

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

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



No. NIC/APPEAL-7/2022-23

Dated Kohima, the 19th July, 2022

Appellants : i) Shri. Boto Y Swu,
Social Activist,
Mobile No. 7005409209,

ii) Shri. Rikato Choppy,
Dimapur, Nagaland,
Mobile No. 9774482802.

Respondents : (i) Shri. Abhijit Sinha, IAS,
Home Commissioner & First Appellate Authority,
Home Department,
Nagaland, Kohima

(ii) Shri. Lhouchalie Viya, IAS,
Secretary & PIO,
Home Department (NSDMA),
Nagaland, Kohima

Public Authority : Home Department (NSDMA), Nagaland, Kohima.

Date of hearing : 15.07.2022 at 11:30 AM.

Date of Decision : 19.07.2022.

Present:

1. Shri. Temsuwangshi Jamir, Assistant Manager(R&P) & APIO, Home Department (NSDMA), Nagaland, Kohima, Mobile No. 8974539125.
2. Shri. Kevisede Usou, JC(R&P), Home Department (NSDMA), Nagaland, Kohima, Mobile No. 7204242480.
3. The applicant (now appellant), Shri. Boto Y Swu, Social Activist, Thilixu Village, Mobile No. 8257907161/ 7005409209

The following **were not present** in the hearing:-

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, Home Department, Nagaland, Kohima-797001.
2. Shri. Lhouchalie Viya, IAS, Secretary & PIO, Home Department (NSDMA), Nagaland, Kohima-797001.
3. Co-applicant (now appellant), Shri. Rikato Choppy, Dimapur, M/No. 9774482802.

FACT OF THE CASE

Two applicants, Shri. Boto Y Swu & Shri. Rikato Choppy, had submitted an RTI application dated 23.11.2021 alongwith an application fee of Rs. 10/- paid in cash and received by the Nagaland State Disaster Management Authority (NSDMA) on 23.11.2021 addressed to the PIO, NSDMA, Nagaland, Kohima, seeking information *on the implementation of State Disaster Relief Fund during the Financial Year 2019 till date:-*

1. *Sanction Order of Fund released by Central/State Government.*
2. *Utilization Certificate.*
3. *Total amount of fund received from both Central and State Government.*
4. *List of beneficiaries and details of all the Project in all the Districts.*

On receipt of the above RTI application dated 23.11.2021 on the same date i.e. 23.11.2021, the Secretary & PIO, NSDMA had, vide letter No. NSDMA/RTI/274/2019(Pt.II)/5888 dated 18.12.2021 furnished the information to the applicants. However, on receipt of the information from the PIO on 23.12.2021, the applicants had submitted First Appeal dated NIL addressed to the Appellate Authority, NSDMA, Nagaland, Kohima stating that the information was part and partial on the scheme of SDRF

and NDRF on the financial year 2019-21 and hence requested to take action against the PIO for manipulating the given information as per the RTI Act, 2005.

On receipt of the First Appeal on 18.01.2022, the Secretary & PIO, NSDMA had, vide letter No. NSDMA/RTI/274/2019(Pt.II)/6076 dated 14.03.2022 issued Notice for hearing of First Appeal to be held on 19.03.2022 at 3:00 PM in the Office chamber of the Principal Secretary(Home), Nagaland.

As discussed and desired by the public authority, the applicants (now appellants) had on 21.03.2022 submitted in writing the various queries highlighting the specific clarification from the Authority with the information so furnished to them. On receipt of the above specific clarifications, the FAA, NSDMA had passed, in its Order vide letter No. NSDMA/RTI/274/2019(Pt.II)/6203 dated 19.04.2022 clarifying on each of the queries and had furnished further information to the applicants (now appellants). However, the applicants (now appellants) had submitted another Appeal dated 09.05.2022 stating that the information furnished was found to be completely fabricated and misleading.

In response to the above mentioned Appeal dated 09.05.2022, the Secretary, NSDMA & PIO had, vide letter NO. NSDMA/RTI/274/2019 (Pt. II)/6371 dated 13.06.2022 conveyed to the applicants (now appellants) that the FAA found no reason for a second hearing since the matter had already been discussed and disposed of vide Order No. NSDMA/RTI/274/2019 (Pt. II)/6203 dated 19.04.2022. however, on not being satisfied with the response and that the FAA had failed to address their appeals, the applicants (now appellants) had submitted the Second Appeal dated NIL on 14.06.2022 to the Commission for intervention as per the provision of the RTI Act, 2005.

Since the Commission is not satisfied and convinced with the above decision /order of the FAA, the Commission had decided to hear the above mentioned appeal giving opportunity of being heard to all the parties on **15th July, 2022 (Friday) at 11:30 A.M in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima** and hence the following parties were directed to appear before the Commission and **also to bring the files and relevant documents** in question for scrutiny on the above date and time for hearing, with preventive measures such as wearing of facemask and social distancing etc.

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, Home Department, Nagaland, Kohima-797001.
2. Shri. Lhouchalie Viya, IAS, Secretary & PIO, Home Department (NSDMA), Nagaland, Kohima-797001.
3. The applicants (now appellants), Shri. Boto Y Swu, Social Activist, M/No. 7005409209 & Shri. Rikato Choppy, Dimapur, M/No. 9774482802.

OBSERVATIONS AND FINDINGS:

The Commission viewed seriously the **absence** of Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, Home Department, Nagaland, Kohima and Shri. Lhouchalie Viya, IAS, Secretary & PIO, Home Department (NSDMA), Nagaland, Kohima in the hearing without any reason or prior intimation to the Commission.

During the hearing, Shri. Temsuwangshi Jamir, Assistant Manager(R&P) & APIO, Home Department (NSDMA), Nagaland, Kohima informed the Commission that the FAA was out of station and that the PIO could not turn up on health grounds. He stated that whatever information sought had been furnished to the applicants and had also produced copies of the information including all correspondences with the applicants before the Commission in the hearing. He had, further, submitted that the FAA had also clarified to all the new queries raised by the applicants even after the information was received, however, the applicants seemed still not satisfied and hence had filed Second Appeal to the Commission.

The applicant, Shri. Boto Y. Swu replied that he had submitted the appeals since he was confused and needed some clarification with the information received from the PIO as well as from the FAA. The Commission pointed out that the applicants cannot ask or seek additional information at the time of appeals, but should file separate RTI application if he so desire.

On being asked by the Commission the reason why the applicants had submitted **withdrawal letter** dated 05.07.2022 stating satisfaction after the second appeal was admitted and Notice for hearing was served, the applicant, Shri. Boto Y. Swu replied that after the receipt of the notice for

hearing, the public authority had called them and explained and clarified with all their doubts to their satisfaction. Shri. Temsuwangshi Jamir, Assistant Manager(R&P) & APIO also stated that though information was furnished to the applicants, unless the clarifications were explained to them personally, the applicants won't understand.

The Commission observed that the applicants (now appellants) had submitted withdrawal letter stating satisfaction of all the information so furnished to them since considerable information was furnished and further clarifications and explanations were given. However, since there is no provision for withdrawal of RTI application or appeals in the Act, the applicant was cautioned not to withdraw after admitting the appeal, to which the applicant apologised. The Commission also advised the applicant to use RTI tool for larger public interest.

The Commission also observed that there was no delay in furnishing the information to the applicants, hence no penalty was attracted.

DECISION:

On the above observations and findings, the Commission decided that since Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, Home Department, Nagaland, Kohima and Shri. Lhouchalie Viya, IAS, Secretary & PIO, Home Department (NSDMA), Nagaland, Kohima **did not appear** before the Commission for the hearing without any reason or prior intimation to the Commission, undermining the authority of the Commission, both the FAA and PIO shall submit in writing the reasons for their absence during the hearing alongwith supporting documents, if any.

The Commission shall declare the case as closed only after the receipt of the letters from both the above FAA and PIO, since the applicants (now appellants) were satisfied with the information.

Decision pronounced in the presence of both the parties on 15.07.2022 at 11:30 AM.

Copies be given to:-

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, Home Department, Nagaland, Kohima-797001.
2. Shri. Lhouchalie Viya, IAS, Secretary & PIO, Home Department (NSDMA), Nagaland, Kohima-797001.
3. The Computer Programmer, Nagaland Information Commission for uploading on the website.
4. The applicants (now appellants), Shri. Boto Y Swu, Social Activist, M/No. 7005409209 & Shri. Rikato Choppy, Dimapur, M/No. 9774482802.
5. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

Sd/-

G. H. RAMLIA
State Information Commissioner

Authenticated true copy:

(Worhonthung Ezung)
Deputy Secretary

The Commission observed that on being not satisfied with the information furnished by the Secretary & PIO, NSDMA on 18.12.2021, the applicants had filed first appeal dated NIL. On receipt of the first appeal on 18.01.2022, the Secretary & PIO, NSDMA had informed the applicants to specify the grounds for specific clarification and accordingly, the applicants had on 21.03.2022 submitted the appeal again citing clarification on 6 specific points wherein mostly the applicants had doubted about the list of beneficiaries since there were no Names, no Aadhar Number, no name of village or town. Besides, items damaged and extend of damage were not known or furnished.

The Commission further, observed that the FAA had, in its order dated 19.04.2022 clarified on each of the queries and had furnish further information to the applicants (now appellants). However, the applicants (now appellants) had submitted another Appeal dated 09.05.2022 to the FAA stating that the information furnished was found to be completely fabricated and misleading. And since the Secretary & PIO, NSDMA had, vide letter No. NSDMA/RTI/274/2019(Pt.II)/6371 dated 13.06.2022 informed that the FAA had no reason for a second hearing, the applicants had submitted second appeal dated NIL before the Commission.

On being asked by the Commission why the applicants had, besides his first appeal dated 18.01.2022 submitted another Appeal dated 09.05.2022 to the FAA and Second appeal dated NIL before the Commission, the applicant replied that he was confused and not satisfied with the information received from the PIO as well as from the FAA.