

NAGALAND INFORMATION COMMISSION

Nagaland Commissions' Complex

Below NBCC Convention Centre

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No. NIC/Appeal-5/2021-22

Dated Kohima, the 09th August, 2023

Subject: Closing Order of Appeal Case

WHEREAS the Nagaland Information Commission had received the Second Appeal dated **07.09.2021** submitted by Shri. Kelhuzhato Nakhro, Kohima, Nagaland, *M/No. 9612971480* against the non-furnishing of information even after the Order passed by the FAA vide **No. Legal/RTI-DC/Appeal/2016/N.98** dated **20.08.2021** in response to the First Appeal dated **27.07.2021** which was submitted against the incomplete information furnished by the PIO to his RTI application dated **06.04.2021**.

2. AND WHEREAS, the applicant had submitted an RTI application dated **06.04.2021** along with an application fee of ₹ 10/- addressed to the PIO, O/o the Deputy Commissioner, Kohima, Nagaland, seeking the following information :-

- i. Ministry order for fixing land compensation towards the land owner for the construction of two lane road from Kohima By-Pass (below Jotsoma Village) to Phesama (43 KM).*
- ii. Actual rate of land compensation per sq. ft. for the construction of two lane road from Kohima By-Pass (below Jotsoma Village) to Phesama (43 KM).*
- iii. List of beneficiaries / land owners as per the category of the land.*

May kindly furnish the necessary information through photo copies.

3. AND WHEREAS, on receipt of the RTI application dated **06.04.2021**, Smti. N. Bhawani Sri, IAS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland had, vide letter **NO.DCK/ADC/RTI/2021/AK81** dated **29.04.2021** furnished the following information to the applicant (now appellant) which was forwarded by the Revenue Officer, Kohima vide No. REV/RTI/2007 (PT-I)AK-77 dated 04.04.2021;

- 1. The Ministry order is not available*
- 2. Land compensation rate basing on the category of land (photocopy enclosed).*
- 3. Since the survey work is still ongoing, this office is yet to identify all the landowners.*

4. AND WHEREAS, on not being satisfied with the reply of the PIO, the applicant (now appellant) had filed the First Appeal dated **27.07.2021** (received on the same day) addressed to the FAA, O/o the Deputy Commissioner, Kohima, Nagaland stating that out of the 3 (three) queries sought in his RTI application, the information pertaining to **query No. 3** was not satisfactory.

5. AND WHEREAS, in response to the First Appeal dated **27.07.2021**, the FAA had passed an Order vide **No. Legal/RTI-DC/Appeal/2016/** dated **12.08.2021** directing the applicant (now appellant) to submit necessary papers / letters for necessary action, since he was not satisfied with the RTI reply furnished from the office of the PIO/ADC, Kohima pertaining to road construction between Kohima By-pass (below Jotsoma Village) to Pheasa (43Km) and no supported documents were enclosed for the RTI sought.

6. AND WHEREAS, in compliance to the above mentioned Order dated **12.08.2021**, the applicant (now appellant) had submitted the necessary documents vide letter dated **17.08.2021** (received on the same day).

7. AND WHEREAS, after examining the First Appeal and necessary documents submitted by the applicant (now appellant), the FAA had passed Order vide **No. Legal/RTI-DC/Appeal/2016/N.98** dated **20.08.2021** directing the ADC & PIO, O/o the Deputy Commissioner, Kohima to furnish the required information / documents as sought by the applicant (now appellant) in query No. 3 of his RTI application.

8. AND WHEREAS, in compliance to the above order of the FAA dated 20.08.2021, the PIO had, on receipt of the information for *query No. 3 i.e. "list of beneficiaries / land owners as per the category of the land"* from Shri. Keviletuo Nisa, Revenue Officer vide letter No. REV/RTI/2007 (PT-I)/N. 252 dated 06.09.2021, furnished to the applicant (now appellant) in vide letter No. DCK/ADC/RTI/2021/N259 dated 08.09.2021. However since the applicant (now appellant) had refused to accept the reply, the PIO had, vide letter No. DCK/ADC/RTI/2021/N324 dated 05.10.2021, submitted to the Nagaland Information Commission and the FAA along with a copy of the information.

9. AND WHEREAS, on receipt of the above letter from the PIO, the Commission had, vide letter of even No. dated **12.10.2021**, forwarded the information/documents for *query No. 3 i.e. "list of beneficiaries / land owners as per the category of the land"* that was received from the ADC & PIO, O/o the Deputy Commissioner, Kohima to the applicant (now appellant) and also with a request to confirm satisfaction / non-satisfaction within 2(two) weeks from the date of receipt of the letter.

10. AND WHEREAS, in reference to the above mentioned Commission's letter dated **12.10.2021**, the applicant (now appellant) had vide letter dated **05.11.2021** submitted to the Nagaland Information Commission that he had received some information which were furnished to him on 12.10.2021, however he was not satisfied on the following;

1. *Copy of the sanction order from the Ministry, Government of India has not been furnished.*
2. *The total amount sanctioned by the Ministry for compensation for 0 to 43 KM has not been furnished.*
3. *List of the land owners from 11 to 43 KM has not been furnished.*
4. *In the list of land owners from 0 to 43 KM, the amount of compensation to be paid to the land owners has not been provided.*
5. *The total amount of the beneficiaries along with the amount of compensation be also provided.*

11. AND WHEREAS, on receipt of the above non-satisfaction letter dated **05.11.2021** on **08.11.2021**, the Commission had, vide letter of even No. dated **16.11.2021** issued a directive to Smti. N. Bhawani Sri, IAS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland to furnish the complete information as sought in the original RTI application directly to the applicant (now appellant) under intimation to this Commission.

12. AND WHEREAS, in the meantime, the Commission had also received a Legal Notice dated **19.01.2022** (received on 20.01.2022) from Z. Kulnu, Advocate, Gauhati High Court, Kohima Bench, Kohima, Nagaland, M/No. 8259986065, supposedly the advocate of the applicant (now appellant), directing the Commission to furnish all the documents listed out by the applicant (now appellant) in his above letter dated **05.11.2021** within 15 (fifteen) days from the date of receipt of the Notice.

13. AND WHEREAS, in response to the above mentioned Legal Notice dated **19.01.2022**, the Commission had, vide letter of even No. dated **25.01.2022** informed Z. Kulnu, Advocate, Gauhati High Court, Kohima Bench, Kohima, Nagaland stating that the Commission is not the appropriate *Public Authority* in possession and control of the documents and hence the Commission cannot furnish the information. Moreover since the Commission had already directed the PIO, Office of the Deputy Commissioner, Kohima to furnish the required information vide this Commission's letter of *even No. dated 16.11.2021*, the advocate on behalf of the applicant (now appellant) was advised to pursue the matter with the PIO, Office of the Deputy Commissioner, Kohima. Further, quoting **Section – 23 of the RTI Act, 2005**, the Commission reminded that *"No court shall entertain any suit, in application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act."*

14. AND WHEREAS, in reference to the Commission's letter of even No. dated **16.11.2021**, Smti. N. Bhawani Sri, IAS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland had vide letter **NO.DCK/ADC/RTI/2021/1/184** dated **01.03.2022**, written to the applicant (now appellant) stating that the O/o the Deputy Commissioner, Kohima had already replied to his RTI application vide Order **NO.DCK/ADC/RTI/2021/N259** dated **08.09.2021** and if another copy of RTI reply already given to him by the O/o the Deputy Commissioner, Kohima is needed, he may then collect it from the office by paying Rs. 2/- per page under RTI Rules, 2005, for a total No. of pages of 116 costing Rs. 232/-.

15. AND WHEREAS, in reference to the above mentioned PIO letter dated **01.03.2022**, the Commission had, vide letter of even No. dated **10.06.2022** written to Smti. N. Bhawani Sri, IAS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland to confirm whether the applicant (now appellant) had collected the documents as sought for or not, and if yes, whether the applicant (now appellant) was satisfied with the reply within 15 (fifteen) days for further necessary action. Further, the Commission had also vide letter of even No. dated **18.06.2022** written to the Deputy Commissioner & FAA, O/o the Deputy Commissioner, Kohima, Nagaland to confirm within 15 (fifteen) days, whether the applicant (now appellant) had collected the documents and was satisfied with the information so received.

16. AND WHEREAS, in reference to the above mentioned Commission's letter dated **18.06.2022**, Shri. Shanavas C, IAS, Deputy Commissioner & FAA had, vide letter **No.DCK/ADC/RTI/2021/1/890** dated **23.06.2022** replied that the applicant (now appellant) had not collected the documents as sought by him.

17. AND WHEREAS, in reference to the above mentioned FAA's letter dated **23.06.2023**, the Commission had, vide letter of even No. dated **12.07.2022** directed the Deputy Commissioner & FAA to take up the First Appeal by hearing both the parties i.e. the applicant (now appellant) and the PIO concerned and thereafter pass decision and submit a copy of the decision to the Nagaland Information Commission within 30 (thirty) days from the date of issue of the directive. Further, in the event of the non-compliance of the applicant (now appellant), the FAA may conduct *Ex-parte* hearing.

18. AND WHEREAS, in compliance to the Commission's directive dated **12.07.2022**, the Deputy Commissioner & FAA had heard the First Appeal on **12.08.2022** in the presence of both the parties i.e. the applicant (now appellant) and the PIO concerned and passed an order vide No. **REV/RTI/2022/23/619** dated **12.08.2022** (signed on **13.08.2022**) stating that fair opportunity was given by furnishing the information vide;

No. DCK/ADC/RTI/2021/AK81 dated 29.04.2021.

No. DCK/ADC/RTI/2021/N259 dated 08.09.2021.

No. DCK/ADC/RTI/2021/N719 dated 09.12.2021.

No. DCK/ADC/RTI/2021/184 dated 01.03.2022.

and with a direction to the PIO, O/o the Deputy Commissioner, Kohima, Nagaland to furnish the latest updated beneficiary details with compensation amount as per category of land to the applicant (now appellant) within 30 days from the date of issue of the order.

19. AND WHEREAS, the Commission had, vide letter of even No. dated **14.03.2023** issued a directive to the applicant (now appellant) to confirm satisfaction / non-satisfaction within 15 (fifteen) days from the date of receipt of the directive, failing which it shall be presumed as satisfied and no further request to reopen the case shall be entertained.

20. AND WHEREAS, in reference to the above mentioned FAA's order dated **12.08.2022** (signed on **13.08.2022**), Commission had, also vide letter of even No. dated **14.03.2023**, issued a directive to Deputy Commissioner & FAA, O/o the Deputy Commissioner, Kohima, Nagaland to submit a copy of the information/enclosures that were furnished to the applicant (now appellant) during the FAA hearing within 15 (fifteen) days from the date of receipt of the letter.

21. AND WHEREAS, in compliance to the above mentioned Commission's directive dated **14.03.2023**, Shri. Rhosietho Ngouri, NCS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland had, vide letter **NO.DCK/ADC/RTI/2022/2439** dated **23.03.2023** submitted to the Commission, a copy of the information/enclosures that were furnished to the applicant (now appellant).

22. AND WHEREAS, the Commission had observed that since the PIO had submitted to the Commission a copy of the information/enclosures that were furnished to the applicant (now appellant), it is understood that the applicant (now appellant) had also received the information.

23. AND WHEREAS, the Commission had also observed that there was no delay in furnishing the information to the applicant (now appellant) and inspite of its earlier directive dated **14.03.2023** seeking confirmation of satisfaction or non-satisfaction of the information from the applicant (now appellant), since there has been no response from the applicant (now appellant) till date though sufficient time has lapsed suggesting that he is satisfied with the information and has no longer interest to pursue his appeal, the Commission has decided to close the appeal case.

24. NOW THEREFORE, it is notified to all the parties that this Appeal case is hereby declared as **closed.**

1. Shri. Shanavas C, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Kohima, Nagaland.
2. Smti. N. Bhawani Sri, IAS, former ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland.
3. Shri. Rhosietho Ngouri, NCS, ADC & PIO, O/o the Deputy Commissioner, Kohima, Nagaland
4. The applicant (now appellant), Shri. Kelhuzhato Nakhro, Kohima, Nagaland, *M/No. 9612971480.*

Sd/-

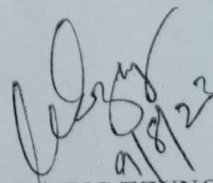
I. MEYIONEN JAMIR

Chief Information Commissioner

Dated Kohima, the 09th August, 2023

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Copy to:-

1. The PS to the Chief Information Commissioner, Nagaland for kind information of the CIC.
2. The PA to the Chief Information Commissioner, Nagaland for kind information of the SIC (N).
3. The PA to the Chief Information Commissioner, Nagaland for kind information of the SIC (K).
4. Shri. Shanavas C, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Kohima - 797001, Nagaland.
5. Smti. N. Bhawani Sri, IAS, former ADC & PIO, O/o the Deputy Commissioner, Kohima - 797001, Nagaland.
6. Shri. Rhosietho Ngouri, NCS, ADC & PIO, O/o the Deputy Commissioner, Kohima - 797001, Nagaland.
7. The Computer Programmer, Nagaland Information Commission for uploading on the website.
8. The applicant (now appellant), Shri. Kelhuzhato Nakhro, Kohima, Nagaland, *M/No. 9612971480.*
9. Office Copy.



(WORHONTHUNG EZUNG)

Deputy Secretary

Nagaland Information Commission