

**NAGALAND INFORMATION COMMISSION
 OLD SECRETARIAT COMPLEX
 POST BOX NO.148
 NAGALAND: KOHIMA -797001**

No.NIC/Appeal-12/2011-12

Dated Kohima, the 30th Jan. 2012.

Appellant : Shiv Shankar Tiwari,
 Satya Jeevan Kusth Ashram,
 Lajpat Nagar, New Delhi-110065.
 (Mobile No. 8800904327)

Respondent : Chief Secretary, Nagaland, Kohima
 Public Authority : Chief Secretary's Office

Date of Hearing : 30.01.2012

Date of Decision : 30.01.2012

Present :

1. Smt. Ningsang Tally, OSD & PIO, Chief Secretary's Office,
 Nagaland, Kohima.

FACTS OF THE CASE:

Shiv Shankar Tiwari, the applicant had filed an RTI application to the Public Information Officer, office of the Chief Secretary, Nagaland on 26th May, 2011. According to the PIO no action could be taken as the RTI application filed by Shiv Shankar Tiwari was **not received** even though all out efforts were made to locate the same and also verified with the Post Office, Kohima. Subsequently, the applicant Shiv Shankar Tiwari filed an appeal to the First Appellate Authority on 26th July, 2011. The appeal letters Nos. 440, 470 and 500 dated **26th July, 2011** addressed to the Chief Secretary and First Appellate Authority also **did not** contain any copy of the application submitted by Shiv Shankar Tiwari on 26th May, 2011 to the PIO.

The PIO had stated that she had processed the appeal letters Nos. 440, 470 and 500 and put up the same to the Chief Secretary and First Appellate Authority. However, Chief Secretary and First Appellate Authority took the view that the appeal case cannot be taken up due to non receipt of the RTI application.

On 9th January, 2012, the office of the Chief Secretary and First Appellate Authority received two (2) sets of the appeals filed by Shiv Shankar Tiwari which were addressed to the Second Appellate Authority viz. Nagaland Information Commission. Even in these two sets of appeals filed by appellant on 9th January, 2012 the copy of the RTI application filed to the PIO were not enclosed.

The appellant in his appeal filed before the State Information Commission fortunately enclosed copies of the RTI applications which he had filed before PIO on 26th May, 2011.

Accordingly, the Commission fixed 30th January 2012 at 1:30 PM to take up the case and issued notice for hearing of the appeal case on 30th January, 2012. Only PIO of the Chief Secretary's office appeared before the Commission. The appellant did not appear nor send any intimation of his inability to do so.

Going by the statement of the PIO and records that were available, the Commission is of the view that the PIO was not in a position to initiate timely action for furnishing the information sought since the application originally filed by the applicant/petitioner on 26th May, 2011 was not received. The contention of the Chief Secretary and First Appellate Authority that the appeal case of Shiv Shankar Tiwari could not be taken up in the absence of the RTI application filed on 26th May, 2011 is found to be acceptable as there is no way for the First Appellate Authority to dispose the case or take the decision without knowing the contents of the RTI application filed by the petitioner.

Decision:- Taking into account the statement and clarifications furnished by the PIO and considering that the appellant Shiv Shankar Tiwari failed to appear before the Commission to give his statement or produce clear cut evidence of having posted the RTI application to the PIO on 26th May 2011, the Commission has decided as follows:-

- (a) That copy of the RTI application filed by Shiv Shankar Tiwari to the PIO on 26th May, 2011 which was enclosed in the appeals filed before Second Appellate Authority viz. the Nagaland Information Commission be handed over to the OSD & PIO in the Office of the Chief Secretary, Nagaland immediately.
- (b) Where the information on the query is held by the office of the Chief Secretary, the PIO shall furnish the same to the applicant within thirty (30) days of the receipt of this order as provided in Section 7 (1) of the RTI Act 2005.
- (c) Where the application made to the PIO of the Chief Secretary contains the information held by **another Public Authority** or where the subject matter in question is **more closely connected with the functions of another Public Authority**, the PIO of the Chief

Secretary's Office shall transfer the relevant portions of the subject matter to the PIO of the appropriate Public Authority **within five (5) days from the date of receipt of the application which the Commission will be handing over from its case files** since neither the PIO nor the Appellate Authority had received the original application.

- (d) The copies of the letter written by the PIO of the Chief Secretary's office forwarding the information asked for by the applicant where the same is available in the office of the Chief Secretary and letters written to the concerned PIOs of other public authorities holding the information sought etc. or closely connected with the functions of other Public Authorities concerned shall also be endorsed to Shiv Shankar Tiwari and also to the State Information Commission for records.

Decision pronounced in the open proceedings this day the 30th January, 2012.

Copy be sent to:-

1. The Chief Secretary & First Appellate Authority, Nagaland, Kohima.
2. The PIO and OSD, office of the Chief Secretary, Nagaland, Kohima.
3. The Appellant, Shiv Shankar Tiwari, Satya Jeevan Kusth Ashram, Lajpat Nagar, New Delhi-110065.(M-8800904327)

Sd/-

Lalhuma IAS (Rtd)
Chief Information Commissioner,
Nagaland, Kohima

Sd/-

Kevinino P.Meru
State Information Commissioner,
Nagaland, Kohima.

Sd/-

Bukchem Phom
State Information Commissioner,
Nagaland, Kohima

Authenticated by:

Secretary
Nagaland Information Commission
Kohima