

NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-578
NAGALAND, KOHIMA-797001
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No. NIC/APPEAL-27/2022-23

Dated Kohima, the 31st October, 2022

Appellant : Shri. Chubatangit Jamir,
Hill View Colony,
Dimapur, Nagaland,
Mobile No. 7005137981.

Respondents : (i) Smti. Y. Lovitoly Sema,
Director & First Appellate Authority,
Directorate of Food & Civil Supplies,
Nagaland, Dimapur-797112.

(ii) Shri. Lanutoshi Jamir,
Joint Director & PIO,
Directorate of Food & Civil Supplies,
Nagaland, Dimapur-797112.

Public Authority : Directorate of Food & Civil Supplies, Nagaland, Dimapur.

Date of hearing : 19.10.2022 at 11:30 A.M.

Date of Decision : 31.10.2022.

Present:

1. Shri. K. Mhonthung, Deputy Director & APIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur, Mobile No. 97723042.
2. Shri. James Khati, Assistant Superintendent, DSNC, Mobile No. 8794743576.
3. Shri. Veto V. Zhimomi, Legal Counsel and representative of the applicant (now appellant), Mobile No. 7005414827.

The following did not appear for the hearing:

1. Smti. Y. Lovitoly Sema, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
2. Shri. Lanutoshi Jamir, Joint Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
3. The applicant (now appellant), Shri. Chubatangit Jamir, Hill View Colony, Dimapur, Nagaland, *M/No. 7005137981.*

FACT OF THE CASE

An applicant, Shri. Chubatangit Jamir, had submitted an RTI application dated **11.04.2022** addressed to the PIO, Department of Food & Civil Supplies, Nagaland, Dimapur, along with Rs. 10/- as application fee, seeking the following information:

1. *The total allocation of Tide-over rice allocation for the State of Nagaland for the year 2016 to 2022 from the Government of India.*
2. *The monthly allocation in District wise in detail from 2016-2022.*
3. *The list of Tide-over beneficiaries list in District wise from 2016-2022.*
4. *The Notice inviting Tender NIT and newspaper clipping for the year 2016 to 2022 for Tide-over.*
5. *The names and contact numbers with its detail address of the stockist and handling agent of the Tide-over allocation from 2016-2022.*

6. *The quarterly report of the Tide-over allocation report from each of the District authority from 2016-2022.*
7. *The Utilization Certificate from each of the District authority 2016-2022.*
8. *Utilization Certificate submitted to the Government of India for the year 2016 to 2022.*

On receipt of the above mentioned RTI application on **11.04.2022**, Shri. Lanutoshi Jamir, Joint Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur had vide letter **NO. DSE/RTI-1/2021-22/977 dated 10.05.2022** replied to the applicant to come and collect the information on payment of the cost of information amounting to **Rs.16/-** during Office hours.

On receipt of the information on 10.05.2022, the applicant had filed First Appeal dated 23.05.2022 addressed to the FAA, Directorate of Food & Civil Supplies, Nagaland, Dimapur stating that the information furnished with regard to **query Nos. 4, 5, 6, 7 and 8** were not satisfactory.

On receipt of the First Appeal dated **23.05.2022**, the FAA had vide letter **NO. DSE/RTI-1/2021-22/268 dated 07.07.2022** replied to the applicant to come and collect the information during Office hours.

On receipt of the information furnished by the FAA, the applicant (now appellant) had submitted the Second Appeal dated **07.08.2022** to this Commission stating that in reply to his First Appeal, the FAA had furnished reply on **07.07.2022** without summoning or conducting hearing and that, the reply was inadequate/incomplete. Further, he submitted that the *queries No. 4, 6, 7 & 8 of the RTI application* were not addressed by the FAA but only the reason for inability was mentioned.

Since the applicant (now appellant) was not satisfied with the reply given by the PIO and the subsequent reply of the FAA, the Commission had notified to hear the above mentioned Appeal giving opportunity of being heard to all the parties on **07th September, 2022 (Wednesday) at 1:00 P.M 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. Smti. Y. Lovitoly Sema, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
2. Shri. Lanutoshi Jamir, Joint Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
3. The applicant (now appellant), Shri. Chubatangit Jamir, Hill View Colony, Dimapur, Nagaland, *M/No. 7005137981*.

However, on the request of the public authority vide letter No. DSE/RTI-1/2021-22/533 dated 05.09.2022 to adjourn the hearing scheduled on 07.09.2022 on account of one day capacity building workshop for State/UT Nodal Officers on Price Monitoring of Essential Food Commodities at New Delhi on 07.09.2022, the Commission had accepted the request and rescheduled the hearing on 21.09.2022 at 11:30 AM.

The applicant (now appellant), Shri. Chubatangit Jamir had, vide letter dated 05/09/2022 authorised advocate Shri. Bendang and advocate Shri. Lima to appear before the State Information Commission on his behalf and all other proceeding related to the instant RTI matters, however again on the request by his advocates for postponement of the hearing scheduled on **21/09/2022** due to matter listed in the District Court, Longleng on the same date, the Commission had again rescheduled the hearing on **19th October 2022 (Wednesday) at 11:30 A.M.**

OBSERVATIONS AND FINDINGS:

Smti. Y. Lovitoly Sema, Director & FAA had, vide letter No. DSE/RTI-1/2021-22 dated 15.10.2022 informed the Commission that the Office of the Advocate General, Nagaland, Gauhati High Court, Kohima Bench had deputed Shri. Veto Zhimomi, Government Advocate to represent the department in respect of the RTI hearing scheduled on 19.10.2022. Smti. Y. Lovitoly Sema,

Director & First Appellate Authority, and Shri. Lanutoshi Jamir, Joint Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112 did not appear for the hearing on 19.10.2022.

However, the Commission made its stand clear that an advocate representing the public authority does not mean that the FAA and the PIO will not be absolved to be heard or appear for the hearing, but require the presence of the public authority though submissions may be made by the legal representative or advocate on behalf of the public authority during the hearing.

The Deputy Director & APIO and Assistant Superintendent appeared for the hearing along with the advocate representative and had produced a letter vide No. DSE/RTI-1/2021-22 dated 19.10.2022 from the public authority requesting the Commission to call off the hearing and considered as null & void since the applicant was satisfied with the information received from the public authority and hence withdrew his application vide letter dated 18.10.2022, and had enclosed a copy of the applicant's withdrawal letter dated 18.10.2022.

The Commission took serious note of the withdrawal letter dated 18.10.2022 submitted by the applicant after obtaining information.

Since the applicant had preferred his first appeal before the Director & FAA and second appeal to the Commission that the information furnished with regard to **query Nos. 4, 5, 6, 7 and 8** were not satisfactory, the Commission had dealt with those queries which were not satisfied.

Regarding **query No. 4**, the Deputy Director & APIO explained that there was no such Notice Inviting Tender (NIT) for Tide Over Scheme. Tide Over Allocation or Scheme is like a buffer stock where assistance is given for emergency or in abnormal situations. Reading out the guidelines from the Ministry of Consumer Affairs & Public Distribution System, Department of Food & Public Distribution, New Delhi vide letter dated F No. H-11018/1/2013-NFSA(Pt) dated 28.11.20123, he stated that the discretion for distribution was given to the State government and a copy was produced before the Commission. He further informed that for PHH (Priority House Hold), NIT is floated.

The Commission observed that the reply should have been given along with reasons and not simply as No NIT floated.

Query No. 5, the APIO explained that earlier the PIO did furnish the stockists list along with addresses except contact numbers of the stockists for security reasons due to demands from many social elements/groups, however, at the time of first appeal, the Director & FAA had furnished the stockist list with address and their contact numbers.

Query No. 6, the APIO stated that no quarterly allocation report of Tide Over from the districts, since Tide Over Allocation/Scheme comes from the State. He added that Tide Over Allocation/Scheme is given directly to the districts and no UC and report is received from the districts. The FAA had also in her reply to the applicant stated that Tide Over is distributed by the Stockists themselves and hence UC is not collected from the districts. He informed that Tide Over Allocation/Scheme was received during COVID as part of disaster management.

However, the Commission observed that after receipt from the State government, Tide Over Allocation/Scheme is distributed to the districts and hence the office should have the records of the distribution to the districts.

Referring to the copies of the *monthly allocation in district-wise from 2017 to 2022* produced during the hearing, the Commission viewed that the public authority was confused and asked if the district-wise allocation was given, why the public authority did not furnish it to the applicant? The Commission opined there should be some checks and balances and that the department should have some transparency and accountability in implementing the Tide Over Allocation/Scheme.

Query Nos. 7 & 8, the representative of the applicant (now appellant), advocate Shri. Veto V. Zhimomi, Legal Counsel stated that there was no guidelines and that the stockists are appointed by the government and not by the Directorate. Moreover, the National Food Security Act, 2013 (NFSA) had not mentioned Tide Over Allocation/Scheme, hence do not come under NFSA. He

further added that except PMAY and PHH, there is no guideline for Tide Over Allocation/Scheme. However, the Commission pointed out that Tide Over Allocation/Scheme started in 2017 and hence comes under the NFSA 2013.

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

DECISION

The objective of the Right to Information Act (RTI) is to bring about transparency and accountability in the working of all public authorities, hence under Section 25(5) of the RTI Act, 2005, the Commission recommends the public authority to be transparent in the selection of stockist list, insist on Utilisation Certificate from the districts and streamline the overall implementation of the Tide Over Allocation/Scheme. Since there was no delay in furnishing the information and that the applicant (now appellant) had expressed his satisfaction with the information furnished by the PIO and the FAA, with the above recommendation, the Commission had decided to declare the appeal case **closed**.

Decision pronounced in the presence of both the parties on 19.10.2022 at 11:30 A.M.

Copies be given to:

1. Smti. Y. Lovitoly Sema, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
2. Shri. Lanutoshi Jamir, Joint Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur-797112.
3. The applicant (now appellant), Shri. Chubatangit Jamir, Hill View Colony, Dimapur, Nagaland, *M/No. 7005137981*.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

Authenticated true copy:

(Worhonthung Ezung)
Deputy Secretary