

No. NIC/APPEAL-45/2022-23

1921

Dated Kohima, the 28th March, 2023

Appellants : Shri. Inagha Sumi,
Dimapur, Nagaland,
Mobile No. 8974446447.

Respondents : (i) Shri. N. Nlumo Murry
Deputy Development Commissioner & FAA
Planning & Coordination Department,
Nagaland, Kohima.

(ii) Shri. Chorayi Veyie,
ADC & PIO,
Planning & Coordination Department,
Nagaland, Kohima.

(iii) Shri. Atu Vasa,
Planning Officer & APIO,
Planning & Coordination Department,
Nagaland, Kohima.

Public Authority : Planning & Coordination Department, Nagaland, Kohima.

Date of hearing : 17.03.2023 at 12:00 noon.

Date of Decision : 28.03.2023.

Present:

1. Shri. N. Nlumo Murry, Deputy Development Commissioner & FAA, Planning & Coordination Department, Nagaland, Kohima, Mobile No. 9856486278.
2. Shri. Chorayi Veyie, Deputy Development Commissioner & PIO, Planning & Coordination Department, Nagaland, Kohima, Mobile No. 9862010446.
3. Shri. N. Zhasa, ADC(Planning), Planning & Coordination Department, Nagaland, Kohima, Mobile No. 7005392594.
4. Shri. Atu Vasa, Planning Officer & APIO, Planning & Coordination Department, Nagaland, Kohima, Mobile No. 9436007950.
5. Shri. Kezevi Edmund, SA, Planning & Coordination Department, Nagaland, Kohima, Mobile No. 8014905077.
6. The applicant (now appellant), Shri. Inagha Sumi, Dimapur, Mobile No. 8974446447.

FACT OF THE CASE

An applicant, Shri. Inagha Sumi had submitted an RTI application dated **12.09.2022** addressed to the PIO, Planning & Coordination Department, Nagaland, Kohima seeking the following information: -

1. *Kindly provide a copy of the aims and objective, guiding principle of the Special Development Programme (SDP), and the years in which it was started, how money are allotted (CSS/State).*
2. *Furnish the copy of the sanction order of the competent authority and amounts allotted in respect of Special Development Programme (SDP) for the year 2019-20, 2020-21, 2021-22, and 2021-22.*
3. *Kindly provide a copy of the list of application received by the department of all the above mentioned years. (please provide the list in terms of District wise)*

4. *Kindly provide a copy of the list of all the beneficiaries selected of the year 2019-20, 2020-21, 2021-22, and 2021-22 along with the below mentioned details:*
 - A. *Amount granted*
 - B. *Name of the projects*
 - C. *Proper address of the beneficiaries and the projects*
 - D. *Photographic evidence or GPS tagged of the project*
 - E. *What are the methods and the process adopted to check that the project has been completed or to check that the money was spent legally?*
 - F. *Name of scrutinizing officials Details of the officials and their remarks,*
 - G. *Provide a copy of the process or methods adopted for the selection procedure of beneficiaries, how amount are allotted, agencies/ authority responsible for selection, criteria and other important details for inclusion as beneficiaries.*

On receipt of the above RTI application, Shri. *N. Nlumo Murry*, Deputy Development Commissioner & APIO had, vide *No. PLN/M-591/22* dated *14.10.2022*, furnished the reply to the applicant. However, on being dissatisfied with the reply of the APIO, the applicant had submitted a First Appeal dated *09.12.2022* to the FAA, Planning & Coordination Department, Nagaland.

Since the FAA had failed to respond to his First Appeal even after lapse of stipulated time period of 45 days, the applicant had submitted a Second Appeal dated *03.02.2023* to this Commission for further necessary action.

Since there was no response from the FAA, Planning & Coordination Department, Nagaland to the First Appeal dated *09.12.2022* which was filed against unsatisfactory reply of the APIO to his RTI application dated *12.09.2022*, the Commission has decided to hear the above mentioned Appeal giving opportunity of being heard to all the parties on *17th March, 2023 (Friday) at 12:00 Noon* 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 are 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 First Appellate Authority, Planning & Coordination Department, Nagaland, Kohima.
2. The Public Information Officer, Planning & Coordination Department, Nagaland, Kohima.
3. Shri. N. Nlumo Murry, Deputy Development Commissioner & APIO, Planning & Coordination Department, Nagaland, Kohima.
4. The applicant (now appellant), Shri. Inagha Sumi, Dimapur, Ph. No. 8974446447.

OBSERVATIONS AND FINDINGS:

During the hearing Shri. N. Nlumo Murry, Deputy Development Commissioner, Planning & Coordination Department, Nagaland, Kohima had produced a copy of Notification vide No. PLN/M-601/17(Pt) dated 23.11.2022 regarding appointment of FAA, PIO and APIO, wherein he has been designated as the FAA.

Regarding **Query No. 1**, the applicant (now appellant) stated non satisfaction and had pointed out that every schemes and projects ought to have aims and objectives, however the APIO (now the FAA) had given only an explanation in a sentence and not a copy of the aims and objective, or guiding principles. The FAA (earlier APIO) explained that there was no such copy or guidelines from the government and the information cannot be manufactured for the applicant and hence was not given.

While agreeing with the applicant that there ought to have aims, objectives or guiding principles, the Commission also observed that information cannot be created for the applicant.

Regarding **Query No. 2**, the applicant (now appellant) submitted satisfaction, however, he was doubtful with the sanction orders since there were no signatures of the PIO.

The Commission advised the PIO that counter signature on all the pages be appended in order to dispel doubts of the applicant.

Regarding **Query No. 3**, the applicant (now appellant) stated that since information was furnished, he had expressed satisfaction.

Regarding **Query No. 4**, the applicant (now appellant) pointed out that during 2019-20, out of Rs. 8.00 crores sanctioned, Rs. 20.00 lakhs were drawn as *administrative expenses* for the Offices of the Chief Secretary and the Development Commissioner and there were no documents how it was utilised. Similarly, during 2020-21, out of Rs. 6.80 crores sanctioned, Rs. 40.00 lakhs was drawn and during 2021-22, out of Rs. 9.00 crores sanctioned, Rs. 20.00 lakhs for the above same purpose.

Shri. N. Nlumo Murry, Deputy Development Commissioner & FAA, Planning & Coordination Department, Nagaland, Kohima clarified that some information might have been missed during Xeroxing, and hence will try to re-furnish.

The applicant (now appellant) also pointed out that the amount in the sanction orders and the list of beneficiaries amount did not match. He further stated that he had not received any photographic evidence or GPS tagged of the project. In this regard, the FAA clarified that since it was a financial assistance to the beneficiaries, there cannot be any photographs of the project.

However, the Commission viewed that the beneficiaries should have done some works with the financial assistance and in the absence of any works done, it was like free distribution of money to the beneficiaries.

The applicant (now appellant) further pointed out that there was no merit or guidelines in selecting the beneficiaries.

The FAA stated that the RTI application dated 12.09.2022 was received on the same date i.e. 12.09.2022 by the Joint Development Commissioner who has now retired from service. The first appeal dated 09.12.2022 was also received on the same date i.e. 09.12.2022, however no action could be taken since it was misplaced and only after getting the notice for the hearing did he come to know of the appeal case.

The applicant (now appellant) stated that he had paid the cost of information. The Commission observed that since the information was furnished after the 30 days time limit, the information shall be given free of cost, hence whatever amount paid by the applicant towards the cost of information shall be refunded to the applicant.

The Commission observed that from the date of receipt of the RTI application dated 12.09.2022 on 12.09.2022, the reply was given on 14.10.2022, which was after 32 days. And considering the 30 days time limit for the PIO to furnish information, the number of days of delay becomes $32 - 30 = 2$ (two) days for which penalty was attracted. However, since a good number of senior officers got retired from government service in the department, there was a huge gap in the hierarchy. Even the APIO who furnished the information in October, 2022 became directly the FAA in November, 2022 within a span of less than a month. Therefore, considering the practical reasons, the Commission took a lenient view and condone the 2 (two) days of delay.

On the designation of new FAA, the Commission observed that under Section 19(1) of the RTI Act, 2005, the Appellate Authority is an officer who is senior in rank to the PIO. Deciding an appeal is a quasi-judicial function hence when appointing Appellate Authorities, a balance needs to be struck between ensuring that they are accessible to the public, but at the same time that they are sufficiently senior officials to override the decision of the PIO and make hard decisions or order for disclosure of information. Otherwise, if the Appellate Authority is too junior in the overall hierarchy of the public authority, they may tend simply to support the PIO and may be hesitant to call for a hearing of the PIO or other senior officers and hence will not be able to pass a sound or impartial decision, and in which most likely, result in second appeals before the Information Commission. Likewise, the other senior officers may also not feel comfortable to abide or comply to the summons and the directions of the junior FAA. Hence, in recognition of this fact, the head of the public authority is preferred to be the Appellate Authority. Also referring to a recent Notification of the Agriculture Production Commissioner (henceforth APC), 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 in all other departments. Hence, in the light of the above, the Commission therefore advised to review the Notification so that the FAA, PIO and APIO would perform their duties effectively.

DECISION

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

1. The PIO, Planning & Coordination Department, Nagaland, Kohima shall re-furnish the requisite information, appending his signature on all the pages, to the applicant(now appellant) and with a copy to the Commission **within 15 (fifteen) days** from the date of receipt of this decision.
2. On receipt of the information from the PIO, the applicant (now appellant) 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 25(5) of the RTI Act, 2005, the Commission recommends the public authority to come out with aims, objectives and/or guidelines for proper implementation of any schemes, plans, programmes or projects in future.

Decision pronounced in the presence of both the parties on 17.03.2023 at 12:00 noon.

Copies be given to:-

1. Shri. N. Nlumo Murry, Deputy Development Commissioner & FAA, Planning & Coordination Department, Nagaland, Kohima.
2. The Public Information Officer, Planning & Coordination Department, Nagaland, Kohima.
3. The applicant (now appellant), Shri. Inagha Sumi, Dimapur, Mobile No. 8974446447.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. Office Copy.

Sd/-

I. MEYIONEN JAMIR

Chief Information Commissioner

Sd/-

NOSAZOL CHARLES

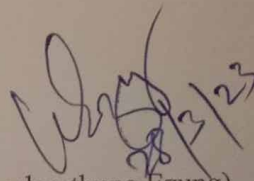
State Information Commissioner

Sd/-

T. KEKONGCHIM YIMKHIUNG

State Information Commissioner

Authenticated true copy:


(Worhonthung Ezung)
Deputy Secretary