09.2016**. The Commission had observed that from the date of receipt of the RTI application dated NIL on **25.02.2016** to the date of furnishing of the information to the applicants (now appellants) on **18.06.2016** and considering the 30 days time for the PIO to furnish the information, there was a delay of **114 – 30 = 84 (eighty four) days** in furnishing the information for which penalty is attracted as per Section 20(1) of the RTI Act, 2005.

Since Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, Office of the DGP, PHQ, Nagaland, Kohima had transferred the RTI application to the DIG (MOD), who further transferred to Shri. M. K. R. Pillai, MTO(PHQ), and that the information was submitted by the MTO(PHQ) to the

DIGP(MOD) who further forwarded the information to the PIO through the Branch, the Commission observed that the DIG (MOD), MTO(PHQ) and the official(s) in the Branch have all become '**Deemed PIOs**'. The PIO also informed the Commission that Shri. Sedeviho Angami, LDA in the Confidential Branch deals with RTI matters in the PHQ.

On receipt of the RTI application from the PIO on 07.03.2016, the DIG(MOD) had transferred it to Shri. M. K. R. Pillai, Consultant (MTO), PHQ on the same date i.e. 07.03.2016 since the MTO(PHQ) deals with the subject matter and all records are in his possession. However, since the RTI application dated NIL was received on 25.02.2016, the 30 days deadline expired on **26.03.2016**. Hence, from the expiry of the 30 days deadline on **26.03.2016** to the date of furnishing the information by the MTO(PHQ) to the DIG(MOD) on **02.06.2016**, the Commission had observed that Shri. M. K. R. Pillai, Consultant (MTO), PHQ had contributed **68 (sixty eight) days** of delay in furnishing of the information.

Since on receipt of the information from the DIGP(MOD), Shri. Sedeviho Angami, LDA, Confidential Branch had forwarded the information to the IGP(HQ) & PIO only on 06.06.2016, the Commission had observed that Shri. Sedeviho Angami, LDA had contributed **4 (four) days** of delay in furnishing of the information. Further, on receipt of the information forwarded by Shri. Sedeviho Angami, LDA on 06.06.2016, since the PIO had furnished the information only on **18.06.2016**, the Commission had observed that Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO had contributed **12 (twelve) days** of delay in furnishing of the information. However, the Commission had observed that there was no delay on the part of the DIGP(MOD) in either transferring the RTI application/matter to the Consultant (MTO), PHQ or in forwarding the information received from the Consultant (MTO), PHQ to the PIO, hence no penalty is attracted.

Shri. M. K. R. Pillai, Consultant (MTO), PHQ had submitted that the delay was due to the several journeys he had to undertake to Delhi for submitting proposals and for running after sanctions. Also, Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO had admitted that there was delay in furnishing the information, however, citing several reasons and other Acts, he had appealed to the Commission to exonerate the penalty. However, the Commission observed that since the RTI Act over rides any other laws or Acts for the time being enforce under Section 22 of the RTI Act, 2005, the submissions made by Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO and Shri. M. K. R. Pillai, Consultant (MTO), PHQ was not convincing and hence not tenable.

### **DECISION**

On the above observations and findings, under Section 20(1) of the RTI Act, 2005, the Commission decided to impose penalty @ Rs. 250 per day for the total **84 days** of delay in furnishing the information amounting to a total of Rs. 21,000 (Rupees twenty one thousand only). The penalty amount shall be shared among the following PIO and "deemed PIOs" for contributing to the delay in furnishing the information as shown below:-

<b>Sl. No.</b>	<b>PIO/Deemed PIOs</b>	<b>Designation</b>	<b>Total No. of days delayed</b>	<b>Penalty Amount @ Rs. 250/- per day of delay</b>
1	Shri. P. F. Zeliang, IPS	IGP(HQ) & PIO	12	Rs. 3,000.00
2	Shri. M. K. R. Pillai	Consultant (MTO)	68	Rs. 17,000.00
3	Shri. Sedeviho Angami	LDA	4	Rs. 1000.00
		<b>Total</b>	<b>84 days</b>	<b>Rs. 21,000.00</b>

The penalty fines 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:-

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

Copies of the above treasury challans be submitted to this Commission within **two (2) weeks** from the date of receipt of this Commission's Decision.

On receipt of the copies of the treasury challans from the above PIO and Deemed PIOs, the Commission shall declare the case as closed, since the applicants(now appellants) were satisfied with the information furnished to them.

Decision pronounced in presence of all the parties present on 26.10.2016.

Copy to:-

1. Shri. L.L. Doungel, IPS, Director General of Police & FAA, Office of the DGP, PHQ, Nagaland, Kohima, Mobile No. 9436144116.
2. Shri. P. F. Zeliang, IPS, IGP(HQ) & PIO, Office of the DGP, PHQ, Nagaland, Kohima, Mobile No. 9436012953.
3. Shri. Imlisunep, Deputy Inspector General of Police (MOD), Office of the Director General of Police, PHQ, Nagaland, Kohima, Mobile No. 9436005941.
4. Shri. M. K. R. Pillai, Consultant (MTO), Office of the Director General of Police, PHQ, Nagaland, Kohima, Mobile No. 9436000333.
5. Shri. Sedeviho Angami, LDA, Confidential Branch, Office of the Director General of Police, PHQ, Nagaland, Kohima.
6. The applicants (now appellants), Shri. Moa Emchen, Member Secretary, PGD, NPCC, Mobile No. 9862749595 and Shri. Kedou Wetsah, Member, PGD, NPCC, Mobile No. 9436001640 for information.
7. The Consultant (Accounts), Nagaland Information Commission for information.
8. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
9. Office copy.

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

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

Authenticated true copy:

**(WORHONTHUNG EZUNG)**  
Secretary