

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

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No. NIC/APPEAL-10/2022-23

Dated Kohima, the 25th November, 2022

Appellant : Shri T. Ruovi
C/o. Kuda 'B' Sub-post Office, Nagarjan.
Dimapur.
Mobile No. 7630899734.

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. K. Neibou Sekhose,
Jt. Director & APIO,
Directorate of Rural Development,
Nagaland, Kohima-797001.

(iv) Shri. Kethosituo Sekhose,
Project Director & PIO,
DRDA, Dimapur.

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

Date of first hearing : 29/07/2022 at 12:00 Noon

Date of first Decision : 03/08/2022

Date of second hearing : 23.11.2022 at 11:30 AM

Date of second Decision : 25.11.2022

Present:

1. Smti. Liboni Humtsoe, Director & FAA, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 8413825319.
2. Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 9436001443.
3. Shri. K. Neibou Sekhose, Joint Director & APIO, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 9436000365.
4. Smti. Narola Imkong, PO & APIO, DRDA, RD Block, Dimapur.
5. Smti. Akhrienuo Zehol, BAPO, Rural Development, Nagaland, Kohima-797001.
6. Shri. Marchiten, BAPO, Chumukidema.
7. The applicant (now appellant), Shri T. Ruovi, C/o. Kuda 'B' Sub-post Office, Nagarjan, Dimapur, Mobile No. 7630899734.

Shri. Kethosituo Sekhose, Project Director & PIO, DRDA, Dimapur – 798612 **did not appear** for the hearing.

FACT OF THE CASE

The Commission had, on **28th July, 2022 (Thursday) at 12:00 P.M** heard the Second Appeal dated **16/11/2020** submitted by Shri. T. Ruovi, M.No- 7630899734, C/o Kuda 'B' Sub-post Office,

Nagarjan and after hearing the case, the Commission had passed decision of *even No. dated 03/08/2022*.

In compliance to the decision of the Commission of *even No. dated 03/08/2022* the public authority had, vide letter *No.DRD/RTI-AA-11/2021-2022* dated *05/08/2022* submitted the written explanation of the concept of the Village Development Boards (VDBs) Nagaland.

The Commission had, on *17/09/2022* received a complaint letter dated NIL from the applicant stating that the explanation furnished by the Director & FAA, Rural Development was neither an official document or Government memorandum nor an acceptable justification to show that Rural Development Department, Nagaland follows other rules or laws and does not follow MGNREGS Operational Guidelines.

Since the applicant was not satisfied with the explanation of the Public Authority, the Commission has decided to hear the above mentioned appeal giving them opportunity of being heard on **10th November, 2022 (Thursday) 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 had also directed the parties **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 face mask and social distancing etc.

1. Smti. Liboni Humtsoe, Director & First Appellate Authority, Directorate of Rural Development, Nagaland, Kohima-797001.
2. Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland, Kohima-797001.
3. Shri. K. Neibou Sekhose, Jt. Director, Directorate of Rural Development, Nagaland.
4. Shri. Kethosituo Sekhose, Present Project Director & PIO, DRDA, Dimapur – 798612.
5. The applicant (now appellant), Shri. T. Ruovi, *M/No. 7630899734C/o. Kuda 'B' Sub-post Office, Nagarjan.*

However, the Director & FAA, Directorate of Rural Development, Nagaland had, vide letter No. DRD/RTI-AA-11/2021-2022 dated 01.11.2022, requested for reschedule of the hearing to a different date in view of urgent official engagements of most of the concerned officers who are unavoidable. The Commission had accepted the above request and had rescheduled the Second Hearing to **23rd November, 2022 (Wednesday) at 11:30 AM.**

OBSERVATIONS AND FINDINGS:

During the hearing, the Commission had received a letter dated 23.11.2022 from the Director & FAA informing that Shri. Kethosituo Sekhose, Project Director & PIO, DRDA, Dimapur could not appear for the hearing as he was on medical treatment. He was represented by the Programme Officer, Dimapur.

The applicant (now appellant) stated that in compliance to the Commission's decision dated 3.08.2022, the department had, on 05.08.2022 furnished him a brief write-up entitled, '*Village Development Boards (VDBs) of Nagaland: A unique experience*', which he stated was a Concept Note of VDB, and hence cannot be considered as official document or government memorandum nor an acceptable justification to show that the department was following other rules or laws. Hence, the justification cannot be taken as a reasonable excuse to show why the Act should not be implemented according to the original MGNREGS Act. He further stated that Nagaland does not have its own Act, under the parent Act and non-implementation of the Act cannot be taken as an excuse. Moreover, the Department is not even empowered to change the Act, except the Implementing Agency which is the only authorised agency by the law to modify the parent Act. Hence, the department is ought to implement it as it is.

During the hearing, Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland had, while reading out from the MGNREGA Guidelines 2nd Edition wherein under **Section 2.1.3** states that '*where Part IX of the Constitution does not apply, the State can mandate Local Authorities/Councils to be the "Principal Authorities" to plan and implement MGNREGA*'. And basing on this flexibility in the guidelines, the Village Councils in Nagaland are vested with all authorities in regard to the implementation of MGNREGA, as Nagaland State does not have Block or Zilla Panchayat. Further, she also pointed out that **Section 1.3.2** of the MGNREGA Guidelines 2nd Edition allows flexibility to the State Governments to draw their Employment Guarantee Schemes according to their contextual requirements. Moreover, the department did not state that Nagaland does not follow the operational guidelines of the MGNREGS, but that there are certain

provisions as stated above that allows the State certain flexibility in framing and implementing the Employment Guarantee Scheme.

However, the applicant (now appellant) pointed out that as per **Section 1.5** of the MGNREGA, 2013 operational guidelines states that scheme shall conform to the operational parameters delineated in these guidelines and that the department has to follow the guidelines. In response, the PIO pointed out that the applicant must be referring to a different edition of the MGNREGA operational guidelines.

The Commission pointed out that during the last hearing held on 29.07.2022 at 12:00 Noon and decision dated 03.08.2022, the applicant (now appellant) stated that if the public authority can give in written that the department does not follow MGNREGA Operational Guidelines 2013 but follow Nagaland Village Council Act, he will be satisfied with the information furnished by the PIO. Accordingly, the PIO had given him the write-up, *Village Development Boards (VDBs) of Nagaland: A unique experience*, wherein the public authority submitted that **“the State of Nagaland have been exempted from the purview of the 73rd Amendment of the Constitution due to the existence of traditional local self government bodies like the Village Councils and the VDBs.” In other words, local self-government still continues in its unique way in Nagaland hence, the State could not feel the need of introducing the three tier Panchayati Raj System here.”**

The Commission observed that the Public authority had given adequate explanation in terms of the **Section 2.1.3** and **Section 1.3.2** of the MGNREGA Guidelines 2nd Edition, which allows flexibility to the State Governments and accordingly have been implementing the schemes under the MGNREGA through the Village Councils and VDBs in the absence of Panchayati Raj System in Nagaland since the inception of the MGNREGA and which continues to be the actual practice prevailing at the ground level in the State.

DECISION

On the above observations, since the Commission is satisfied and convinced with the deposition of the Public authority, no further hearing or explanation is required and hence dismissed the appeal.

Accordingly, this appeal is disposed of.

Decision pronounced in the presence of both the parties on 23.11.2022 at 11:30 AM.

Copies be given to:

1. Smti. Liboni Humtsoe, Director & FAA, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 8413825319.
2. Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 9436001443.
3. Shri. K. Neibou Sekhose, Joint Director & APIO, Directorate of Rural Development, Nagaland, Kohima-797001, Mobile No. 9436000365.
4. Shri. Kethosituo Sekhose, Project Director & PIO, DRDA, Dimapur – 798612.
5. The applicant (now appellant), Shri T. Ruovi, C/o. Kuda ‘B’ Sub-post Office, Nagarjan, Dimapur, Mobile No. 7630899734.
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