

No. NIC/APPEAL-44/2022-23 / 1914

Dated Kohima, the 23rd March, 2023

Appellants : Shri. K.L. Gupta,
H/No. 238,
Lhomithi Colony,
Dimapur, Nagaland,
Mobile No. 9436832498.

Respondents : (i) Shri. Sachin Jaiswal, IAS
Deputy Commissioner & FAA
O/o the Deputy Commissioner,
Dimapur, Nagaland.
(ii) Smti. Mhalo Humtsoe,
ADC & PIO,
O/o the Deputy Commissioner,
Dimapur, Nagaland.
(iii) Shri. Thejavizo Nakhro,
Revenue-cum-Resettlement Officer,
O/o the Deputy Commissioner,
Dimapur, Nagaland,

Public Authority : O/o the Deputy Commissioner, Dimapur, Nagaland.

Date of hearing : 20.03.2023 at 11:30 AM.

Date of Decision : 23.03.2023.

Present:

1. Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile No. 9717824814.
2. Smti. Mhalo Humtsoe, ADC & PIO, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile o. 9436013739.
3. Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile No. 9402831878.
4. The applicant(now appellant), Shri. K.L. Gupta, H/No. 238, Lhomithi Colony, Dimapur, Nagaland, Ph. No. 9436832498.

FACT OF THE CASE

An applicant, Shri. K.L. Gupta had submitted an RTI application dated 29.09.2022 along with application fee of Rs. 10/- to the PIO, O/o the Deputy Commissioner, Dimapur, Nagaland seeking the following information: -

1. Can one mutation order helps the two different landowners to obtain two different patta passbook?
2. Is the eviction order No. Rev-20/2008-D/1173-78 dated 20/05/2009 a legally right law or the wrong law? (copy enclosed).

On receipt of the above RTI application, Shri. L. Samuel, Sub-Divisional Officer (C) & APIO, O/o the Deputy Commissioner, Dimapur, Nagaland had, vide letter No. RTI-9/2021-D/8558-60 dated 01.10.2022, forwarded the RTI application to the Revenue Officer, O/o the

Deputy Commissioner, Dimapur, Nagaland requesting to furnish the information sought on or before 12.10.2022 for onward submission to the applicant.

The applicant had also submitted another RTI application dated **03.10.2022** along with application fee of Rs. 10/- to the PIO, O/o the Deputy Commissioner, Dimapur, Nagaland seeking the following information: -

1. *In whose name original Plot No. 121 stands under Block No. 07 and with what area and patta No.?*
2. *CTC copy of EVICTION ORDER of plot No. 121 and 142 under Block No-07 evicted on 22/05/2009 as per re-settlement chitha records?*
3. *Is patta No. 18 bearing plot No. 130 is evicted or still in Army occupied land?*
4. *Under Eviction order No. Rev-20/2008-D/1173-78 dated 20/05/2009 which plot No..... of patta No. 18 was evicted?*
5. *Furnish the details of plot no. Stands in the patta No. 18 under block No. 7?*

On not getting any response or information from the PIO to the above 2 (two) RTI applications, the applicant had submitted 2 (two) First Appeals dated **09.11.2022** to the FAA, O/o the Deputy Commissioner, Dimapur, Nagaland for necessary action.

On not getting any response or information from the FAA, O/o the Deputy Commissioner, Dimapur, Nagaland to the above 2 (two) First Appeals, the applicant had submitted a Second Appeal dated **10.01.2023** to this Commission.

Since there was no response from both the PIO and FAA to his RTI applications and first appeals, the Commission has decided to hear the above mentioned appeals giving opportunity of being heard to all the parties on **17th March, 2023 (Friday) 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. 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 Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland.
2. The Public Information Officer, O/o the Deputy Commissioner, Dimapur, Nagaland.
3. The applicant (now appellant), Shri. K.L. Gupta, H/No. 238, Lhomithi Colony, Dimapur, Nagaland, Ph. No. 9436832498.

However, on the request of the Deputy Commissioner & FAA, Dimapur, Nagaland vide letter No. RTI-9/2021-D/11627 dated 15.03.2023 in view of the trainings for ROs & AROs for election to Municipal/Town Council on 17th & 18th March, 2023, the Commission had rescheduled the hearing to 20.03.2023 at 11:30 AM.

OBSERVATIONS AND FINDINGS:

During the hearing the applicant (now appellant) gave a brief background on the issue and why he had filed the RTI applications. He stated that he had received the reply however he was not satisfied.

On the first RTI application dated 29.09.2022, Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur, Nagaland replied that no documents are available as the queries were beyond the purview of the Chapter-I, Section 2(i) & (j) of the RTI Act, 2005. The FAA also submitted that the queries raised by the applicant do not have any such records in the office and were beyond the mandate of the RTI Act. Further, on the eviction order, he stated that the DC cannot go against the order of the Commissioner, Nagaland.

The Commission also agreed with the submission of the FAA that information cannot be created for the applicant and reminded that RTI allows only to furnish whatever information available in the public authority.

On the second RTI application dated 03.10.2022, the the applicant (now appellant) stated that he had received the information, however, on the reply to his **query No. 1**, he alleged that the patta was tampered as the name of the pattadar was different. In this regard, on being asked

by the Commission if he can prove that the patta was tampered, the applicant stated that he had produced digital document which he had received from some reliable sources. However, the Commission observed that documents received only from official sources should be relied upon.

Query No. 2, the PIO stated that the Eviction Order No. Rev-20/2008-D/1173-78 dated 20/05/2009 which the applicant had mentioned in his RTI Application did not include the plot numbers given in the query. Hence, no such records are available in the office.

Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, Dimapur stated that applicant had produced documents which the office do not have.

Query No. 3. The applicant stated that he was not satisfied with the reply of the PIO that records was not available.

Query No. 4. the PIO stated that there was no mention of plot numbers in the Eviction Order No. Rev-20/2008-D/1173-78 dated 20/05/2009 which the applicant had mentioned in his RTI Application.

Query No. 5. Field Indexes of Patta No. 18 under block No. 7 furnished.

The Commission observed that whatever information sought by the applicant had been furnished and no further action required. However, the applicant (now appellant) had relied on documents which he had received from some reliable sources.

Shri. L. Samuel, Sub-Divisional Officer (C) & APIO, O/o the Deputy Commissioner, Dimapur, Nagaland had, vide letter No. RTI-9/2021-D/8558-60 dated 01.10.2022, forwarded the RTI application to the Revenue Officer, O/o the Deputy Commissioner, Dimapur, Nagaland requesting to furnish the information sought on or before 12.10.2022 for onward submission to the applicant. Again, he had, referring to his earlier letter No. RTI-9/2021-D/8592-94 dated 03.10.2022, vide letter No. RTI-9/2021-D/4876-78 dated 15.11.2022, wrote to the Revenue Officer, O/o the Deputy Commissioner, Dimapur, Nagaland requesting to furnish the information sought within three (3) days.

However, Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur had forwarded to the SDO(C) & APIO, O/o the Deputy Commissioner, Dimapur the replies to the first RTI application dated 29.09.2022, vide letter No. RTI-70/RTI/17-D/11490 dated 10.03.2023, and also the replies to the second RTI application dated 03.10.2022 vide letter No. RTI-70/RTI/17-D/11491 dated 10.03.2023. On receipt of the replies from Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer on 10.03.2023, Smti. Mhalo Humtsoe, ADC & PIO had, vide letter No. RTI-9/2021-D/11495 dated 10.03.2023 furnished to the applicant (now appellant).

The Commission also observed that the RTI application dated 29.09.2022 was received on the same date i.e 29.09.2022 and was transferred to the RO on 01.10.2022, which the RO received it on 03.10.2022. However, Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur had replied only on 10.03.2023, after the lapse of 162 days. And considering the 30 days time limit for the PIO to furnish information, the number of days of delay becomes $162 - 30 = 132$ (one hundred and thirty two) days. Similarly, reply to the second RTI application dated 03.10.2022, was also given only on 10.03.2023, which was after a lapse of 158 days. Taking into account the 30 days time, the delay in this case becomes $158 - 30 = 128$ (one hundred and twenty eight) days. Hence, in both the above cases, it had exceeded the 100 days for which maximum penalty is attracted.

DECISION

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

1. Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland shall set up an Inquiry/Search Committee to inquire and search any records available in the office, and submit the findings in the form of **sworn affidavit** to the Commission **within 15 days** from the date of receipt of this Decision.
2. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for the maximum delay, amounting to **Rs. 25,000/-** (Rupees twenty five thousand

only) is imposed on Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur, Nagaland 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

Decision pronounced in the presence of both the parties on 20.03.2023 at 11:30 AM.

Copies be given to:-

1. Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile No. 9717824814.
2. Smti. Mhalo Humtsoe, ADC & PIO, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile o. 9436013739.
3. Shri. Thejavizo Nakhro, Revenue-cum-Resettlement Officer, O/o the Deputy Commissioner, Dimapur, Nagaland, Mobile No. 9402831878.
4. The applicant(now appellant), Shri. K.L. Gupta, H/No. 238, Lhomithi Colony, Dimapur, Nagaland, Ph. No. 9436832498.
5. The Accounts Officer, Nagaland Information Commission for information.
6. The Computer Programmer, Nagaland Information Commission for uploading on the website.
7. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

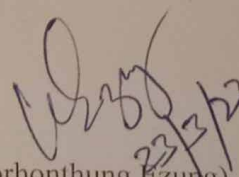
Sd/-

NOSAZOL CHARLES
State Information Commissioner

Sd/-

T. KEKONGCHIM YIMKHIUNG
State Information Commissioner

Authenticated true copy:


(Worhonthung Ezung)
Deputy Secretary