

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

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No. NIC/APPEAL-29/2022-23

Dated Kohima, the 9th November, 2022

Appellants : i). Shri. Odi Jamir.

ii). Shri. S.T. Yapang Lkr,
RTI Initiative Nagaland,
Kohima, Nagaland, Mobile No. 9612971480.

Respondents : (i). Shri. Shashank Pratap Singh, IAS
Deputy Commissioner & FAA,
O/o the Deputy Commissioner,
Mokokchung- 798604.

(ii) Shri. Chumlammo Humtsoe,
ADC & PIO,
O/o the Deputy Commissioner,
Mokokchung- 798604.

Public Authority : Office of the Deputy Commissioner, Mokokchung.

Date of hearing : 19.10.2022 at 01:00 P.M.

Date of Decision : 09.11.2022.

Present:

1. Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Mokokchung, Mobile No. 7838327839.
2. The applicant (now appellant), Shri. S.T. Yapang Lkr, RTI Initiative Nagaland Kohima, Nagaland, Mobile No. 9856114829/9612971480.

Shri. Chumlammo Humtsoe, ADC & PIO, O/o the Deputy Commissioner, Mokokchung and the applicant, Shri. Odi Jamir **did not appear** for the hearing.

FACT OF THE CASE

Two applicants, Shri. Odi Jamir and Shri S. T. Yapang Lkr., had jointly submitted an RTI application **No. RTI/No-184/MKG-DC dated 01.07.2022** along with application fee of Rs. 10/- addressed to the PIO, Office of the Deputy Commissioner, Mokokchung, Nagaland seeking the following information;

1. *Photo copy of the list of beneficiaries for damage compensation under 2-Lane from Km 185.00 to Km 220.00 of NH-61 (New NH-02) Mokokchung to Tuli. The list shall be in the form of the following:-*
 - (a) *Package-I list shall be for an amount of Rs. 2002.45 Lakhs and Package-II list shall be for an amount of Rs. 1,143.20 Lakhs as submitted by the Government of Nagaland and approved by Government of India, further sanction was accorded by MORTH vide NO.NH-12014/43/2020/NG/Zone-V dated 31st March, 2021.*
2. *Photocopy of the list of beneficiaries for damage compensation under 2-Lane from 135 Km to 147 Km of NH-61 (New NH-02). The list shall be in the form of the Rs. 1875.27 Lakhs as approved by the Government of India and sanctioned by the Government of India Vide NO.NH-12014/42/2020/NG/Zone-V dated 31st March, 2021.*
3. *Photocopy of the list of beneficiaries for damage compensation under 2-Lane from 156 Km to 168 Km of NH-61 (New NH-02). The list shall be in the form of the Rs. 1804.80 Lakhs as approved by the Government of India and sanctioned by the Government of India Vide NO.NH-12014/42/2020/NG/Zone-V dated 31st March, 2021.*

It is therefore, requested that if the information contains more than 1000 (one thousand) pages, the same may kindly be furnished in soft copy (i.e CD/Disc) instead of hard copy.

The applicants had also submitted another RTI application vide **No.RTI/No-185/NH dated 04.07.2022** along with application fee of Rs. 10/- addressed to the PIO, Office of the Executive Engineer, PWD, National Highway Division NO-II, Mokokchung, Nagaland seeking information on the similar points/area given below;

1. *One photo copy of beneficiaries list / Booklet indicating the detail information of the amount received as compensation for 2-Lane Highway by each individuals under different categories of compensation which comes under ROW from Changtongya Town to Dikhu Bridge (Changtongya Town to Longleng Road) for construction of 2-Laning Highway, as approved by the Government of India / Government of Nagaland for the same from 2013, 1st April to till date.*

On receipt of the above RTI application RTI/No-185/NH dated 04.07.2022, Er. Limatoshi, Executive Engineer, PWD, NH Division-II, Mokokchung had, vide letter No. EEMKG/NH/T-48/266-267 dated 07.07.2022 transferred the RTI application to the PIO, Office of the Deputy Commissioner, Mokokchung under Section 6 of the RTI Act, 2005.

On receipt of the above mentioned 2 (two) RTI applications, Shri. Chumlamo Humtsoe, ADC & PIO, Office of the Deputy Commissioner, had vide letter **No.JUD-50/2022/129 dated 25.07.2022** replied to the applicants stating that information sought cannot be furnished under *Section 8 of the RTI Act, 2005*.

On being unsatisfied with the reply of the PIO, Office of the Deputy Commissioner, Mokokchung, Nagaland, the applicants had submitted the First Appeal dated **29.07.2022 (received on the same date)** to the DC & FAA, Office of the Deputy Commissioner, Mokokchung stating that the ADC & PIO did not mention the exact clause of the Section of the Act where their rights to get information was denied and that, since they work for the interest of the public, they had sought the information regarding the beneficiary list for damaged properties, and hence cannot deny the list of beneficiaries under Section 8 of the RTI Act, 2005.

On receipt of the First appeal, Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & FAA, Mokokchung had vide letter **NO.JUD-50/2022/180 dated 29.08.2022** replied to the applicants (now appellants) stating that the information sought could not be furnished under *Section 8 (g) of the RTI Act, 2005*.

Since the applicants (now appellants) were not satisfied with the replies of Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & FAA, Mokokchung, they had submitted the Second Appeal to the Commission with request to look into the matter and solve the issue as per the provision of the RTI Act, 2005.

The Commission had examined the matter and decided to hear the above mentioned appeal giving opportunity of being heard to all the parties on **19th October, 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 had 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. Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Mokokchung-798601, Nagaland.
2. Shri. Chumlamo Humtsoe, ADC & PIO, Office of the Deputy Commissioner, Mokokchung-798601, Nagaland.
3. The applicants (now appellants), Shri. Odi Jamir & Shri S. T. Yapang Lkr., *Mobile No. 9612800973 / 9856714829*.

OBSERVATIONS AND FINDINGS:

One of the applicants, Shri. Odi Jamir, had, vide letter dated 15.10.2022 requested the Commission to grant him leave of absence in the hearing due to unavoidable family duties.

Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & FAA, Mokokchung, had informed the Commission that Shri. Chumlamso Humtsoe, ADC& PIO, Office of the Deputy Commissioner, Mokokchung could not attend the hearing as he was entrusted to look after the office since the Commissioner, Nagaland was scheduled to visit Mokokchung the next day.

Shri. S. T. Yapang Lkr., the applicant (now appellant) stated that he had filed same RTI on two occasions one to the DC, Mokokchung and another to the National Highways, Mokokchung seeking information about land and the damages for compensation under NH-2. He submitted that they had received the list of beneficiaries and the amount of compensation from the following offices under Mokokchung:-

Agriculture	= Rs. 17,52,750.00
Land Resources	= Rs. 1,26,360.00
Horticulture	= Rs. 53,40,600.00
Forests	= Rs. 2,07,07,351.00
PWD(NH)	= Rs. 15,80,65,604.50
<u>PWD(R&B)</u>	<u>= Rs. 91,05,322.00</u>
Total	= Rs. 19,50,97,987.50

Or Rs. 1950.97987 lakhs

However, the PIO of the O/o the Deputy Commissioner, Mokokchung had denied to furnish the information quoting section 8 (g) of the RTI Act, 2005. On being denied to furnish information by the PIO, they had filed first appeal to the DC & FAA, Mokokchung, however the DC & FAA, Mokokchung had also rejected their first appeal by invoking Section 8 (g).

Shri S. T. Yapang Lkr., also stated that as per the sanction amount of Rs. 2002.45 lakhs received from the Ministry of Road Transport & Highways, New Delhi and the above amount of Rs. 1950.97987 lakhs paid as compensation to the beneficiaries, there was a difference in amount of Rs. 51.47013 Lakhs. Since the amount utilized on compensation under 2- lane Mokokchung-Tuli did not tally, they wanted the information for cross reference and there is no security threat for disclosing the beneficiaries list.

Reading out Section 8(j) of the RTI Act, 2005, Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & FAA, Mokokchung stated that the information sought by the applicants has no public interest but for personal interest and if the list of beneficiaries is disclosed it might open a Pandora box which could lead to law and order problems as most part of Mokokchung District are not covered under AFSPA. He feared that if beneficiaries names and address are disclosed, the anti-social elements might kidnap for ransom which will create law and order problems and it might impede the road construction and more complaints will be received. The applicants are only interested in the beneficiaries name and the amount paid as compensation, and they are not interested about the procedures or details of the project etc. which shows their ill motives and have no public interest. He also informed that the applicants had also filed several RTI applications in the O/o the Deputy Commissioner, Mokokchung where in one instance the applicants had also threatened one of the staff and hence the applicants should be blacklisted for misuse of the RTI Act, 2005. Moreover, the compensation amount have been paid in full before he joined as DC, Mokokchung and there were complaints about some missed out spots where further verification is being conducted for compensation for which the contractor are liable to make the payment by themselves since as per the guidelines only 15 % of the total DPR amount should be utilized for compensation.

The Commission pointed out that both the FAA and the PIO had quoted **Section 8(g)** to deny the information, however, during the hearing the FAA had referred to **Section 8(j)** to justify the denial of information to the applicants. The Commission observed that when other public authorities/offices in Mokokchung had furnished the list of beneficiaries, compensation amount, location etc. the DC office, Mokokchung denying the information was not tenable. Further, there is no security threat in disclosing the information to the applicant as the other offices had also furnished the beneficiaries list of the same project. The Commission, therefore, rejected the justification of the FAA in denying the information.

The Commission observed that though information was denied, there was no delay in giving the replies to the applicants(now appellants).

DECISION

In view of the above submission and observations, the Commission decided that:

1. Since other public authorities/offices in Mokokchung had furnished the list of beneficiaries, compensation amount, location etc. and there is no security threat in disclosing the information to the applicants(now appellants), Shri. Chumlammo Humtsoe, ADC& PIO, Office of the Deputy Commissioner, Mokokchung shall furnish the information to the applicants (now appellants) **within fifteen (15) days** from the date of receipt of the decision and with a copy to this Commission.
2. On receipt of the information, the applicants (now appellants) shall submit satisfaction or non-satisfaction to the PIO, with a copy to the Commission **within fifteen (15) days** from the date of receipt of the information.
3. The applicants (now appellants) shall be held responsible should anything happen on disclosure of the information so received from the PIO in social media which might lead to incitement of violence, public disorder or law and order problems.

Decision pronounced in the presence of both parties on 19.10.2022 at 01:00 P.M.

Copies be given to:

1. Shri. Shashank Pratap Singh, IAS, Deputy Commissioner & First Appellate Authority, Office of the Deputy Commissioner, Mokokchung-798601, Nagaland.
2. Shri. Chumlammo Humtsoe, ADC& PIO, Office of the Deputy Commissioner, Mokokchung-798601, Nagaland.
3. The applicants (now appellants), Shri. Odi Jamir & Shri S. T. Yapang Lkr, RTI Initiative Nagaland, House No. LA 734, Block-C, Lower Agri Colony, Kohima-797001, Nagaland, *M/No.9612800973 / 9856714829*.
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