

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

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No. NIC/APPEAL-41/2022-23 /1862

Dated Kohima, the 30<sup>th</sup> January, 2023

Appellants : i) Shri. Kedou Wetsah,  
Co-Chairman,  
PGD, NPCC and  
ii) Shri. Imkongmeren Jamir,  
Member, PGD, NPCC

Respondents : (i) Smti. I. Sino Phom,  
Addl. Director (HoD) & First Appellate Authority,  
Directorate of Tribal Affairs,  
Nagaland, Kohima-797001.  
(ii) Shri. Imsumeren,  
Project Officer & PIO,  
Directorate of Tribal Affairs,  
Nagaland, Kohima-797001.

Public Authority : Directorate of Tribal Affairs, Nagaland, Kohima.

Date of hearing : 20.01.2023 at 11:30 AM.

Date of Decision : 30.01.2023.

Present:

1. Smti. I. Sino Phom, Addl. Director (HoD) & FAA, Directorate of Tribal Affairs, Nagaland, Kohima, Mobile No. 9436062291.
2. Shri. Imsumeren, Project Officer & PIO, Directorate of Tribal Affairs, Nagaland, Kohima, Mobile No. 8787798515.
3. The applicants (now appellants), Shri. Kedou Wetsah, Co-Chairman, PGD, NPCC, Mobile No. 9436001640, Shri. Imkongmeren Jamir, Member, PGD, NPCC, Nagaland, Kohima, Mobile No. 9436005187 and Shri. Kehoyi, NPCC, Mobile No. 8837384460.

**FACT OF THE CASE**

The applicants had jointly submitted an RTI application dated **01.09.2022** along with application fee of Rs. 10/- only addressed to the PIO, Directorate of Tribal Affairs, seeking the following information pertaining to Scheme Grant under provision to Article 275 (I), and Special Central Assistance to Tribal Sub-Scheme (SCA to TSS) during 2020-2021, 2021-2022, and 2022-2023 (DPR soft copy): -

1. Total sanction amount received from GoI (photo copy of sanction letter).
2. Give in Detail Project Report (DPR) in soft copy.
3. Provide Notice Invitation Tender (NIT) (photo copy of paper clip).
4. Furnish name of contractor/ company/ agencies/ firms (photo copy of work order).
5. Furnish in Detail Fund Distribution to District wise.
6. Provide M.B. No. Bill Voucher & Actual Payee Receipt (APR).
7. Furnish total payment made to the contractor and total balance amount to be made.
8. Provide photography of project executed by contractor and taken up by the department along with signboard.
9. Furnish Utilization Certificate.
10. Provide Last Audit Statement.
11. Give in Detail Project Report both scheme for the year 2022-2023 (DPR soft copy).

The above RTI application dated **01.09.2022** was received by the PIO on **02.09.2022** as evidenced on the body of the letter. However, since there was no response of the PIO to their RTI application even after expiry of the 30 days time limit, the applicants had submitted First Appeal vide **No. NPCC/PGD-1-2022-2023/56** dated **13.10.2022** to the FAA, Directorate of Tribal Affairs, Nagaland, Kohima.

On receipt of the First Appeal, Smti. **I. Sino Phom**, Addl. Director (HoD) & FAA, Directorate of Tribal Affairs had, vide **No. DTAN/MISC/RTI/7/2021/1413** dated **25.10.2022**, notified for a hearing of the First Appeal on **27.10.2022** at **11:00 AM** in the office chamber of the FAA.

The FAA had also, vide **No. DTAN/MISC/RTI/7/2021/1420** dated **25.10.2022**, furnished the information free of cost to the applicants under Section 7(6) of the RTI Act, 2005.

The FAA had, after hearing the First Appeal, passed decision vide **No. DTAN/MISC/RTI/7/2021/1430** dated **27.10.2022**, stating the reason for the delay at the PIO level.

However, on being dissatisfied with the information furnished by the FAA, the applicants had submitted a Second Appeal **No. NPCC/PGD-1/65** dated **21.11.2022** to this Commission for necessary action as below:-

1. *Whether the information sought is exempted from disclosure and otherwise. If so under what section of the Act?*
2. *Why the PIO concerned fail to furnish the requisite information?*
3. *Whether the sought information can/should be furnished to the petitioners?*

Since the applicants (now appellants) were not satisfied with the response of the Public Authority, the Commission had decided to hear the above mentioned Second appeal giving opportunity of being heard to all the parties on **20<sup>th</sup> January, 2023 (Friday) at 11:30 AM** in the Hearing Room of the Nagaland Information Commission, Agri-Farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima and 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 with preventive measures such as wearing of face mask and social distancing:

1. Smti. I. Sino Phom, Addl. Director (HoD) & FAA, Directorate of Tribal Affairs, Nagaland, Kohima.
2. The Public Information Officer, Directorate of Tribal Affairs, Nagaland, Kohima.
3. The Applicants (now Appellants), Shri. Kedou Wetsah, Co-Chairman, PGD, NPCC & Shri. Imkongmeren Jamir, Member, PGD, NPCC, Nagaland, Kohima.

#### **OBSERVATIONS AND FINDINGS:**

During the hearing, one of the applicants (now appellants), Shri. Kedou Wetsah, Co-Chairman, PGD, NPCC stated that the RTI was filed since many projects for tribal hostels and tribal welfare projects were sanctioned in the past, however, not much are seen on the ground. He submitted that they had received the information from the FAA during the first appeal hearing held on 25.10.2022, and was **satisfied** with the replies to the **query Nos. 1, 2 and 4** since all the documents were received.

However, the replies to the following queries were **not satisfied** on the grounds given below:-

1. Reply to **Query No. 3** was not satisfied since no newspaper clippings of Notice Invitation Tender (NIT) were furnished.
2. Reply to **Query No. 5** was partially satisfied since there were no signatures of the competent authority.
3. Reply to **Query No. 6** was also partially satisfied since there were no signatures of the contractors. The above applicant (now appellant) queried as to how payment was released without the signatures of the contractors.
4. Reply to **Query No. 7** was also partially satisfied since there were no signatures of the competent authority.

5. Reply to Query No. 8 was also partially satisfied. The photographs of the SCA and TSS were received and satisfied, however, no photographs or signboards for the projects under Article 275(1) were furnished.
6. Reply to Query No. 9 regarding the Utilisation Certificates were received, however partially satisfied since there were no signatures of the government authority.
7. Regarding query No. 10, the applicant (now appellant) expressed non-satisfaction since the FAA had replied that the Last Audit Statement has not yet been received from the office of the Accountant General, Nagaland, and hence wanted assurance from the public authority.
8. Reply to query No. 11 was not satisfied since the applicant (now appellant) maintained that as per usual practice, DPRs are usually first sent to the Ministry for sanction and questioned as to how the sanction is received without the DPR.

On Query No. 3, the PIO, Shri. Imsumeren, Project Officer-cum-Nodal Officer for PMMAGY Scheme submitted that no tender was floated as per the *Operational Guidelines for programmes/ activity under SCA (Special Central Assistance) to Tribal Sub-Scheme (TSS), Ministry of Tribal Affairs for the welfare of scheduled tribes in the State of Nagaland*, which is reproduced as shown below:-

*"2. Executive Committee:-*

*(i) The State Executive Committee headed by the Chief Secretary shall identify and finalize the gaps in core sector of development and recommend the list of schemes/programmes of the State to the Ministry of Tribal Affairs, Government of India for its approval.*

*(ii) The Committee shall monitor and review the implemented schemes/programmes on quarterly basis.*

*(iii) The Committee ensures that the specific schemes/programmes shall be allotted against the particular beneficiary on receipt of sanction order from the Ministry of Tribal Affairs which is earlier recommended by the Executive Committee."*

A copy of the above *Operational Guidelines* was also produced before the Commission during the hearing.

However, the applicant (now appellant) stated non-satisfaction since no reason was given earlier in their reply.

On Query Nos. 5, 6 and 7, the PIO clarified that the signatures on the documents are available, however due to photocopying, they were inadvertently left out. Copies of the information were also produced before the Commission during the hearing.

On Query No. 8, the PIO stated that he had furnished the information relating to only the *completed projects* under Article 275(1) including SCA and TSS. However, the ongoing projects can also be furnished if the applicants (now appellants) so desire.

On Query No. 9, the PIO stated that he had furnished copies of the Utilisation Certificates (UCs) which were sent to the government for signature, and once the signatures on the UCs are appended and received from the government, he will provide it to the applicants. However, the applicants wanted assurance from the public authority.

On Query No. 10, the Commission agreed with the submission of the FAA and observed that the Public Authority cannot give assurance since it is not known when the audit will be conducted by the Office of the Accountant General, Nagaland.

On Query No. 11, Smti. I. Sino Phom, Addl. Director (HoD) & FAA, Directorate of Tribal Affairs, Nagaland, Kohima stated that the DPRs for the year 2022-23 cannot be furnished since it is not known how many projects will be approved by the Ministry. The FAA also explained that project proposals are sent to the Ministry of Tribal Affairs where the Project Appraisal Committee (PAC) in Delhi approves and only after sanction is received from the Ministry of Tribal Affairs, the NPWD (Nagaland Public Works Department) prepares the DPRs (Detailed Project reports) according to the amount sanctioned and based on the existing SOR (Schedule of Rates). Hence, the DPRs for both the schemes for the year 2022-23 can be produced only after the approval and sanction of the projects are received from the Ministry of Tribal Affairs. The FAA also informed that all the projects of the Tribal Affairs are geo-tagged and can be viewed on the ADIGRAMS portal along with photographs.



The PIO also added that eighteen (18) projects were approved till September, 2022, and as per procedure and guidelines, DPRs are yet to be prepared.

The Commission observed that the date of receipt of the RTI application dated 01.09.2022 was on 02.9.2022, hence the 30 days time limit mandated by the RTI Act, 2005 expired on 02.10.2022. And since the information was furnished to the applicants (now appellants) only on 25.10.2022, considering the 30 days time limit in furnishing the information, the number of days of delay is 23 days, for which penalty is attracted.

The PIO, Shri. Imsumeren, Project Officer-cum-Nodal Officer for PMMAGY Scheme, Directorate of Tribal Affairs, Nagaland, Kohima submitted that on receipt of the RTI application dated 01.09.2022 on 02.09.2022, he started preparing the reply, however, in the meantime, he was detailed to undergo for official tour from 5<sup>th</sup> to 17<sup>th</sup> September, 2022 to Kiphire and Shamator Districts for the implementation of PMAAGY Scheme. A copy of the Order No. DTAN/PMAAGY-41/2022/1323 dated 06.09.2022 regarding his detailment was also produced before the Commission. He further submitted that since the department was new and with limited manpower, there was no one to even entrust or handover the charge of the PIO during his tour, as the other officer was also detailed for tour to Longleng and Noklak districts. On returning from the tour, he continued preparing the replies and the xerox copies of all the relevant papers. Besides, he had to spend most of the time in scanning all the DPRs (i.e 73 DPRs, on an average of about 50 pages per DPR which comes to around 3650 pages), since the applicants (now appellants) had sought the DPRs in soft copy. The PIO further stated that since the information was huge, the reply could not be furnished on time, however, the delay was not intentional and that at no point of time, the applicants (now appellants) were denied any information and was ready to disclose any information as per the RTI Act.

The PIO further stated that on expiry of the 30 days time limit, the applicants (now appellants) were requested for extension for few more days, however, the request was not accepted. He further stated that on 11<sup>th</sup> October, 2022, he had finished and readied with the information and informed the applicants (now appellants) to collect the information free of cost, however, the request was not accepted and they went ahead with the appeal.

The Commission observed that before going on tour, the PIO could have handed over the charge or sought the assistance of another officer or assistant, not necessarily the APIO only, under Section 5(4) in preparing the replies or xeroxing or even scanning the DPRs, and hence could have avoided the wastage of time. However, considering going on for official tour, since the PIO had spent enormous amount of his time and resources in scanning all the DPRs, the Commission took a lenient view and condone the days of delay for **nine (9) days**, i.e from 02.10.2022 – the date of expiry of the 30 days time limit to 11.10.2022 – the date when the PIO was readied with the information. However, from 12.10.2022 onwards to 25.10.2022 i.e. the date of furnishing the information, the Commission observed that the delay for **thirteen (13) days** shall be liable for penalty.

### DECISION

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

1. Shri. Imsumeren, Project Officer-cum-Nodal Officer for PMMAGY Scheme & PIO, Directorate of Tribal Affairs, Nagaland, Kohima shall re-furnish the following alongwith a forwarding letter to the applicants (now appellants), **within 15 (fifteen) days** from the date of receipt of this decision and with a copy to this Commission.
  - a) For **Query No. 3**, a written explanation as to why NIT was not advertised or floated.
  - b) For **Query Nos. 5, 6 and 7**, the copies with signatures on the documents which were inadvertently left out during photocopying.
  - c) For **Query No. 8**, the photographs of both the completed and ongoing projects under the schemes.
  - d) For **Query No. 9**, the Utilisation Certificates (UCs) as and when signatures are appended on the UCs and received from the government.
  - e) For **Query No. 10**, the Last Audit Statement once received from the Office of the Accountant General, Nagaland.
  - f) For **Query No. 11**, the explanation in writing as explained during the hearing.

2. On receipt of the information from the PIO, 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.
3. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for the total delay of **thirteen (13) days**, amounting to **Rs. 3250.00** (Rupees three thousand two hundred and fifty only) is imposed on Shri. Imsumeren, Project Officer-cum-Nodal Officer for PMMAGY Scheme & PIO for contributing to the delay in furnishing the information to the applicants (now appellants) without reasonable cause.

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 and within 15 (fifteen) days from the date of receipt of this decision:-

0070 - Other Administrative Services  
60 - Other Services  
118- Receipts under RTI Act, 2005

Decision pronounced in the presence of both the parties on 20.01.2023 at 11:30 AM.

Copies be given to:-

1. Smti. I. Sino Phom, Addl. Director (HoD) & FAA, Directorate of Tribal Affairs, Nagaland, Kohima, Mobile No. 9436062291.
2. Shri. Imsumeren, Project Officer & PIO, Directorate of Tribal Affairs, Nagaland, Kohima, Mobile No. 8787798515.
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. Kedou Wetsah, Co-Chairman, PGD, NPCC, Mobile No. 9436001640, and Shri. Imkongmeren Jamir, Member, PGD, NPCC, Nagaland, Kohima, Mobile No. 9436005187.
6. Office Copy.

Sd/-

**I. MEYIONEN JAMIR**  
Chief Information Commissioner

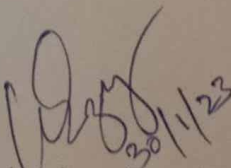
Sd/-

**NOSAZOL CHARLES**  
State Information Commissioner

Sd/-

**T. KEKONGCHIM YIMKHIUNG**  
State Information Commissioner

Authenticated true copy:

  
(Worhonthung Ezung)  
Deputy Secretary