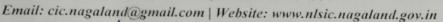
NAGALAND INFORMATION COMMISSION

NAGALAND COMMISSIONS' COMPLEX BELOW NBCC CONVENTION CENTRE

POST BOX NO. 148 NAGALAND, KOHIMA-797004



No. NIC/APPEAL-44/2022-23

Dated Kohima, the 9th August, 2023

Subject:- Modification in the Decision of the Nagaland Information Commission.

WHEREAS, the Commission had, on 03.07.2023 received an application seeking correction in the order of the Commission dated 23.03.2023 and along with an Affidavit signed on 20.06.2023 by Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland requesting to make necessary correction/amendment in the said order that instead of "***Further, on the eviction order, he stated that the DC cannot go against the order of the Commissioner, Nagaland" but as "***Further, on the eviction order, he stated that the DC cannot go against the order of the Deputy Commissioner, Dimapur, Nagaland". An extract is reproduced here below:-

"2. That on perusal of the Order 23.03.23, it is found mentioned in Para 2 of the Observations & Findings that "***Further, on the eviction order, he stated that the DC cannot go against the order of the Commissioner, Nagaland". In this connection, it is stated that the disposed 2nd Appeal filed by the Appellant, pertains to Eviction Order issued by the then Deputy Commissioner, Dimapur, Nagaland and not by the Commissioner, Nagaland.

A photocopy of the Eviction Order No. Rev-20/2008-D/1173-78 dated 20/05/2009 is enclosed herewith and marked as Annexure-II.

- 3. That further, by virtue of Section 12 (i) of the Nagaland Eviction of Persons in Unauthorized Occupation of Public Land Act, 1971 (hereafter in short, the Act, 1971), the Commissioner, Nagaland acts as an Appellant Authority. There is neither any provision in the Act, 1971, empowering the Commissioner, Nagaland to pass an eviction order or the Deputy Commissioner of a district reviewing the order passed by its predecessor in office.
- 4. That in the facts and circumstance mentioned above, the Applicant humbly craves the leaves of the Hon'ble Commission to allow the present application and omit/delete the sentence, "***Further, on the eviction order, he stated that the DC cannot go against the order of the Commissioner, Nagaland" from the Order dated 23.03.2023, or to make necessary correction/amendment in the said order to read as "***Further, on the eviction order, he stated that the DC cannot go against the order of the Deputy Commissioner, Dimapur, Nagaland".
- 5. That the shown above is not due to wilful neglect or brought about with mala fide intention but has been occasioned on account of inadvertent accidental slip/omission.

AND WHEREAS, on examination of the above request and the documents enclosed, the Commission observed that the Eviction Order No. Rev-20/2008-D/1173-78 dated 20.05.2009 which was enclosed as documentary proof was not issued by the Commissioner, Nagaland but by the then Deputy Commissioner, Dimapur, Shri. Maong Aier. This was not in accordance to the provision of the 'Nagaland Eviction of Persons in Unauthorized Occupation of Public Land Act, 1971' as submitted above by Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland and hence in contrary to what he had stated during the hearing on 20.03.2023. Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, Dimapur had, moreover admitted and owned his mistake which was made 'on account of inadvertent accidental slip/omission', and had therefore, declared in the form of a sworn Affidavit dated 20.06.2023.

AND WHEREAS, the instant appeal case had already been closed vide Closing Order of even No. dated 17.05.2023, however, since the Commission was convinced with the above deposition of

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Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, Dimapur and that in order to make and keep the records straight, the Commission had accepted the request made in his application and the Affidavit.

AND WHEREAS, in the meantime, referring to the Commission's decision dated 23.03.2023, the applicant, Shri. K.L. Gupta had submitted another Second appeal dated 13.07.2023 against the non-receipt of 'Eviction Order of the Commissioner, Nagaland' which was sought in another RTI application dated 23.05.2023 and subsequent first appeal dated 16.06.2023. However, the Commission observed that this new RTI application dated 23.05.2023 is connected with the instant case and is a further extension of his earlier appeal case which is now closed. The Commission also observed that as sworn in an affidavit by Shri. Sachin Jaiswal, IAS, Deputy Commissioner & FAA, O/o the Deputy Commissioner, Dimapur, Nagaland, the Eviction Order which was available and produced to the Commission was issued by the then Deputy Commissioner, Dimapur and not by the Commissioner, Nagaland, and hence the PIO could not furnish to the applicant what was not available in the public authority.

NOW THEREFORE, it is notified that under the Observations & Findings of the Commission's decision dated 23.03.2023, instead of

"Further, on the eviction order, he stated that the DC cannot go against the order of the Commissioner, Nagaland",

it shall now be read as.

"Further, on the eviction order, he stated that the DC cannot go against the order of the Deputy Commissioner, Dimapur, Nagaland."

FURTHER, on the fresh Second appeal dated 13.07.2023, the Commission direct the PIO, O/o the Deputy Commissioner, Dimapur, Nagaland to furnish a copy of the Eviction Order No. Rev-20/2008-D/1173-78 dated 20.05.2009 which was issued by the then Deputy Commissioner, Dimapur, Shri. Maong Aier, since there was no 'Eviction Order of the Commissioner, Nagaland'. With this directive, the Commission dismissed the appeal.

Copies be given to:-

- 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 No. 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, Mobile No. 9436832498.
- 5. The Computer Programmer, Nagaland Information Commission for uploading on the website.
- 6. Office Copy.

Sd/-I. MEYIONEN JAMIR

Chief Information Commissioner

Sd/-

Sd/-

T. KEKONGCHIM YIMKHIUNG

NOSAZOL CHARLES

State Information Commissioner

State Information Commissioner

Authenticated true copy:

(Worhonthung Ezung Deputy Secretary