

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

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No. NIC/APPEAL-37/2022-23

/1906

Dated Kohima, the 20<sup>th</sup> March, 2023

Appellants

- : i) Shri. Roka Swu,  
Mobile No. 9366071145, and
- ii) Shri. Cheno,  
Mobile No. 872999303

Respondents

- : (i) Shri. Abhijit Sinha, IAS,  
Home Commissioner & First Appellate Authority,  
Home Department,  
Nagaland, Kohima
- (ii) Shri. Lhouchalie Viya, IAS,  
Secretary & PIO,  
Home Department (NSDMA),  
Nagaland, Kohima

Public Authority

: Home Department (NSDMA), Nagaland, Kohima.

Date of first hearing

: 19.01.2023 at 11:30 AM.

Date of first Decision

: 20.01.2023.

Date of second hearing

: 15.03.2023 at 11:30 AM.

Date of second Decision

: 20.03.2023.

Present:

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima, Mobile No 7085053755.
2. Shri. Thejangulie Zao, Assistant Manager, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 9436282824.
3. Shri. Kevisede Usou, Section Assistant, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7204242480.
4. The applicant (now appellant), Shri. Roka Swu, Dimapur, Mobile No. 9366071145.

The following did not appear for the hearing:

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima.
2. Shri. Temsuwangshi Jamir, Assistant Manager, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.
3. The other applicant (now appellant), Shri. Cheno.

**FACT OF THE CASE**

The Commission had, on 19.01.2023 at 11:30 AM, heard the Second Appeal dated 27.10.2022 submitted by Shri. Roka Swu, Mb. No. 9366071145, and Shri. Cheno, Mb. No.

872999303 and after the hearing, reserved its decision vide decision of even No. dated 20.01.2023 since the rightful FAA & PIO did not appear for the above hearing.

The Commission has decided to hear the appeal again, giving opportunity of being heard to both the parties on 15<sup>th</sup> March, 2023 (Wednesday) at 11:30 AM in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima and had directed the following parties 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 with preventive measures such as wearing of face mask and social distancing etc.

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima.
2. Shri. Lhouchalie Viya, IAS, Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima.
3. The applicants (now appellants), Shri. Roka Swu, Mb. No. 9366071145, and Shri. Cheno, Mb. No. 872999303.

#### OBSERVATIONS AND FINDINGS:

Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima had appeared for the hearing. During the hearing, the Commission had received a letter No. NSDMA/RTI/274/2019(Pt. II)/243 dated 13.03.2023 from Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima the NSDMA informing that Shri. Abhijit Sinha, IAS, Principal Secretary to the Chief Minister and Development Commissioner, Nagaland was out of station and had enclosed Notification No. PAR-A/11/2000-AIS dated 03.08.2022 regarding ex-post facto grant of three (3) days of Earned Leave from 14<sup>th</sup> to 16<sup>th</sup> July, 2022 to Shri. Abhijit Sinha, IAS, Home Commissioner.

During the hearing, the applicant (now appellant), Shri. Roka Swu stated that he had received the information, however, he was not satisfied since there were repeated names of beneficiaries and there were no other documents how and where the funds were utilised. He further stated that as per the Ministry of Home Affairs (Disaster Management Division) letter No. 33-04/2020-NDM-I dated 15.04.2021, upto 50% of the fund allocation of the SDRF can be utilised for containment of measures of COVID-19 during 2021-22, however, no persons were quarantined during the period and hence questioned how the fund was utilised.

Shri. Thejangulie Zao, Assistant Manager, NSDMA, stated that the applicants did not appear for the two hearings summoned by the FAA on 07.11.2022 at 12:00 PM and 02.12.2022 at 2:00 PM, and the first appeal was disposed of since the applicants could not be contacted. He further stated that though the information was ready, the information could not be furnished since the applicants did not turn up for the hearing. Moreover, since no address was given except mobile number, he could not despatch the information to the applicants. He also informed that whatever information sought had already been furnished as per his RTI application without any cost since the information was furnished after the lapse of 30 days.

During the hearing, the applicant (now appellant) submitted that:-

1. Regarding reply to Query No. 1, the Sanction Orders had been received and hence satisfied.
2. Query No. 2, the Utilisation Certificates were not received earlier but now had received during the hearing.
3. Query No. 3, had received the list of beneficiaries, but not satisfied since there were repeated names of beneficiaries. Shri. Thejangulie Zao, Assistant Manager, NSDMA, however, stated that he had furnished the information whatever documents were received from the District Disaster Management Authority (DDMA).

4. Query No. 4, the PIO explained that for the SDMF and SDRF, the mode of payment was done by both banking and cash disbursement. Since the applicant had asked only the mode of payment made, the reply was given accordingly.
5. Query No. 5, the applicant (now appellant) stated that they did not receive anything. However, the Commission pointed out that though the applicants had not specified, the PIO had furnished the Notification No. NSDMA/NOT-ORD/2012 (Pt-II) dated 14.07.2017 for utilisation of SDRF funds under NSDMA.

The Commission observed that whatever information sought by the applicants had been furnished as per their queries in the RTI application. The Commission also observed that from the date of receipt of the RTI application dated NIL on 5.7.2022 to the date of reply by the PIO on 9.8.2022, there were 35 days, and considering the 30 days time for the PIO to furnish the information, the number of days of delay was  $35 - 30 = 5$  days, for which penalty was attracted.

The Respondents (NSDMA) who appeared for the first hearing on 19.01.2023 were reminded for the review of the Notification regarding the designation of FAA, PIO and APIO, however, even after the issue of notice for the second hearing on 03.03.2023, there was no update or compliance from the NSDMA. Referring to a recent Notification of the Agriculture Production Commissioner (henceforth APC), No. AGR/RTI-8/2016 (VOL-II) dated 25.01.2023, the Commission pointed out that the APC who is the senior most civil servant in the State was also designated as the FAA of APC like all other departments and the NSDMA is no exception. The Commission also viewed that the designating of junior officers as FAA, PIO or APIO in the NSDMA has not only made the junior officers as scapegoats but also mockery of the RTI Act.

The Commission viewed seriously the lackadaisical attitude of the NSDMA in not only dealing with RTI matters seriously but also in the non-compliance to the directives of the Commission, thus undermining the authority of the Commission. Therefore, the NSDMA is warned not to repeat or take casual attitude in future.

### DECISION

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

1. Since the information had already been furnished earlier, the applicants (now appellants) shall submit satisfaction or non-satisfaction to the PIO and with a copy to the Commission within 15 (fifteen) days from the date of receipt of the information. In case, no confirmation is received from the applicant (now appellant) within the time frame given by the Commission, the case shall be presumed as satisfied and no further request to re-open the case shall be entertained.
2. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for the delay of five (5) days, amounting to Rs. 1250.00/- (Rupees one thousand two hundred and fifty only) is imposed on Shri. Lhouchalie Viya, IAS, the then Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima for contributing to the delay in furnishing the information to the applicant (now appellant) without reasonable cause.

The above penalty amount shall be paid within within 15 (fifteen) days from the date of receipt of this decision. Since penalty is imposed personally, the penalty amount shall be deposited into the Government account under his name, designation and signature through treasury challan in favour of the Accounts Officer, Nagaland



Information Commission, Kohima under the Head of Account given below, with a copy of the treasury challan (in original) to this Commission:-

0070 - Other Administrative Services

60 - Other Services

118- Receipts under RTI Act, 2005

3. The public authority i.e. the NSDMA is directed to expedite the review of its Notification dated 28.10.2022 regarding designating of FAA, PIO and APIO at the earliest and cause a copy to the Commission.

Decision pronounced in the presence of both the parties on 15.03.2023 at 11:30 AM.

Copies be given to:-

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima, now Principal Secretary to the Chief Minister and Development Commissioner, Nagaland.
2. Shri. Lhouchalie Viya, IAS, the then Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima.
3. The Accounts Officer, Nagaland Information Commission for information.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. The applicants (now appellants), Shri. Roka Swu, Mobile No. 9366071145, and Shri. Cheno, Mobile No. 872999303.
6. Office Copy.

Sd/-

**I. MEYIONEN JAMIR**

Chief Information Commissioner

Sd/-

**NOSAZOL CHARLES**

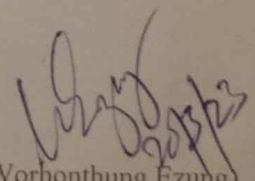
State Information Commissioner

Sd/-

**T. KEKONGCHIM YIMKHIUNG**

State Information Commissioner

Authenticated true copy:

  
(Worhonthung Ezung)  
Deputy Secretary