

**NAGALAND INFORMATION COMMISSION
OLD SECRETARIAT COMPLEX
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NAGALAND: KOHIMA -797001**

No.NIC/Appeal-15/2011-12

Dated Kohima, the 23rd Feb. 2012.

Appellant : 1. Er. V. Neiba Pienyu,
Priemer Enterprise, Kohima.
2. Shri Meselhoulie Rame, M/s
United Traders, Kohima.

Respondent : Chief Engineer, PWD (R&B) Deptt.
Kohima.

Public Authority : Chief Engineer, PWD (R&B)
Deptt., Kohima

Date of Hearing : 23.02.2012

Date of Decision : 23.02.2012

Present :

1. Er D. Mero, Chief Engineer, FAA, PWD (R&B), Nagaland, Kohima.
2. Er. V. Kehie, Addl. Chief Engineer, PWD (R&B), Nagaland, Kohima.
3. Er. K. Theunuo, EE, PWD (R&B), South Divison, Kohima.
4. The appellants: Er. V. Neiba Pienyu, Premier Enterprise, Kohima & Shri Meselhoulie Rame, M/s United Traders, Kohima.

The fact of the case.

1. The applicants (1) Er. V. Neiba Pienyu and (2) Shri Meselhoulie Rame had submitted an RTI application on **19.07.2011** along with prescribed fees to the Public Information Officer, Office of the Chief Engineer, PWD (R&B), Nagaland, Kohima seeking information under RTI Act, 2005, relating to PWD programmes for “Improvement of Kitsubozou-Seikhazou-Thizama road” etc.
2. There was no response from the concerned PIO within the stipulated 30 (thirty) days period.
3. On **19.08.2011** applicants appealed to the FAA-cum-Chief Engineer, PWD (R&B) stating that the PIO has not provided them with the documents/information despite expiry of prescribed time frame.
4. The FAA, on **21.09.2011**, wrote to the applicants with reference to their RTI application dated 19.08.2011 citing the reasons that the information as sought for could not be furnished on time due to incomplete information being furnished by the concerned division. The FAA further stated that the information is being furnished within a period of 30 (thirty) days i.e. w.e.f. **20.09.2011**, and hence sought for extension of time.
5. On 21.01.2011, the Additional Chief Engineer, PWD (R&B) Er. V. Kehie, furnished information to the applicants with reference to application No. Nil dated **19.08.2011**

which is actually the appeal filed to the CE, R&B FAA and not the original RTI application.

Taking into consideration the facts of the case and the statements of the PIO and First Appellate Authority and the Appellants, the Commission observes the followings:

- i. The CE PWD (R&B) South Division and PIO in the office of the CE PWD (R&B) failed to forward any information to the applicants within the stipulated 30 (thirty) days. **The Commission views this matter very seriously.** The Commission found this a fit case for imposition of pending on the then EE (R&B) and PIO for not furnishing any information within the stipulated time frame and for his total inaction. However, since the concerned PIO has long been replaced, at this juncture no penalty is imposed as the applicants have received partial information though after prolonged delay from the Addl. CE (R&B) and PIO who has only recently been appointed as PIO in the office of CE (R&B).
- ii. The FAA who is Chief Engineer, PWD (R&B) did not follow the procedure for hearing appeal cases filed before him which is a quasi **judicial function.** He ought to have recorded the statement of the PIO and the appellant and given a clear decision on the matter within the time frame stipulated in the RTI Act, 2005 for disposal of appeals by the FAA. The First Appellate Authority officially writing to the appellants seeking extension of time for furnishing information sought is also not according to the provision of the Act.
- iii. The information furnished by Additional Chief Engineer, PWD (R&B) vide letter No.CE(R&B)/2010-12 erroneously dated **21st October, 2010** to the appellants was furnished much after the stipulated time frame of 30 (thirty) days. Not only this, in forwarding this information to the appellants, the Addl. Chief Engineer, PWD (R&B) wrongly referred to the RTI application No. Nil dated 19.08.2011 which is actually not the original RTI application filed by the appellants on 19.07.2011 but the first appeal to the Chief Engineer, PWD (R&B) and First Appellate Authority of PWD (R&B) Department.
- iv. The appellants alleged that information furnished to them by the Department is incomplete, inappropriate and not to the satisfaction and hence filed a second appeal to the NIC.
- v. The Commission on scrutiny of the partial information furnished by the R & B Department finds that the complaint of the appellants is valid in as much as the Department has not furnished satisfactory information sought by the appellant at the time of filing the RTI application to the PIO way back in 19th July, 2011.

Decision

The Commission, therefore, decides that the present PIO of the South Division, PWD (R&B) as well as the FAA viz. Chief Engineer, PWD (R&B) and Addl. Chief Engineer, PWD (R&B) and the PIO of the Chief Engineer's office shall initiate immediate action to immediately locate the following information sought by the

petitioners and furnish the same through the concerned PIO of the Department under intimation to the Commission within 30 (thirty) days of the receipt of this order:-

1. The sanctioned/received from NABARD with photo copy/true copy.
2. Total expenditure statement along with detail of vouchers (photo copy/true copy).
3. Total amount paid to the contractor(s) with photo copy/true copy.

The appellants shall, after receipt of the information sought from the Department, inform the Commission.

Decision pronounced in the presence of all concerned on 23.02.2012.

Copy be sent to:

1. Er D. Mero, Chief Engineer & FAA PWD (R&B) Deptt., Nagaland, Kohima.
2. Er. V. Kehie, Addl. Chief Engineer & PIO, PWD (R&B), Nagaland, Kohima.
3. Er. K. Theunuo former EE, PWD (R&B), South Division, Kohima and to the EE & PIO, South Division who replaced Er. K. Theunuo.
4. The appellants: Er. V. Neiba Pienyu, Premier Enterprise, Kohima & Shri Meselhoulie Rame, M/s United Traders, Kohima.

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

