

NAGALAND INFORMATION COMMISSION
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No. NIC/Appeal-1/2020-21

Dated Kohima, the 27th July, 2021

Appellant : Shri. LhousitoKhro,
President, Naga Tribal Union Chiimoukedima Town (NTUCT),
Chiimoukedima Town, Ward No - 2, Dimapur District, H.Q.
Chiimoukedima-797103, Nagaland.

Respondents : i) Shri. T. John Longkumer, IPS,
Director General of Police & First Appellate Authority,
Office of the Director General of Police, Nagaland, Kohima-
797001.
ii) Shri. S. TokiumongYim, IPS,
Inspector General of Police (Hqr) & PIO (PHQ),
Office of the Director General of Police, Nagaland, Kohima-
797001.

Public Authority : Office of the Director General of Police,
Nagaland, Kohima-797001.

Date of hearing : 22.04.2021(Thursday) at 12:00 hrs.

Date of decision : 27.07.2021.

Present:

1. Shri. T. John Longkumer, IPS, DGP & FAA, Office of the Director General of Police, Nagaland, Kohima.
2. Shri. S. TokiumongYim, IPS, IGP (Hqr) & PIO (PHQ) & PIO, Office of the Director General of Police, Nagaland, Kohima.
3. Smti. Zuboni Ezung, Legal Officer, Office of the Director General of Police, Nagaland, Kohima.
4. The applicant (now appellant), Shri. LhousitoKhro, President, Naga Tribal Union Chiimoukedima Town (NTUCT).
5. Smti. Z. Zhimomi (Advocate), Kohima (representative of the applicant).
6. Shri. Toshi O. Longkumer (Advocate), Kohima (representative of the applicant).

FACTS OF THE CASE

The applicant, Shri. Lhousito Khro had submitted an RTI application vide letter **No.NTUCT/RTI-PHQ/AP-02/2020** dated **03.03.2020** addressed to the PIO, along with the prescribed application fee of Rs. 10/- paid through cash seeking the following information:

- i. *Appointment Order of 1140 Constables as replied in your last RTI report dated 24th Feb, 2020.*
- ii. *Exclusively furnish the detail particulars of 206 or 208 who were selected and appointed through open recruitment dated 15th, 16th and 18th Nov, 2019. Their Names, Chest Numbers and District wise.*

In a joint reply to 5 (five) parties including the above applicant (now appellant), Shri. R. Vikram Ezung, AIGP & APIO, had vide letter **NO. PHQ (CON-II) 185/RTI/2015-16/3655** dated **06.04.2020** informed that due to the Global Pandemic of Covid-19 and Lockdown as per the Government order, the information sought could not be provided.

On not getting any response from the PIO to his RTI application **No.NTUCT/RTI-PHQ/AP-02/2020** dated **03.03.2020**, the applicant (now appellant) had submitted First Appeal **No. NTUCT/RTI-PHQ/AP-05-2020** dated **13.05.2020** addressed to the FAA, Office of the Director General of Police. However, on not getting any response from the First Appellate Authority to his

first appeal *No. NTUCT/RTI-PHQ/AP-05-2020 dated 13.05.2020*, the applicant had submitted a Second Appeal to the Commission vide *No. NTUCT/RTI-PHQ/AP-05-2020 dated 01.06.2020*.

Meanwhile, the Director General of Police & First Appellate Authority (PHQ), Office of the Director General of Police, Nagaland, Kohima had vide *NO. PHQ (CON-II) 185/RTI/2015-164063* dated *02.06.2020* issued a Notice for Hearing on *17th June, 2020* (Wednesday) at 12:00 PM to be heard in the Office Chamber of DGP, Nagaland.

After hearing the parties i.e., the applicant and the PIO concerned, the FAA had passed decision vide Order *NO. PHQ (CON-II) 185/RTI/APPEAL/2016* dated *17.06.2020* stating that in view of the total Lockdown announced vide Government of Nagaland due to the Global Pandemic of Covid-19 and absence of necessary Staff for processing the application, vide letter *NO. PHQ (CON-II) 185/RTI/2015-16/3655* dated *06.04.2020*, the APIO had informed the applicant that the information could not be provided. After due deliberation and proper application of mind, the FAA had come to the conclusion that the above letter dated *06.04.2020* issued by the APIO cannot be treated as the reply of the Department as per the RTI Act, 2005. In conclusion, the FAA had sent the original RTI application dated *03.03.2020* back to Shri. S. Tokiumong Yim, IPS, IGP(Hqr) & PIO of Nagaland Police Department for proper and necessary action as per the provision of the RTI, *de novo*.

In compliance to the above decision of the FAA dated *17.06.2020* and RTI application dated *03.03.2020*, Shri. S. Tokiumong Yim, IPS, IGP(Hqr) & PIO(PHQ) vide letter *NO. PHQ (CON-II) 185/RTI/APPEAL/2016/188* dated *18.07.2020* replied to the applicant (now appellant) stating that the information sought is protected under *Section 8(1)(j) of the RTI, Act, 2005* and that after due application of mind, it is opined that the information sought do not meet any public interest or activity.

On receipt of the above mentioned Second Appeal *No. NTUCT/RTI-PHQ/AP-05-2020 dated 01.06.2020* from the applicant (now appellant), Shri. Lhousito Khro and in reference to the PHQ Order *NO. PHQ (CON-II) 185/RTI/APPEAL/2016* dated *17.06.2020*, and letter *No. PHQ (CON-II) 185/RTI/APPEAL/2016/188* dated *18.07.2020*, the Commission had issued a Directive of *even No.* dated *19.08.2020* clarifying the above PIO letter dated *18.07.2020* by stating that information sought *cannot be exempted under Section 8(1)(j) of the RTI, Act, 2005* since there is public interest as appointments are made for performance of the public interest, therefore, the information sought be furnished to the applicant *within 15 (fifteen) days*.

On receipt of the above direction of the Commission dated *19.08.2020*, Shri. S. Tokiumong Yim, IPS, IGP(Hqr) & PIO had vide letter *NO. PHQ (B-X)LC/NTC/2020/506* dated *31.08.2020* requested the Commission to revoke the assumed order(ex-parte) passed and re-hear the RTI appeal filed by Shri. Lhousito Khro since the said directive and order issued by letter dated *19.08.2020* has been issued in violation of the principles of Natural Justice.

Since the above letter of the PIO dated *31.08.2020* was vague and not clear and that the applicant(now appellant) had also vide letter *No. NTUCT/RTI-PHQ/AP-09/2020 dated 07.08.2020* requested the Nagaland Information Commission, the Commission vide letter of *even No. dated 22.09.2020* issued a Directive to the FAA to re-hear the First Appeal within *30 (thirty) days*.

In compliance to the Directive of the Commission dated *22.09.2020*, Shri. R. Vikram Ezung, NPS, AIGP (Ops) & APIO issued *Notice for Hearing on 16.10.2020 (Friday) at 2:00 PM* in the Conference Hall, PHQ vide *NO. PHQ (CON-II) 185/RTI/APPEAL/2016* dated *09.10.2020*. Accordingly, after hearing the parties i.e., the applicant (now appellant) and the PIO concerned, the FAA had passed decision vide Order *NO. PHQRTI/APPEAL/2020/1654* dated *23.11.2020* stating that, the information sought by the appellant in the appeal at hand falls within the ambit of personal information under *Section 8 (1) (j) of the RTI Act, 2005* which would cause unwarranted invasion of the candidates/individuals and hence breach of confidentiality and trust and opined that confidentiality cannot be disclosed if found to have no relation to any Public Authority or interest, while referring to *Girish Ramchander Despande-vs-CIC in SLP NO. 27734/2012* case. Accordingly, the appeal was disposed of by the DGP & FAA as being devoid of merits.

OBSERVATIONS AND FINDINGS

The applicant (now appellant), Shri. Lhousito Khro appeared for the hearing and the appeal case was heard in the presence of the respondents, Shri. T. John Longkumer, DGP & FAA, Office of the Director General of Police, Nagaland, Kohima and Shri. S. Tokiumong Yim, IPS, IGP (Hqr) & PIO (PHQ) & PIO, Office of the Director General of Police, Nagaland, Kohima.

The applicant (now appellant) noted that he did not receive any information as sought through his RTI application dated **03.03.2020** and that even after the First appeal hearing was conducted twice, i.e. on **17.06.2020 & 18.11.2020**, the public authority failed to furnish the information sought by stating that it is protected under **Section 8 (1) (j) of the RTI Act, 2005** and the information sought has no relationship to any public activity or public interests.

During the hearing, the applicant (now appellant) said that the main objective of their Union is to fight for the interest of the public in general and fight any kind of corruption or injustice done to the public and there is no personal interest in the instant RTI application submitted to the Public Authority as it is for a common cause. The learned counsel of the applicant (now appellant) defended that the information sought is very much in the public interest since the Police Constables are appointed to safe guard the society and enforce law and order.

DGP & FAA (PHQ), Shri. T. John Longkumer, IPS, stated that the Police Department has been following two types of recruitments since 1963 :- Direct Recruitment and Open Recruitment. In 2018, the Department had proposed to the Government for conducting Open Recruitment, since the Government was not in favour for Direct Recruitment. The DGP & FAA (PHQ) explained that since training is a Government decision, it shall continue as long as Government Order is enforced.

During the hearing, learned counsel of the respondent stated that since all the appointments made under the Department are uploaded in their official website, the information sought by the applicant (now appellant) showed no Public Interests but only private/Individual interests. She also stated that the appointments made were not illegal or backdoor since it was a Government decision. She expressed that the appointment orders contains names, ranks, place of posting and other personal or sensitive details which may be compromised.

The Commission pointed out that denying furnishing of information by the FAA and PIO referring to **Girish Ramchander Despande-vs-CIC in SLP NO.27734/2012** case was not tenable since it was a different context from the present case.

It was also pointed out that since the PIO (PHQ) had in another RTI matter furnished the “details of appointment orders during the last 3 years along with the Name / Father’s Name, Village & Tribes of various ranks” to the same applicant (now appellant) vide letter **NO.PHQ/IGP/HQR/2018/1212** dated **24.02.2020**, the applicant (now appellant) should not be denied information in this similar RTI case too.

The Commission also observed that no penalty was attracted in the delay by the Public Authority due to the prevalent COVID-19 pandemic situation all over the country. The Commission re-iterated that since any kind of appointment made has some public interests, the public authority should furnish the information sought. And while furnishing the appointment orders, the information which are sensitive and likely to cause invasion of privacy may be withheld.

DECISION

On the above observations and findings, the Commission decided that the DGP & FAA, Office of the Director General of Police, Nagaland, Kohima shall furnish the information as sought and also confirm satisfaction/non-satisfaction from the applicant (now appellant) with a copy to the Commission..

The above action taken report shall be submitted to the Commission **within 40 (forty) days** from the date of receipt of this decision.

The Commission also directed Shri. S. Tokiumong Yim, IPS, IGP (Hqr) & PIO (PHQ) to withdraw his letter **NO.PHQ (B-X) LC/NTC/2020/506** dated **31.08.2020** immediately.

Decision pronounced in the presence of the applicant (now appellant) and the respondents on **22.04.2021**.

Copy be given to:

1. Shri. T. John Longkumer, IPS, DGP & FAA, Office of the Director General of Police, Nagaland, Kohima.
2. Shri. Shri. S. Tokiumong Yim, IPS, IGP (Hqr) & PIO (PHQ), Office of the Director General of Police, Nagaland, Kohima.
3. The applicant (now appellant), Shri. Lhousito Khro, President, Naga Tribal Union Chiimoukedima Town (NTUCT), Chiimoukedima Town, Ward No - 2, Dimapur District, H.Q. Chiimoukedima-797103, Nagaland.
4. The Computer Programmer, Nagaland Information Commission, Nagaland, Kohima for uploading on the website and Notice Board.
5. Office Copy.

Sd/-

G.H. RAMLIA

State Information Commissioner

Authenticated true copy:-

(OBANGLA JAMIR)

Secretary

Nagaland Information Commission