

NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-587
NAGALAND, KOHIMA-797001

Email: cic.nagaland@gmail.com | Website: www.nlsic.nagaland.gov.in



No. NIC/APPEAL-2/2022-23

Dated Kohima, the 24th May, 2022

Appellants : i) Shri. Wilson K. Mongzar
ii) Shri. M. Jemu
iii) Shri. Tali Naga

Respondents : (i) Smti. Tosheli Zhimomi,
Director & First Appellate Authority,
Directorate of Social Welfare,
Nagaland, Kohima.

(ii) The concerned PIO,
Directorate of Social Welfare,
Nagaland, Kohima.

Public Authority : Directorate of Social Welfare, Nagaland, Kohima.

Date of hearing : 11.05.2022 at 1:00 PM.

Date of Decision : 24.05.2022.

Present:

1. Smti. Tosheli Zhimomi, Director & FAA, Directorate of Social Welfare, Nagaland, Kohima, Mobile No. 943601908.
2. Smti. Arila Sangtam, Legal Consultant, representing the Directorate of Social Welfare, Nagaland, Kohima, Mobile No. 8787524971.
3. Shri. Wilson K. Mongzar, the applicant (now appellant).
4. Shri. M. Jemu, legal representative of the applicant (now appellant).

The concerned PIO, Directorate of Social Welfare, Nagaland, Kohima **did not** appear for the hearing.

FACT OF THE CASE

An applicant, Shri. Wilson K. Mongzar & Party submitted an RTI application dated ***NIL*** and received by the Department on **20.09.2021** addressed to the PIO, Directorate of Social Welfare, Nagaland, Kohima, seeking the following information:

- i) *Kindly furnish a copy of the detail Expenditure Statements of all the Drawal Authority enclosed herewith in chronological order issued in month and year wise for implementation of various programmes/Schemes for the year 2016 to 2020.*
- ii) *Drawal Authority for construction programmes enclosed herewith may kindly be furnished as per the month and year wise, Work Orders, Tender bids, Completion Certificate along with photocopy duly countersigned by the concerned VCs, Head GBs, or Ward Chairman where these works were executed.*
- iii) *Drawal Authority for Supplies and Material Items and other goods, Supply Orders, Authorised Agencies along with Transportation Vehicle Numbers, Cost and Cash Memos.*
- iv) *Kindly furnish a copy of the authentication Audit Report submitted to A.G. Office.*
- v) *Kindly furnish a copy of the Actual Payment Receipt from the enclosed Drawal Authority for implementation of various programmes from the year 2016 to 2020.*
- vi) *Kindly furnish the Official Standing Order/O.M for deduction of various share percentage with proof records maintained by Department.*

Since there was no response from the PIO, Directorate of Social Welfare even after a lapse of **30(thirty) days**, the applicants (now appellants) had filed the First Appeal dated **21.10.2021** addressed to the Director, Directorate of Social Welfare and received by the Department on the same date.

Further, since there was no response even from the Director & FAA, Directorate of Social Welfare even after a lapse of **70(seventy) days**, the applicants (now appellants) had filed the Second Appeal dated **30.12.2021** to the Commission and received by the Commission on **08.01.2022**.

However, since the First Appeal was yet to be heard by the FAA, the Commission had vide letter **No.NIC/GEN/RTI-19/17(Vol-I) dated 03.02.2022** directed the Director & FAA, Social Welfare, Nagaland, Kohima to hear the First Appeal within **45 (forty five) days** from the date of receipt of the Directive and submit a copy of the decision to the Commission. And in compliance to the Commission's directive, the Director & FAA conducted the hearing on **22.02.2022** and passed a decision on the same day stating that available documents are hereby provided to the applicants (now appellants), and if not satisfied, the applicants (now appellants) are given liberty to approach higher authority as laid down under the RTI Act, 2005.

The Commission had issued a letter **No.NIC/GEN/RTI-19/17(Vol-I) dated 13.04.2022** to the applicants (now appellants) to confirm satisfaction / non-satisfaction of the information so furnished by the Public Authority after hearing the First Appeal and decision passed by the FAA vide Order dated **22.02.2022**. And in compliance to the Commission's directive above, the FAA, during the first appeal hearing on 22/02/2022 stated that the PIO had telephonically informed the applicant on 16.12.2021 to collect the information, however, the applicant declined to receive due to missing covering letter from the authority. Further, some information were provided to the applicant, and if not satisfied the appellants were free to approach higher authority.

However, the applicants (now appellants), submitted another Appeal dated **16.03.2022** and received by the Commission on **17.03.2022**, expressing their non-satisfaction of the outcome of the First Appeal Hearing and decision of the FAA vide Order dated **22.02.2022** as the information was provided for one programme out of the multiple questions and which was also found to be non-transparency and accountability. Also 250 drawal authority for implementation of various programmes and schemes were enclosed, however no information till date.

Since the Commission is not satisfied and convinced with the above decision/order of the FAA, the Commission has decided to hear the above mentioned appeal giving opportunity of being heard to all the parties on **11th May, 2022 (Wednesday) at 1:00 P.M in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima** and had directed the parties to **bring the files and relevant documents** in question for scrutiny on the above date and time for hearing. The following under mentioned officials were requested to attend the hearing with preventive measures such as wearing of face mask and social distancing etc. **Only 2 (two) persons from each party would be allowed with strict protocol.**

1. The Director & First Appellate Authority, Directorate of Social Welfare, Nagaland, Kohima-797001.
2. The PIO, Directorate of Social Welfare, Nagaland, Kohima-797001.
3. The applicant (now appellant), Shri. Wilson K. Mongzar & Party, New Secretariat, Mobile No. 8132919480 / 8014214292.

OBSERVATIONS AND FINDINGS:

The Commission took a serious view regarding the non appearance of the PIO in the hearing without any prior intimation or reason to the Commission.

During the hearing, Smti. Tosheli Zhimomi, Director & FAA, Directorate of Social Welfare, Nagaland, Kohima submitted that the information could not be provided to the applicant due to the lockdown /pandemic. She further informed that due to shifting of office and change of guards, the information could not be furnished on time. However, during the first appeal hearing on 22/02/2022, the then FAA stated that some available documents were provided to the appellants, and if not satisfied the appellants were free to approach higher authority.

The applicant (now appellant) stated that except reply to query No. 1 of his RTI application dated 20.09.2021, he was not satisfied with the information provided to him since they were incomplete and some no information were received.

During the hearing, regarding **Query No. 1** to his RTI application dated 20.09.2021, the applicant (now appellant) submitted that he had received the information and was **satisfied**.

Regarding **Query No. 2**, the applicant (now appellant) stated that he was **not satisfied** since he had received information against only one (1) Drawal Authority for Construction including Work Orders, Tender Bids, Completion Certificate. He further claimed that the documents were incomplete since there were no countersignatures of the concerned VC (Village Council), GB (Goan Bura) or Ward Chairman and only photocopies were given. Further, no information for Dimapur and Peren districts were furnished.

Smti. Tosheli Zhimomi, Director & FAA, Directorate of Social Welfare, Nagaland, Kohima submitted that the Completion Certificates which were received from the Engineering Wing were furnished to the applicant. There will not be countersignatures on the photocopies and the photographs, however, information for some villages which are missing shall be collected and shall be furnished.

Query No. 3, the the applicant (now appellant) stated that he did not receive any information.

The Director & FAA stated that some information such as payment vouchers can be given except the Vehicle Numbers, the cost and cash memos since the supply works were carried out by the supplier and depends on the supplier whether to give or not to give.

Query No. 4, The the applicant (now appellant) stated that he did not receive any information though there was a government directive to submit Audit report to AG (Accountant General) and Finance Department.

Regarding the Audit Reports, the Director & FAA stated that Audit was already done for two periods and since it was done by the AG, there is no question of submitting Audit Reports to the AG.

The Commission also explained that the AG does the audit and if any clarification Audit paras are given to the concerned department for reply. Further, no audit paras means that no objection implying that the schemes and projects were implemented properly.

Query No. 5, The the applicant (now appellant) stated that he did not receive any information.

The Director & FAA stated that due to shifting of office and change of guards, the information could not be furnished. However, she stated that the information can now be given.

Query No. 6, the applicant (now appellant) stated that during the time of payment for supply works, it was learnt that certain percentage is deducted and hence sought for a copy of such Official Standing Order/OM for deduction with proof of documents maintained by the Department.

The Director & FAA stated that there is no such Official Standing Order/OM and hence cannot furnish.

The Commission also agreed with the submission of the Director & FAA that if information is not available with the public authority, it cannot be furnished.

DECISION

In view of the above submissions and observations, the Commission decided that:-

1. Since some information were furnished after the expiry of the 30 days time limit, the PIO, Directorate of Social Welfare, Nagaland, Kohima shall furnish the complete information, **free of cost and within 15 (fifteen) days** from the date of receipt of this decision to the applicant (now appellant) and with a copy to this Commission.

- a. *Query No. 2 – information against the Drawal Authority enclosed to be furnished as per month and year wise as sought.*
 - b. *Query No. 3 – payment vouchers to be furnished.*
 - c. *Query No. 4 – photocopy of register may be given along with explanation as submitted above in respect of Audit Reports.*
 - d. *Query No. 5 – The APRs (Actual Payment Receipts) as per Drawal Authority enclosed for the periods 2016 to 2020.*
2. On receipt of the information, the applicant (now appellant) shall submit satisfaction or non-satisfaction to the Commission **within 15 (fifteen) days** from the date of receipt of the information.
 3. The PIO, Directorate of Social Welfare, Nagaland, Kohima shall submit to the Commission regarding his/her absence in the hearing within **within 15 (fifteen) days** from the date of receipt of this decision.

On receipt of the above compliances, the Commission shall hear the case again in the presence of the **former PIO** and **present PIO**, Directorate of Social Welfare, Nagaland, Kohima in the next hearing which shall be notified later.

Decision pronounced in the presence of both the parties on 11.05.2022 at 1:00 PM.

Copies be given to:-

1. Smti. Tosheli Zhimomi,, Director & FAA, Directorate of Social Welfare, Nagaland, Kohima, Mobile No. 943601908.
2. The former PIO, Directorate of Social Welfare, Nagaland, Kohima.
3. The present PIO, Directorate of Social Welfare, Nagaland, Kohima.
4. The applicant (now appellant), Shri. Wilson K. Mongzar & Party, New Secretariat, Mobile No. 8132919480 / 8014214292.
5. Office Copy.

(I. MEYIONEN JAMIR)
Chief Information Commissioner

(G. H. RAMLIA)
State Information Commissioner

(KEVIZATUO MIACHIEO)
State Information Commissioner