

NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-578
NAGALAND, KOHIMA-797001
Email: cic.nagaland@gmail.com | Website: www.nlsic.nagaland.gov.in



No. NIC/APPEAL-42/2022-23

Dated Kohima, the 20th March, 2023

Appellants : Shri. Kiboto Sumi,
Dimapur,
Mobile No. 9362358838.

Respondents : (i) Shri. Abhijit Sinha, IAS,
Home Commissioner & First Appellate Authority,
Home Department,
Nagaland, Kohima

(ii) Shri. Lhouchalie Viya, IAS,
Secretary & PIO,
Home Department (NSDMA),
Nagaland, Kohima

Public Authority : Home Department (NSDMA), Nagaland, Kohima.

Date of first hearing : 19.01.2023 at 12:30 PM.

Date of first Decision : 20.01.2023.

Date of second hearing : 15.03.2023 at 12:30 PM.

Date of second Decision : 20.03.2023.

Present:

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima, Mobile No 7085053755.
2. Shri. Thejangulie Zao, Assistant Manager, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 9436282824.
3. Shri. Kevisede Usou, Section Assistant, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7204242480.
4. The applicant (now appellant), Shri. Kiboto Sumi of Dimapur, Ph. No. 9362358838.

The following did not appear for the hearing:

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima.
2. Shri. Temsuwangshi Jamir, Assistant Manager, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.

FACT OF THE CASE

The Commission had, on 19.01.2023 at 12:30 PM, heard the Second Appeal dated 08.12.2022 submitted by Shri. Kiboto Sumi of Dimapur, Mb. No. 9362358838, and after the hearing, **reserved its decision** vide decision of even No. dated 20.01.2023 since the rightful FAA & PIO did not appear for the above hearing.

The Commission has decided to hear the appeal again, giving opportunity of being heard to both the parties on 15th March, 2023 (Wednesday) at 12:30 PM in the Hearing Room of Nagaland Information Commission, Agri-farm Colony, Lane-6, H/No. AFC/578, Nagaland, Kohima and had also 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 with preventive measures such as wearing of face mask and social distancing etc.

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima.
2. Shri. Lhouchalie Viya, IAS, Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima.
3. The applicant (now appellant), Shri. Kiboto Sumi of Dimapur, Ph. No. 9362358838.

OBSERVATIONS AND FINDINGS:

Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima had appeared for the hearing. The Commission had, during the hearing received a letter No. NSDMA/RTI/274/2019(Pt. II)/243 dated 13.03.2023 from Shri. Lhouchalie Viya, IAS, Commissioner & Secretary, NSDMA, Home Department, Nagaland, Kohima the NSDMA informing that Shri. Abhijit Sinha, IAS, Principal Secretary to the Chief Minister and Development Commissioner, Nagaland was out of station and had enclosed Notification No. PAR-A/11/2000-AIS dated 03.08.2022 regarding ex-post facto grant of three (3) days of Earned Leave from 14th to 16th July, 2022 to Shri. Abhijit Sinha, IAS, Home Commissioner.

During the hearing, the applicant (now appellant) stated that he had filed the present RTI application seeking further information and clarification to the replies received from an earlier RTI application. He had further stated that he went several times to the office, however he could not meet the PIO and that he had not received any information till date.

On being asked by the Commission, as to why the applicant did not appear for the two hearings summoned by the FAA on 16.11.2022 at 12:00 PM and 02.12.2022 at 3:00 PM, the applicant replied that he could not attend the hearing of his First Appeal summoned by the FAA since he was out of station and he had received telephonic call for the hearing only on the day of the hearing.

Shri. Thejangulie Zao, Assistant Manager, NSDMA also stated that usually, applicants are telephonically informed at the time of issue of the notice for hearing and also another call before the hearing. Shri. Thejangulie Zao, Assistant Manager, NSDMA also stated that the applicant could not be contacted over the phone and since no address was given except mobile number, he could not despatch either the hearing notice or the information to the applicant. He, however informed that the information was ready and a copy of the information was handed to the applicant during the hearing.

The Commission observed that no information had been furnished till the date of hearing today, hence delay was caused and penalty attracted. Further, the First appeal dated 10.10.2022 which was received on 11.10.2022 should have been heard and passed decision within 30 days, however, the FAA heard the First appeal only after a month on 16.11.2022 and 02.12.2022 and decision passed after more than a month only on 19.12.2022.

The Respondents (NSDMA) who appeared for the first hearing on 19.01.2023 were reminded for the review of the Notification regarding the designation of FAA, PIO and APIO, however, even after the issue of notice for the second hearing on 03.03.2023, there was no update or compliance from the NSDMA. 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 all other departments and the NSDMA is no exception. The Commission also viewed that the designating of junior officers as FAA, PIO or APIO in the NSDMA has not only made the junior officers as scapegoats but also mockery of the RTI Act.

The Commission viewed seriously the lackadaisical attitude of the NSDMA in not only dealing with RTI matters seriously but also in the non-compliance to the directives of the Commission, thus undermining the authority of the Commission. Therefore, the NSDMA is warned not to repeat or take casual attitude in future.

DECISION

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

1. Since the information was handed to the applicant during the hearing, which was after the lapse of 30 days time limit, u/s 7(6) of the RTI Act, 2005, no cost of information shall be paid by the applicant. 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.

2. The RTI application was dated 30.08.2022, however since the information was furnished only during the hearing on 15.03.2023, which was after more than 100 days, hence, 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. Lhouchalie Viya, IAS, the then Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima 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

3. The public authority i.e. the NSDMA is directed to expedite the review of its Notification dated 28.10.2022 regarding designating of FAA, PIO and APIO at the earliest and cause a copy to the Commission.

Decision pronounced in the presence of both the parties on 15.03.2023 at 12:30 PM.

Copies be given to:-

1. Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima, now Principal Secretary to the Chief Minister and Development Commissioner, Nagaland.
2. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima.
3. The Accounts Officer, Nagaland Information Commission for information.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. The applicant (now appellant), Shri. Kiboto Sumi of Dimapur, Mobile No. 9362358838.
6. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

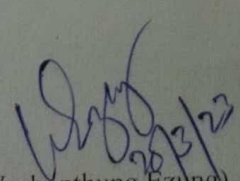
Sd/-

NOSAZOL CHARLES
State Information Commissioner

Sd/-

T. KEKONGCHIM YIMKHIUNG
State Information Commissioner

Authenticated true copy:


(Worhonthung Ezung)
Deputy Secretary