

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

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No. NIC/Complaint-3/2022-23

Dated Kohima, the 20th September, 2022

- Complainants : i) Shri. Khekiye K Sema, IAS (Rtd),
President,
Senior Citizens' Association Nagaland (SCAN)
HQ Kohima Nagaland,
C/o. Seyie Gas Service,
P.R. Hills, Kohima, Nagaland- 797001,
Mobile No. 8787607787 and
- ii) Shri. Medoselhou Keretsu,
General Secretary,
Senior Citizens' Association Nagaland (SCAN)
HQ Kohima Nagaland,
House No- B-46, D Khel,
Kohima Village, Kohima Nagaland- 797001,
Mobile No. 7640812581.
- Respondents : (i) Shri. Dharmendra Prakash, IFS
Principal Chief Conservator of Forests & Head of Forest Force,
Nagaland, Kohima.
- (ii) Shri. T. Aochuba, IFS,
Director,
Intangki National Park,
Dimapur, Nagaland.
- Public Authority : Office of the Director, Intangki National Park, Dimapur, Nagaland.
- Date of hearing : 07.09.2022 at 12:30 P.M.
- Date of Decision : 20.09.2022.

Present:

1. Shri. Dharmendra Prakash, IFS, PCCF & HoFF, Nagaland, Kohima.
2. Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, Nagaland.
3. The applicants (now complainants):-
 - (i) Shri. Khekiye K Sema, IAS (Rtd), President, Senior Citizens' Association Nagaland (SCAN) HQ Kohima Nagaland, Mobile No. 8787607787/9436000230;
 - (ii) Shri. Medoselhou Keretsu, General Secretary, SCAN, Mobile No. 7640812581;
 - (iii) Dr. I. Pihoto Khala, Vice President, SCAN, Mobile No. 6009070715;
 - (iv) Dr. R. Rose Chakhesang, G. Secretary, SCAN, Mobile No. 7085667014;
 - (v) Shri. C. Pankathung Lotha, Joint Secretary, SCAN, Mobile No. 9774766154; and
 - (vi) Shri. Kuolachalie Seyie, Member, SCAN, Mobile No. 9436005219.

FACT OF THE CASE

The applicants had submitted an RTI application dated **14/09/2020** along with an application fee of Rs. 10 to the PIO, Interlocutor & Governor's Secretariat, Raj Bhavan, Nagaland, Kohima stating *that having learnt that a large number of RCC buildings meant for Forest Department Staff Quarters constructed by the State Government, within Intangki Reserved Forests, under Peren Districts of Nagaland some years ago have been served vacation notice. Consequent upon the vacation notice/ order by the government, all the staff of Forest Department occupying the said quarters at Intangki Reserved Forest have been displaced in compliance to the directives of the*

Government. Subsequently, it is also learnt that the State Government has allotted the whole residential establishment to a faction of Naga Political Group.

Therefore, if the above stated information is true, kindly furnish the certified true copies of the following information in hard copies.

- i. *Is Intangki Forest a reserved forest? If so what are the laid down rules and regulation governing the Reserve Forest are vis-à-vis its Interpretation with Article 371A of the Indian Constitution?*
- ii. *Provide detail information about the total area of the Intangki reserved forest.*
- iii. *Provide detail information on the traditional land owners of the Intangki reserved forest.*
- iv. *Provide detail information on how the Intangki reserved forest was acquired by the State Government*
- v. *Provide information on the list of traditional land owners from whom the said land was acquired.*
- vi. *Provide information on the list of the land owners who have been awarded land compensation, mentioning the land compensation amount given to the land owners.*
- vii. *Provide information as to why the Forest Department's staff on duty for the protection of Intangki Reserved Forest have been issued vacation notice from their quarters built specifically for the Department of Forest.*
- viii. *Provide photo copies of the official vacation notice served to the Forest Department by the State Government directing them to vacate the premises of the quarters allotted to the staffs of Forest Department stationed at Intangki Reserved Forest.*
- ix. *Provide photocopy of the orders, directive, resolution of the State Government reallocating the Staffs quarters constructed for the employees of the Forest Department/ Forest Guards to the new occupants, faction of Naga Political Groups.*
- x. *Provide information if any environmental clearance has been given to the present aforesaid occupants of the Intangki Reserved Forest for clearing the jungle, deforestation by the Government.*
- xi. *Provide detail address of the First Appellate Authority of your esteemed Department.*

On receipt of the RTI application on the same date i.e **14/09/2020** as evidence on the body of the application, Shri. George Abraham, Jt. Secy & APIO, Governor's Secretariat had, vide letter **No. G-17/01-04/00/Admin(RTI Case) Vol. I** dated **15/09/2020** transferred the RTI application along with the application fee of Rs. 10/- under Section 6(3) of the RTI Act, 2005 to the Chief Secretary, Govt. of Nagaland, Kohima, and with a copy to the applicants.

On receipt of the transfer of RTI application, Smti. Tsusola T Yimchunger, APIO, Chief Secretary Office had, vide letter **No.CSO/RTI-5/2017(Pt.1)** dated **18/09/2020** again transferred the RTI application under Section 6(3) of the RTI Act, 2005 to the PIO, Department of Environment, Forests & Climate Change, Nagaland, Kohima (hereafter EF&CC) and with a copy to the applicants.

The RTI application was further redirected to the office of the Principal Chief Conservator of Forests (hereafter PCCF) from the EF & CC vide letter No. FOR/RTI-35/3/2018/499 dated 18.09.2020 by Dr. Y. Atsase Thongsar, OSD, EF&CC.

On receipt of the above RTI application, Shri. Supongnukshi, IFS, Chief Conservator of Forest (EBR) & PIO, O/o the PCCF & HoFF had, vide letter **No.FE-1/4/RTI-4/2020-2021** dated **24/09/2020** again transferred the RTI application under Section 6(3) of the RTI Act, 2005 to the Chief Wild Life Warden, Dimapur, Nagaland with a copy to the applicants.

Shri. Suman W M Sivachar, IFS, Deputy Conservator of Forests & PIO, Office of the Chief Wild Life Warden, Dimapur, Nagaland had, vide letter No. CWL/ESTT/154 RTI (Vol-VI)/465 dated 05.10.2020 transferred the RTI application to the Director, Intangki National Park, Dimapur, Nagaland

On receipt of the RTI application, Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, Nagaland had, vide letter **No.FD/INP/GEN/9/168** dated **12/10/2020** furnished the replies to the applicants as under, which the applicants received on **22/10/2020**.

1. *Yes. Intangki is a Reserve Forest declared in 07.05.1923 and later upgraded to National Park in 03.03.1993. Since National Park is a Government property, it is guided by the laid down rules and regulations under Nagaland Forest Act 1968, Wildlife Protection Act, 1972 and various administrative orders of the Government from time to time.*
2. *The total area of Intangki National Park is 202.02 sq. km.*
3. *The traditional land owner(s) of Intangki National Park is not available in the office record.*
4. *The British Colonial Government after following due process of law declared Intangki as Reserve Forest in 1923. After India's independence, the British Government handed over to the Government of Assam and subsequently to the Government of Nagaland after statehood.*
5. *This information is not available in the office record.*
6. *This information is not available in the office record.*
7. *No such vacation order to the Intangki Reserve Forest staff was received.*
8. *No such official vacation notice served to the Forest department by the State Government.*
9. *No such orders, directives or resolutions of the State Government are available in the office record.*
10. *No such environmental clearance was issued by the Government.*

Since the information furnished by the PIO was **misleading and incomplete**, the applicants had submitted a complaint dated **22/03/2021** to the Commission.

On receipt of the Complaint dated **22/03/2021**, the Commission had, vide letter **No.NIC/Gen/RTI-19/17(Vol-II)/1309** dated **08/04/2021** advised the applicants (now complainants) to submit first appeal to the Principal Chief Conservator of Forest & Head of Forest Force, Nagaland, Kohima.

Since there was neither any response from the applicants (now complainants) nor from the public authority, the Commission had decided to hear the above mentioned complaint giving opportunity of being heard to all the parties on **7th September, 2022 (Wednesday) at 12:30 P.M in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima.** The following parties were 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 also requested to attend the hearing with preventive measures such as wearing of face mask and social distancing etc.

1. The PCCF & HoFF, Nagaland, Kohima.
2. Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, Nagaland.
3. The applicants (now complainants), Shri. Khekiye K Sema, IAS (Rtd), President, Senior Citizens' Association Nagaland (SCAN) HQ Kohima Nagaland, C/o. Seyie Gas Service, P.R. Hills, Kohima, Nagaland- 797001, Mb No-8787607787 and Shri. Medoselhou Keretsu, General Secretary, Senior Citizens' Association Nagaland (SCAN) HQ Kohima Nagaland, House No- B-46, D Khel, Kohima Village, Kohima Nagaland- 797001, Mb No-7640812581.

OBSERVATIONS AND FINDINGS:

One of the applicants (now Complainants), Shri. Khekiye K Sema, IAS (Rtd), President, Senior Citizens' Association Nagaland (SCAN), stated that the reply of Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur (deemed to be the PIO as he had given the reply) that there were no records or written documents was not satisfactory and honest since on the ground realities the establishment and staff quarters at Intangki that was created for the Forest officers and staff by the Government have been vacated and occupied by a section/faction of Naga Political Group and moreover public are not even allowed to enter the Intangki area. He added that they wanted an honest, clear and truthful reply.

During the hearing, Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, Nagaland stated that he had received the RTI application in October, 2020 and had already given the reply whatever information sought as per the queries on 12.10.2020. He also stated that there was nothing to hide and though there may be some inferred queries, he had strictly stuck to the

queries as it was sensitive in nature. He further explained that the office of the Director, Intangki National Park, Dimapur was earlier looked after by the Chief Wildlife Warden, Dimapur before it was established in 2015 and the information sought pertains to pre-Independence era when there was undivided Assam. He further stated that though attempts were made to retrieve or share documents, its Assam counterpart are not willing to cooperate.

Regarding **query Nos. 1 and 2**, the Commission observed that though the applicants(now complainants) had expressed their satisfaction with the reply of Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, however, supporting documents like Schedules, Notification or map ought to be furnished in support of his statement.

Query No. 3, Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur had replied that the information was not available in the office record.

The FAA, Shri. Dharmendra Prakash, IFS, PCCF & HoFF, Nagaland, Kohima had also added that whenever any piece of forest land is taken as reserve forest, the State government through the Deputy Commissioner appoints a Settlement Officer to examine the rights and ownership and once settled, agreement for payment of compensation and mutation is made. Once it is declared as reserve forest, all the rights and ownership cease to exist as far as the land owners are concerned and the land becomes a property of the Government, and hence the question of Article 371(A) does not arise. Further, elevation to the status of wildlife sanctuary or declaration of National Park is made under the Wildlife Protection Act. Intangki was declared as a Reserve Forest in 1923 in the light of the Indian Forests Act, 1896 during the British period and undivided Assam, however unfortunately there is no record with the department.

However, the applicants(now complainants) reacted that the department cannot be irresponsible by saying no records available since it happened during British time. There ought to have some records whether the land belongs to private individual or the State Government. Moreover, having records of the history of the land acquired by the government/department is good for the wellbeing of the department and in the future. The applicants(now complainants) further questioned whether any effort was made to acquire the records from its Assam counterpart after Nagaland attained its Statehood, the PIO replied that as learnt from his predecessors, some efforts were made in the past with Assam counterpart and had even tried at his personal level, but to no avail as there was no response from Assam, and since it has now become state affairs, whether it was proper for him to write/take up the issue officially or at the State level.

The Commission opined that if the matter can be taken up at PCCF or Commissioner & Secretary of the Forest Department level to retrieve old records from Assam government. However, the applicants(now complainants) opined that since it is now an inter-state issues, like the inter-State boundary issue, PCCF or Commissioner & Secretary level might not be big enough to take up such an inter-State issue, and it might be appropriate to take up at the Chief Minister's level for such serious and big issue for positive results.

Query No. 4, the applicants(now complainants) expressed satisfaction with the statement, however, there was no documents received.

Query No. 5 and 6, the PIO stated that he was aware who were the landowners who have been awarded compensation, however, since there was no such official records, he had replied information was not available in the office record. The applicants(now complainants) stated that records are available but may not be in the office of the Forest department.

The Commission observed that anything recorded in some books or publication outside official can be used as a reference but not as an official document, hence, efforts should be made to retrieve the records.

Query No. 7, the PIO explained that the Hebron camp is near to the Intangki National Park and in 1993-94, some armed cadres threatened the occupants of the Forest staff quarters who were supposed to look after the Intangki National Park and had out of fear, the staff had slowly vacated the area. It was learnt that his predecessor, Shri. Hokto Sema who was the incharge during that time

had reported the matter to the higher authority, however, there seemed no action. He further stated that no FIR was filed at that point of time when the forest staff were forcibly vacated.

The applicants(now complainants) stated that it was clear that out of fear the staff had vacated and there was physical occupation to establish their headquarter in the Pan-Naga Hoho, and the State government and the Forest department was unable to prevent it from happening to such government property and threat to government servants who were supposed to look after the Intangki National Park and hence should be responsible as they are allowing it to happen.

The PCCF & FAA stated as PIO explained there were several meetings, however there was no such records. He stated that he had personally visited the Intangki National Park few weeks ago and perhaps, the first PCCF to have visited the area. The applicants(now complainants) asked the FAA what was seen on the ground, the FAA replied that Hebron camp is about 1.5 km away from the Intangki National Park, but there was no denying the fact of the matter what was on the ground.

The PIO stated that the above developments mentioned by the applicants(now complainants) happened without the knowledge of the Forest department and the matter was intimated to the government, however, after the cease fire between the NSC(IM) and the Government of India, it became apparent that the government had some plan which is unknown.

Query No. 8, and 9, the PIO stated that as he was told, the department was instructed about the plan of the government to convert the forest colony, and hence, the department could not do anything or have any say when the government had directed the department.

The applicants(now complainants) replied that the PIO had given false reply and evaded their queries since in his reply earlier stated there was no information available in office records, however, now he submitted there must be government instruction or directive.

The PIO stated that there must be verbal directives but since there was no official written record or proof, he had given the reply no information available in office record.

Query No. 10, the applicants(now complainants) pointed out that the PIO had given the reply that *no such environmental clearance was issued by the Government* however, at the ground reality, the faction are committing deforestation, logging, encroachment and forceful occupation under the power of the gun, which cannot be allowed. It transpired that the department had totally given up the area and now is not in control anymore.

The Commission observed this is a sensitive issue and as far as information is concerned, the PIO had already given the reply as sought that there was no such environmental clearance issued by the Government. Further, since some information were not available with the public authority, information could not be provided and the applicants (now complainants) had also agreed with the submission of the PIO.

The Commission also observed that though the RTI application was transferred from one office to another, there seemed no delay at each of the PIOs level of the different public authorities and hence no penalty was attracted.

DECISION

On the above observation and findings, the Commission decided that:-

1. Regarding query Nos. **1 and 2**, though Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur had given his statement in his reply, he shall furnish supporting documents like Schedules, Notification or map declaring as Intangki Reserved Forest and Intangki National Park, whatever is available with the department in support of his statement to the applicants(now complainants).
2. In regard to the query Nos. **3, 4, 5 & 6** pertaining to records about the traditional landowners of Intangki National Park, since official documents are neither available with the State government nor with the Forest department, the concerned public authority i.e.

the Forest department shall take up the matter with Assam counterpart through the highest level in the State of Nagaland.

3. In regard to the query Nos. **7, 8 & 9** pertaining to vacation of the staff quarters in Intangki National Park and query No. **10** regarding the issue of environmental clearance, no concrete action seemed to have been taken earlier, and hence the Public Authority i.e the Forests Department shall revisit and corrective measures to restore the post vacation situation be taken up.

The compliances to the above decisions Nos. 1, 2 and 3 shall be submitted **within fifteen (15) days** from the date of receipt of this decision and with a copy to this Commission.

Decision pronounced in the presence of both the parties on 07.09.2022 at 12:30 P.M.

Copies be given to:

1. Shri. Dharmendra Prakash, IFS, PCCF & HoFF, Nagaland, Kohima.
2. Shri. T. Aochuba, IFS, Director, Intangki National Park, Dimapur, Nagaland.
3. The applicants (now complainants),
 - i. Shri. Khekiye K. Sema, IAS (Rtd), President, Senior Citizens' Association Nagaland (SCAN) HQ Kohima Nagaland, C/o. Seyie Gas Service, P.R. Hills, Kohima, Nagaland- 797001, Mb No-8787607787 and
 - ii. Shri. Medoselhou Keretsu, General Secretary, Senior Citizens' Association Nagaland (SCAN) HQ Kohima Nagaland, House No- B-46, D Khel, Kohima Village, Kohima Nagaland- 797001, Mb No-7640812581.
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I. MEYIONEN JAMIR
Chief Information Commissioner

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