

**NAGALAND INFORMATION COMMISSION**  
**AGRI-FARM COLONY, LANE-6, H/NO. AFC-578**  
**NAGALAND, KOHIMA-797001**  
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No. NIC/APPEAL-14/2022-23

Dated Kohima, the 17<sup>th</sup> August, 2022

Appellants : i) Shri. Mudonyi Shijoh of Dzulha Village, Phek,  
ii) Shri. Thuyesacho Swuro of T. Tsese Village, Phek, and  
iii) Shri. Muzilhu V. Keyho of Suthozu Nasa, Phek

Respondents : (i) Smti. Liboni Humtsoe,  
Director & First Appellate Authority,  
Directorate of Rural Development,  
Nagaland, Kohima-797001.  
  
(ii) Smti. Azenuo Pienyu  
Addl. Director & PIO,  
Directorate of Rural Development,  
Nagaland, Kohima-797001.  
  
(iii) Shri. Razukhru D. Vasa,  
Project Director & PIO,  
DRDA, Phek,  
  
(iv) Shri. Japra Swuro,  
(former) BDO & APIO (now retired),  
RD Block, Sekruzu, Phek, Nagaland.  
  
(v) Shri. Chitsoru Vasa,  
BDO & APIO (present),  
RD Block, Sekruzu, Phek, Nagaland.

Public Authority : District Rural Development Agency, Phek, Nagaland.

Date of hearing : 01.08.2022 at 12:30 PM.

Date of Decision : 17.08.2022.

Present:

1. Smti. Liboni Humtsoe, Director & FAA, Directorate of Rural Development, Nagaland, Kohima, Mobile No. 8413825319.
2. Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland, Kohima, Mobile No. 9436001443.
3. Smti. Akhrienuo Zehol, BAPO, DRDB Directorate of Rural Development, Nagaland, Kohima, Mobile No. 8414098171.
4. Shri. Razukhru D. Vasa, Project Director & PIO, DRDA, Phek, Nagaland, Mobile No. 9436000633.
5. Shri. Japra Swuro, (former) BDO & APIO (now retired), RD Block, Sekruzu, Phek, Nagaland, Mobile No. 9402204563.
6. Shri. Chitsoru Vasa, BDO & APIO (present), RD Block, Sekruzu, Phek, Nagaland, Mobile No. 9862376512.
7. The applicants (now appellants), Shri. Mudonyi Shijoh (Mobile No. 8787379773), Shri. Thuyesacho Swuro (Mobile No. 8837029595).

One of the applicants (now appellants), Shri. Muzilhu V. Keyho (Mobile No. 9436680697) **did not appear** for the hearing.

## **FACT OF THE CASE**

Shri. Mudonyi Shijoh, Shri. Thuyesacho Swuro, and Shri. Muzilhu V. Keyho, had jointly submitted an RTI application dated **10.08.2020** along with application fee of Rs. 10/- only seeking the following information on the implementation and utilization of MGNREGS and NRLM during 2016-2020:

1. *Photo copy of sanction order for materials component & wage component (all villages under Sekruzu Block).*
2. *Photo copy of supply order issued to contractor/firm, copy of materials (all villages under Sekruzu Block).*
3. *Photo copy of cash memo against each material purchased (all villages under Sekruzu Block).*
4. *Photo copy of APR against each payment received by contractor/firm on materials supplied (all villages under Sekruzu Block).*
5. *Photo copy of receipt of materials by respective VDB Secretaries under Sekruzu Block.*
6. *Photo copy of receipt of materials by respective VDB Secretaries under Sekruzu Block.*
7. *Photo copy of convergent order sanction with detail breakup of the fund.*
8. *Photo copy of yearly sanction order for NRLM Scheme.*
9. *Documentary proof of implementation and utilization of NRLM fund each financial year.*
10. *Photo copy of APR by respective NRLM beneficiary under Sekruzu Block.*

On receipt of the above RTI application, Shri. Japra Swuro, APIO, RD Block, Sekruzu, Phek had, vide letter **No. RDB/SKZ/RTI/2016-17** dated **11.08.2020** wrote to the VDB Secretaries under RD Block, Sekruzu to furnish information under MGNREGA pertaining to 2016-2020 at Sl. No. 03 and further directed to submit the approximate expenditure/cost of paper @ Rs. 5/- per page (A4) on or before **21.08.2020** without fail.

On not being satisfied, the applicants had submitted first appeal dated **28.08.2020** addressed to the FAA & Project Director, Office of the DRDA, Phek stating that the concerned PIO had refused to give any receipt of the RTI application received and had failed to furnish the information though Section 13.8.2 of the Operational Guidelines 2013 (4<sup>th</sup> Edition) of the MGNREGA, 2005 states that “Requests for copies of Mahatma Gandhi NREGS-related documents submitted under Mahatma Gandhi NREGA shall be complied with within three days. No information shall be withheld by invoking Clause 8 of the RTI Act. All Mahatma Gandhi NREGA-related information is in the public domain.”

Shri. Japra Swuro, APIO, RD Block, Sekruzu, Phek had, vide letter **No. RDB/SKZ/RTI/2013-14** dated **06.10.2020** furnished the information to the applicants along with the replies from the following village councils wherein it was resolved not to reply to **Query No. 3: -**

1. *Village Council, Runguzu Nasa.*
2. *Village Council, Runguzu Nawe.*
3. *Village Council, Suthozu Nasa.*
4. *Village Council, Suthozu Nagwu.*
5. *Village Council, Chozuba.*
6. *Village Council, Yoruba.*
7. *Village Council, Ruzazho.*
8. *Village Council, New Ruzazho.*
9. *Village Council, Thurutsuswumi.*
10. *Village Development Board, Dzulhami.*
11. *Village Council, Thuvopisu.*
12. *Village Council, Phuhgimi.*
13. *Village Council, Khutsami.*
14. *Village Council, Khusomi.*

The applicants had on **09.12.2020** also wrote to the PIO, Office of the Project Director, DRDA, Phek seeking the following points under Section 6 of the RTI Act, 2005 enclosing Rs. 10/- :

- i. *Incomplete documents enclosed.*
- ii. *Photo copy of cash payment register.*
- iii. *Photo copy of BDO and VDB's joint withdrawal cheque.*
- iv. *Photo copy of detail statement (office).*
- v. *Photo copy of Bank statement.*
- vi. *Photo copy of convergence is a found and unreadable.*

However, the applicants had on **17.12.2020**, filed Second Appeal stating that incomplete information was furnished by the public authority and that the information pertaining to **Query No. 3** of their RTI application was denied in an apparent “organized and readymade” objection letters from the village councils under RD Block, Sekruzu.

On receipt of the second appeal, the Commission had, vide letter **No. NIC/Gen/RTI-19/17 (Vol-I)/1267** dated **16.01.2021** directed the FAA to hear the first appeal within 45 days. In compliance to the directive of the Commission, the Director & FAA had, vide letter **No. DRD/RTI-AA-9/2018-19** dated **25.02.2021** passed decision stating that the applicants were not satisfied with the information received and that photocopies of documents provided to them were unreadable. Therefore, the FAA further directed the APIO, RD Block, Sekruzu to write to the concerned VDBs to provide the complete information sought by the applicants on **Query No. 3** along with clear photocopies of documents **within 15 days** from the date of issue of the hearing decision, i.e., on or before **17.03.2021**.

Since the applicants (now appellants), were not satisfied with the reply of the FAA, the Commission had decided to hear the above mentioned second appeal giving opportunity of being heard to all the parties on **28<sup>th</sup> July, 2022 (Thursday) at 01:30 P.M in the Hearing Room of the Nagaland Information Commission, Agri-Farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima** and had directed to appear before this Commission and **also to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing.

1. The Director & First Appellate Authority, Directorate of Rural Development, Nagaland, Kohima.
2. Shri. Razukhru D. Vasa, Project Director & PIO, DRDA, Phek, Nagaland.
3. Shri. Japra Swuro, (former) BDO & APIO, RD Block, Sekruzu, Phek, Nagaland.
4. Shri. Chitsoru Vasa, (present) BDO & present APIO, RD Block, Sekruzu, Phek, Nagaland.
5. The applicants (now appellants), Shri. Mudonyi Shijoh, Shri. Thuyesacho Swuro, and Shri. Muzilhu V. Keyho.

### **OBSERVATIONS AND FINDINGS:**

The Commission had earlier fixed the hearing on 28.07.2022 at 1:30 PM, however since the applicants(now appellants) came unprepared and without any reference documents for the hearing, and in the absence of any relevant documents, the hearing could not be proceeded, the hearing was rescheduled on 01.08.2022 at 12:30 PM vide Notice of even No. dated 28.07.2022.

The Commission also viewed seriously and showed its displeasure the lackadaisical attitude of the applicants(now appellants) in arriving late for the hearing on 01.08.2022 inspite of the hearing being postponed and notice being served on time.

During the hearing, Shri. Razukhru D. Vasa, Project Director & PIO, DRDA, Phek stated that as directed by the Director & FAA in her order dated 25.02.2022 on the first appeal hearing to furnish the complete information to the applicants on or before **17.03.2021**, all required information had been furnished on 14.04.2021 to the applicant (now appellants) and upon receipt of the information, the applicants had submitted letter dated **14.04.2021** stating that they had received the RTI reply and were satisfied hence the matter had been solved and closed. A copy of the above letter dated 14.04.2021 which was submitted by the applicants was also forwarded to the Additional Director & PIO, RD Blocks, Nagaland, Kohima vide letter NO. DRDA/PK/RTI-2/2020-21 dated 30.07.2021 with a copy to the BDO & APIO, RD Block, Sekruzu, Phek was produced before the Commission during the hearing.

The applicants (now appellants) also stated that they had received the information and satisfied and hence withdrawn the case. However, since the Commission was not fully convinced with the satisfaction of the applicants (now appellants) and the resolutions passed by the village councils under RD Block in regard to Query No. 3, hearing was held as notified.

MGNREGA is a flagship programme of the Government of India where RTI is in-built. Section 13.8.2 of the Operational Guidelines 2013 (4<sup>th</sup> Edition) of the MGNREGA, 2005 states that *“Requests for copies of Mahatma Gandhi NREGS-related documents submitted under Mahatma Gandhi NREGA shall be complied with within three days. No information shall be withheld by invoking Clause 8 of the RTI Act. All Mahatma Gandhi NREGA-related information is in the public domain.”* However, the Commission observed that the PIO and APIO were not aware of the MGNREGA Operational Guidelines and RTI and had moreover, failed to enlighten the VC/VDBs on the MGNREGA Guidelines in regard to disclosure of information when the village councils resolutions were received.

On the issue of the resolutions passed by the Village Councils and VDBs, the Commission had relied on its **Memorandum No. NIC/Appeal-25/2008 dated 20.05.2009** and reiterate its stand that the Village Councils in Nagaland are constituted/established under the Nagaland Village Councils Act, 1978 and hence under the Section 2(h) (c) of the RTI Act, 2005, the Village Councils and its subsidiary VDBs are public authorities. It transpires that passing of such a resolution by a Village Councils and VDBs which are bodies legally constituted under an Act of the State Legislature/Government and hence public authorities under the RTI Act, 2005, is obstructing citizens from exercising their fundamental rights in accessing to information under the RTI Act, 2005. Further, since the RTI Act, 2005 is derived from Article 19 and Article 21 of the Indian Constitution, right to information is a fundamental right as well as human right. And denial of information or obstructing access to information is an infringement of an individual's fundamental right under the Constitution. Hence, it is against the Law or Act to obstruct citizens from exercising their rights under the RTI Act, 2005 and the Commission is constrained to take a serious view of this illegal obstruction by such legally constituted bodies and threat to information seeker under the RTI Act, 2005.

Section 5 of the RTI Act, 2005 states that:

*“ (2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:*

*Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.*

*(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such requests.”*

However, the Commission observed that all correspondences and furnishing of the information was done by the BDO & APIO instead of the designated PIO who is the Project Director, DRDA, Phek.

Regarding the delay in furnishing the information, from the date of receipt of the RTI application on 10.08.2020 to the date of furnishing the information to the applicants on 06.10.2020, the Commission observed that the information was furnished after 58 days and considering the 30 days time limit in furnishing information, the number of days of delay becomes,  $58 - 30 = 28$  days for which penalty is attracted.

Shri. Japra Swuro, (former) BDO & APIO, RD Block, Sekruzu, Phek, Nagaland informed that he had now retired from government service and that during the time of the RTI, one of their staff was detected COVID positive for which the office had to be sealed for some days as per order issued by the District Administration.

On the above submission, the Commission took a lenient view and hence condoned the few days of delay which was due to the sealing of the office due to COVID.

### **DECISION**

On the above observations and findings, the Commission decided that:-

1. Since Shri. Japra Swuro, former BDO & APIO, RD Block, Sekruzu had already retired from government service, the present BDO & APIO, Shri. Chitsoru Vasa, shall submit to the Commission, a copy of the Order of the District Administration for sealing of the office of the BDO, RD Block, Sekruzu during August, 2020 to prevent the spread of COVID-19, **within five (5) days** from the date of receipt of this Decision.
2. The Home Department which administer the Nagaland Village Councils Act, 1978 is directed to issue necessary directions to all the village councils notifying that Village Councils in Nagaland are constituted/established under the Nagaland Village Councils Act, 1978 and hence under the Section 2(h) (c) of the RTI Act, 2005, the Village Councils and its subsidiary VDBs are public authorities. Hence, it is against the Law or Act to obstruct citizens from exercising their rights and a threat to information seeker under the RTI Act by passing such a resolution by legally constituted bodies such as Village Councils and VDBs.
3. The public authority i.e the Rural Development is also directed to enlighten/notify all the Village Councils and VDBs on the MGNREGA Guidelines in regard to disclosure of information and to follow the MGNREGA Guidelines strictly.

Action Taken report on the above **Decision Nos. 2 and 3** above shall be submitted to the Commission **within one(1) month** from the date of receipt of this decision.

Decision pronounced in the presence of both the parties on 01.08.2022 at 12:30 PM.

Copies be given to:-

1. The Home Commissioner, Home Department, Nagaland, Kohima for necessary action on Decision No. 2.
2. The Commissioner & Secretary, Department of Rural Development, Nagaland, Kohima for necessary action on Decision No. 3.
3. Smti. Liboni Humtsoe, Director & FAA, Directorate of Rural Development, Nagaland, Kohima, Mobile No. 8413825319.
4. Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland, Kohima, Mobile No. 9436001443.
5. Shri. Razukhru D. Vasa, Project Director & PIO, DRDA, Phek, Nagaland, Mobile No. 9436000633.
6. Shri. Japra Swuro, (former) BDO & APIO (now retired), RD Block, Sekruzu, Phek, Nagaland, Mobile No. 9402204563.
7. Shri. Chitsoru Vasa, BDO & APIO (present), RD Block, Sekruzu, Phek, Nagaland, Mobile No. 9862376512.
8. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
9. The applicants (now appellants), Shri. Mudonyi Shijoh (Ph. No. 8787379773), Shri. Thuyesacho Swuro (Ph. No. 8837029595), and Shri. Muzilhu V. Keyho (9436680697).
10. Office Copy.

Sd/-

**I. MEYIONEN JAMIR**  
Chief Information Commissioner

Authenticated true copy:

(Worhonthung Ezung)  
Deputy Secretary