

NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-578
NAGALAND, KOHIMA-797001
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No. NIC/APPEAL-13/2022-23

Dated Kohima, the 28th November, 2022

Appellants : i) Shri. Abi,
ii) Shri. Aki and
iii) Shri. Ruovi,
M/No. 7630899734,
C/o. Kuda 'B' Sub-post Office, Nagarjan

Respondents : (i) Smti. Liboni Humtsoe,
Director & First Appellate Authority,
Directorate of Rural Development,
Nagaland, Kohima-797001.

(ii) Smti. Azenuo Pienyu
The Addl. Director & PIO,
Directorate of Rural Development,
Nagaland, Kohima-797001.

(iii) Shri. Kethosituo Sekhose,
Present Project Director & PIO,
DRDA, Dimapur – 798612.

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

Date of first hearing : 28.07.2022 at 1:00 PM.

Date of first Decision : 05.08.2022.

Date of second hearing : 23.11.2022 at 12:00 Noon.

Date of second Decision : 28.11.2022

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. Akhrienue Zehol, BAPO, Rural Development, Nagaland, Kohima-797001, Mobile No. 8414098171.
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 and the other applicants (now appellants), Shri. Abi and Shri. Aki **did not appear** for the hearing.

FACT OF THE CASE

The Commission had, on **28th July, 2022 (Thursday) at 01:00 P.M.** heard the Second Appeal dated **16/11/2020** submitted by Shri. Abi, Shri. Aki and 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 05/08/2022.**

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 *16/08/2022* submitted the written explanation regarding the list of beneficiaries under the MGNERGA Act 2005.

The Commission had, on *17/09/2022* received a complaint letter dated NIL against the reply furnished by the Director & FAA, Rural Development wherein the applicants (now appellants) stated that the reply furnished was unacceptable as it was misleading and false information under the Act. Further, the applicants (now appellants) claimed that it has been clearly indicated in the Act and its Operational Guidelines that the individual beneficiaries who have availed the benefits of whatever construction taken-up in his/her private land under the MGNERGA Project or scheme.

A (i). As per section 6.6 of the Act states that the details required to be entertained are given in appendix-I it states in Sl. No.1 COLUMN No. 2 TO BE MENTIONED- OWNERSHIP OF LAND i.e Individual (IL) if individual then name of the beneficiaries with his father's name and category of the beneficiaries SC/ST/BPL.

(ii). KHASRA/PLOT number on which work is being carried out.

B. As per section 13.3.4 (iii) Physical status of the assets, asset quality and customer satisfaction in usefulness of asset (including works taken up on individual beneficiaries lands).

C. As per Section 4(b) of Appendix 3 states – If a beneficiary chooses to make IHHL of a superior design/ bigger dimension same will also be accepted.

D. As per Section 5 (a) Appendix 3 states only Job Card Holder will be employed for unskilled part of the work. If the beneficiary does not hold a Job Card he/ she should apply for one.

The Commission had, on *20/10/2022* also received letter *No.DRD/RTI-AA-11/2021-2022* dated *17/10/2022* from the Public Authority clarifying that the statement of the Jt. Dir& APIO during the Hearing held on *28/08/2022* has been misquoted. The Jt. Dir& APIO had explained that Nagaland has a unique case as there is no Gram Panchayat and instead follows the Nagaland Village Council Act 1978 and his statement that *“the villages are the beneficiaries and decide what works to execute, hence there is no list of beneficiaries under the scheme or projects”*, implied that there is no specific list of beneficiaries but the beneficiaries exists as the villagers themselves who own a job card. Hence, the statement of the APIO was taken wrongly and misquoted.

Since the Commission observed that the written reply submitted by the Public Authority regarding the list of beneficiaries differs from the explanation given during the hearing, the Commission has decided to hear the above mentioned appeal giving opportunity of being heard to both the parties on **10th November, 2022 (Thursday) at 12:00 Noon in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima 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. The Director & First Appellate Authority, Directorate of Rural Development, Nagaland, Kohima-797001
2. The 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 applicants (now appellants), Shri. Abi, Shri. Aki and Shri. Ruovi, *M/No. 7630899734*, C/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.

The Commission had accepted the above request and had rescheduled the Hearing to **23rd November, 2022 (Wednesday) at 12:00 Noon** in the Hearing Room of the Nagaland Information Commission, Agri-Farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima.

OBSERVATIONS AND FINDINGS:

Shri. Ruovi appeared on behalf of the group, the applicants (now appellants) for the hearing. The Commission also made its point clear that the above mentioned applicant represented on behalf of

the whole group and would be held responsible in case if any mis-understanding that may arise due to mis-communication among the members.

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.

In compliance to the decision of the Commission dated 03.08.2022, the public authority had furnished the applicants (now appellants) and with a copy to the Commission, the written explanation regarding the list of beneficiaries under the MGNREGA Act 2005 as under:-

As per Section 3(1) of the Act, the objective of the Act is to enhance the livelihood security of the poor households in rural areas of the country by providing at least 100 days of guaranteed wage employment to every poor household whose adult members volunteer to do unskilled manual work.

Secondly, the Operational Guidelines issued in 2013 by the Ministry of Rural Development, Government of India states that Section 1.2 that the goal of the Act is to provide social protection for the most vulnerable people living in rural India by providing employment opportunities. And also in Section 2.1.1 of the guidelines state that wage seekers are the primary stakeholders of the programme and that their exercise of rights and demand for work are the main triggers of key processes. Therefore, deducing from the above, it is amply clear that the beneficiaries of the MGNREGA are the Wage Seekers, in other words the job card holders.

However, the applicant (now appellant) stated that the reply furnished was unacceptable as it was misleading and false information under the Act. Further, the applicants (now appellants) claimed that it has been clearly indicated in the Act and its Operational Guidelines that the individual beneficiaries who have availed the benefits of whatever construction taken-up in his/her private land under the MGNREGA Project or scheme:

A (i). As per section 6.6 of the Act states that the details required to be entertained are given in appendix-I it states in Sl. No. 1 COLUMN No. 2 TO BE MENTIONED- OWNERSHIP OF LAND i.e Individual (IL) if individual then name of the beneficiaries with his father's name and category of the beneficiaries SC/ST/BPL.

(ii). KHASRA/PLOT number on which work is being carried out.

B. As per section 13.3.4 (iii) Physical status of the assets, asset quality and customer satisfaction in usefulness of asset (including works taken up on individual beneficiaries lands).

C. As per Section 4(b) of Appendix 3 states – If a beneficiary chooses to make IHHL of a superior design/ bigger dimension same will also be accepted.

D. As per Section 5 (a) Appendix 3 states only Job Card Holder will be employed for unskilled part of the work. If the beneficiary does not hold a Job Card he/ she should apply for one.

During the hearing, Smti. Azenuo Pienyu, Addl. Director & PIO, Directorate of Rural Development, Nagaland stated that the basic contention was that there are beneficiaries other than the job-card holder under MGNREGA, however, the department disputes this by stating that the Job-Card Holder is the primary beneficiary of the MGNREGA. On the above clarifications sought by the applicant (now appellant), she submitted that:-

- A. Section 6.6 has been quoted, however, Sec 6 of the MGNREGA Act deals with Wage Rate and Section 6.6 of the Operational guidelines deals with “Consolidation of Annual Plans and Labour Budgets at Block and District Level. And Section 6 of the operational guidelines deal with “beneficiaries” of Individual Household Latrines “IHHL” scheme.*
- B. Section 13.3.4 : The words “individual Beneficiary Land” refers to the Land of an individual beneficiary of **Land Reforms**.*
- C. The word “beneficiary” here refers to the beneficiary under IHHL and not MGNREGA as under MGNREGA, the ultimate beneficiary is the Job card holder who has been provided employment. Mention may be made that an IHHL (Individual Household Latrine) beneficiary is to be allowed to work on his/her IHHL under the Act, if he/she is a job-card holder.*
- D. There is no dispute regarding this, however, it may be mentioned that the word “beneficiary” here too refers to the beneficiary of the IHHL which is a scheme implemented/administered by the Ministry of Drinking Water and Sanitation.*

Hence, it may be submitted that the “beneficiary” being referred to in the Operational Guidelines of the MGNREGA are as follows:

- 1. Section 3.1.4 : Box No. 3.2, Household details: Sl. (k). “beneficiaries under the Scheduled Tribes and Other Traditional Forest Dwellers Act”*
- 2. Section 7.1.4: “beneficiaries of land reforms or the beneficiaries under the Indira Awas Yojana”.*

She further clarified the concept of who is a beneficiary of the MGNREGA by explaining that the operational guidelines, wherever only the word “beneficiary” was used without referring to beneficiary of other schemes, referred to job-card holders who were or are being given employment as guaranteed under MGNREGA Act. She further added that the wage seekers or job card holders can work anywhere in individual or community lands, as long as they get works to do and earn their livelihood.

The FAA also stated that of job card holders are the beneficiaries and the details of job card holders are with the Programme Officers. Smti. Narola Imkong, PO & APIO, DRDA, RD Block, Dimapur also affirmed that the job card holders are the beneficiaries and the details are available in the office.

The Commission pointed out that as far as furnishing of information is concerned, the PIO had furnished whatever information was available as observed during the first hearing held on 28.07.2022 at 1:00 PM, however, the applicant seemed to be going back to his queries which were already explained, clarified and furnished. The PIO had even explained to the applicant(now appellant) regarding his non-satisfaction on the subsequent clarifications after the first hearing.

The Commission also observed that the FAA, PIO and PO had given sufficient explanation that beneficiary are the job-card holders and can work anywhere in individual or community lands.

DECISION

On the above observations, since sufficient explanation and satisfying clarification has been given by the public authority, the Commission find no further hearing or explanation is required and therefore dismissed the appeal and declared the case as closed.

Decision pronounced in the presence of both the parties on 23.11.2022 at 12:00 Noon.

Copies be given to:-

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. Shri. K. Neibou Sekhose, Joint Director & APIO, Directorate of Rural Development, Nagaland, Kohima, Mobile No. 9436000365.
4. Shri. Kethosituo Sekhose, Project Director & PIO, DRDA, Dimapur – 798612.
5. The applicants (now appellants), Shri. Abi, Shri. Aki and Shri. Ruovi, M/No. 7630899734, C/o. Kuda ‘B’ Sub-post Office, Nagarjan.
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:

(Worhonhung Ezung)
Deputy Secretary