

**NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-578
NAGALAND, KOHIMA-797001**

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No. NIC/APPEAL-15/2022-23

Dated Kohima, the 20th August, 2022

Appellant : Shri. Bokuto Swu,
Advocate,
C/o Tovi Swu,
Town Middle School,
Half Nagarjan, Dimapur,
Mobile No. 6009135402, 8132039504

Respondents : (i) Er. Repangyangba Longkumer,
Chief Engineer & First Appellate Authority,
PHED,
Nagaland, Kohima-797001.

(ii) Er. Inashe Kiba,
Addl. Chief Engineer & PIO,
PHED,
Nagaland, Kohima-797001.

Public Authority : Office of the Chief Engineer, Nagaland, Kohima.

Date of hearing : 04.08.2022 at 12:30 PM.

Date of Decision : 20.08.2022.

Present:

1. Shri. Repangyangba Longkumer, Chief Engineer & FAA, PHED, Nagaland, Kohima.
2. Er. Inashe Kiba, Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima.

The applicant (now appellant), Shri. Bokuto Swu, Advocate, C/o Tovi Swu, Town Middle School, Half Nagarjan, Dimapur did not appear for the hearing.

FACT OF THE CASE

Shri. Bokuto Swu had submitted an RTI application dated **22/01/2021** along with an application fee of Rs. 10 (Ten) addressed to the PIO, Office of the Chief Engineer, Public Health Engineering Department, Nagaland, Kohima, seeking the following information mentioned below:

- 1) *How much amount of money has the department of PHE, Government of Nagaland received under Jal Jeevan Mission so far? Provide photocopy of sanctioned order(s) received by your department under JJM.*
- 2) *Did the department of Public Health Engineering advertise for supply of materials (Eg: Pipes) and construction of water pipes? If Yes, please provide photocopies of newspaper clippings of advertisements. If no, why?*
- 3) *Provide photocopies of work Orders for construction of water Tanks/ Water Sources and work orders for supply of materials for pipe connectivity.*
- 4) *How many water tanks have been constructed under JJM? Provide information on village wise breakup.*
- 5) *How many water tanks have been constructed under JJM so far? Provide list of villages where construction has been completed.*
- 6) *Provide detailed breakup of first phase, second phase etc. of how the project is targeted to be implemented.*

- 7) *How many houses are targeted to be connected with tap water facility under JJM? How many houses have already been connected? How many houses remain to be connected.*
- 8) *Who undertakes the work for connection of pipes to households?*
- 9) *What is the amount of money incurred on construction of water tank?*

On receipt of the RTI application on **22/01/2021**, Er. P. Jakpou Khamniungan, Superintending Engineer & APIO had, vide letter **No.CE/PHE/RTI/2005** dated **08/02/2021** informed all the concerned Executive Engineers of all the Districts/ Division to furnish information for query No. 2-9 and the Accounts Officer (Chief Engineers Office) to furnish query No. 1 regarding JJM for the period 2019-20 & 2020-21(as on Jan 2021) latest by **22/02/2021** to office so as to scrutinise and furnish the information to the applicant within the stipulated time as per the RTI Act, 2005. Further, he informed that for query No. 2, the Executive Engineers may reply on the matter of construction of Water tanks and other related works; except for materials like pipes.

However, on non-receipt of the information from the PIO, the applicant had submitted first appeal to the First Appellate Authority on **25/02/2021** stating that the PIO, Office of the Chief Engineer, Public Health Engineering Department, Nagaland, Kohima had failed to furnish the information within stipulated time as per the RTI, Act, 2005.

On receipt of the First Appeal dated **25/02/2021**, the FAA had summoned the parties for First Appeal hearing on **23/03/2021**, and after hearing the parties i.e the applicants and the PIO/APIO concerned, the Chief Engineer & FAA had passed decision vide **No.CE/PHE/RTI/2005** dated **23/03/2021** wherein the FAA had requested the applicant to avail the department little more time and that all defaulting Division would be served notice on the matter. Both the parties agreed and the FAA had assured to furnish the complete information latest by **31/03/2021**.

As decided during the first appeal hearing, the Superintending Engineer (P&T) & APIO had, vide letter **No.CE/PHE/RTI/2005** dated **31/03/2021** furnished the information to the applicant. He, further stated that on the matter of supply of materials such as steel pipes and water tanks, those were procured through approved dealers of manufacturers as per Govt. approved rates and had enclosed a copy of Govt. approved rates.

On not being satisfied with the information provided by the Superintending Engineer (P&T) & APIO as decided during the first appeal hearing on **23/03/2021**, the applicant (now appellant) had submitted Second Appeal dated **29/04/2021** to the Nagaland Information Commission.

On receipt of the Second Appeal dated **29/04/2021**, the Commission had, vide letter **No.NIC/Gen/RTI-19/17(Vol-I)/1341** dated **28/06/2021** directed the Chief Engineer & FAA, PHED, Nagaland to furnish complete information as sought by the applicant within 45 (forty five) days from the date of receipt of its directive and to submit a action taken report to the Commission.

In compliance to the Directive of the Commission dated **28/06/2021**, Er. Inashe Kiba, Addl. Chief Engineer & PIO had, vide letter **No.CE/PHE/RTI/2005/189** dated **24/08/2021** submitted that reply has been furnished to the applicant and that the reason why complete information could not be furnished within 45 (forty five) days was given in the hearing report and had enclosed copies of the hearing report and information furnished.

Since the Commission had received a copy of the hearing report dated **23/03/2021** and reply of Er. Inashe Kiba, Addl. Chief Engineer & PIO, PHED, Nagaland, Kohima vide letter **No.CE/PHE/RTI/2005** dated **24/08/2021** which was not convincing to the Commission, the Commission has decided to hear the above mentioned appeal giving opportunity of being heard to all the parties on **04th August, 2022 (Thursday) at 12:30 P.M in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima** and the following parties were 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. The following under mentioned officials are requested to attend the hearing with preventive measures such as wearing of face mask and social distancing etc.

1. Er. Repangyangba Longkumer, Chief Engineer & First Appellate Authority, PHED, Nagaland, Kohima-797001.
2. Er. Inashe Kiba, Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima-797001.
3. Er. P. Jakpou Khamniungan, Superintending Engineer & APIO, Office of the Chief Engineer, PHED, Nagaland, Kohima-797001.
4. The applicant (now appellant), Shri. Bokuto Swu, Advocate, C/o Tovi Swu, Town Middle School, Half Nagarjan, Dimapur, Mobile No. 6009135402, 813203950

OBSERVATIONS AND FINDINGS:

The applicant (now appellant), Shri. Bokuto Swu, Advocate, C/o Tovi Swu, Town Middle School, Half Nagarjan, Dimapur did not appear for the hearing and there was no prior intimation to the Commission regarding his absence.

Er. Repangyangba Longkumer, Chief Engineer & First Appellate Authority, PHED stated that there were some delays in furnishing the information which was due to the delay in submission of the required information from the Kohima Urban, Wokha and Zunheboto Divisions. He further stated that as decided during the hearing of the first appeal on 23.03.2021, the information was compiled and furnished to the applicant who received on 31.03.2021, however, the applicant was not satisfied. Again on the directive of by the Commission dated 28/06/2021, the PIO had furnished the information to the applicant on 24/08/2021, however on receipt of the information by the applicant on 25.08.2021, since he was not satisfied, he had submitted complaint dated 07.09.2021 to the Chief Engineer & First Appellate Authority, PHED. Consequently, another hearing was held again on 29.09.2021 wherein it was decided to furnish the documents related to his unsatisfied queries by 05.10.2021. The documents were sent to the applicant by post on 30.09.2021 at his given address and soft copies of the documents were also sent through Whatsapp, however, no acknowledgement was received from the applicant.

Since the applicants (now appellants) did not appear for the hearing, the Commission had made a video call and spoke to the applicant (now appellant), Shri. Bokuto Swu, Advocate. During the hearing made through video calling before the Commission, Shri. Bokuto Swu, Advocate submitted that initially he was not satisfied with the information, however after the information was refurnished, he was satisfied. And since the information was received in September, 2021 and was **satisfied** with the information, he felt that there was no need to attend the hearing.

On being asked regarding the selection of Supplier of pipes and water tanks, Er. Repangyangba Longkumer, Chief Engineer & First Appellate Authority, PHED submitted that the firm, M/S Indus Tubes Limited, New Delhi, being the lowest tenderer was selected during 2007-08 and the department continue to still use the same firm. The FAA also pointed out that since there was no Jal Jeevan Mission (launched in 2019) during that time, the applicant allegation that how advertisement for supply of pipes for Jal Jeevan Mission was done eleven (11) years before the Mission was launched was not correct.

On the above submission, the Commission advised the department to review the selection of the supplier. The Commission also observed that the SE & APIO had delayed in transferring the RTI application to the Divisions, which should have been transferred within 5 days. The delay in furnishing the information to the applicant was contributed by the delay in submission by the Kohima Urban for 28 days and by Zunheboto for 35 days.

DECISION

On the above observations and findings, the Commission decided that the Executive Engineer & PIO, of Kohima Urban and Zunheboto are to show cause why they should not pay the penalty as shown below for contributing to the delay in furnishing the information to the applicant (now appellant) **within fifteen (15) days** from the date of receipt of this decision:

Name of the concerned PIO	Days of delay	Penalty @ Rs. 250 per day of delay
Er. Vikienyu, Executive Engineer & PIO, Kohima Urban (now posted in RD)	28	7000.00
Er. Kitoshe Aye, Executive Engineer & PIO, Zunheboto	35	8750.00

Decision pronounced in the presence of only the respondents on 04.08.2022 at 12:30 PM.

Copies be given to:-

1. Er. Repangyangba Longkumer, Chief Engineer & FAA, PHED, Nagaland, Kohima.
2. Er. Inashe Kiba, Addl. Chief Engineer & PIO, Office of the Chief Engineer, PHED, Nagaland, Kohima.
3. Er. Vikienyu, Executive Engineer & PIO, Kohima Urban, Kohima (now posted in Rural Development).
4. Er. Kitoshe Aye, Executive Engineer & PIO, PHED, Zunheboto.
5. The applicant (now appellant), Shri. Bokuto Swu, Advocate, C/o Tovi Swu, Town Middle School, Half Nagarjan, Dimapur.
6. The Computer Programmer, Nagaland Information Commission for uploading on the website.
7. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

Authenticated true copy:

(Worhonthung Ezung)
Deputy Secretary