

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-40/2022-23 / 1854

Dated Kohima, the 20th January, 2023

- Appellants : i) Shri. Honoto I. Yeptho,
Mobile No. 8575387880, and
ii) Shri. Ikato Sumi,
Mobile No. 8794230133
- 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 hearing : 19.01.2023 at 12:00 Noon.
- Date of Decision : 20.01.2023.

Present:

1. Shri. Temsuwangshi Jamir, Assistant Manager & FAA, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.
2. Shri. Thejangulie Zao, Assistant Manager & PIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 9436282824.
3. Shri. Kevisedede Usou, Section Assistant & APIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7204242480.
4. The applicants (now appellants), Shri. **Honoto I. Yeptho**, Mobile No. 8575387880 and Shri. **Ikato Sumi**, Mobile No. 8794230133.

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. Lhouchalie Viya, IAS, Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima.

FACT OF THE CASE

Two applicants Shri. Honoto I. Yeptho and Shri. Ikato Sumi had jointly submitted an RTI application dated *NIL* along with application fee of **Rs. 10/- only** addressed to the PIO, Nagaland State Disaster Management Authority, Kohima, Nagaland requesting to *furnish details on State Disaster Response Force (SDRF) and National Disaster Response Force (NDRF)*.

1. *The sanctioned order of GOI under SDRF and NDRF from 2018 to till date.*
2. *The total number of selected beneficiaries under SDRF and NDRF since 2018- till date.*
3. *Total amount sanctioned from both the central and state Government.*
4. *Furnish the details in annual wise of those beneficiaries list with the amount provided as financial aid under SDRF and NDRF.*
5. *Furnish photocopy of utilization certificate (UC) as per the required guidelines of the government ministry towards the fund sanctioned by GOI from 2018- till date under both SDRF and NDRF.*

On receipt of the RTI application dated *NIL* on *02.05.2022*, Shri. *Lhouchalie Viya, IAS*, Secretary & PIO, NSDMA, Home Department, Nagaland had, vide letter *No. NSDMA/RTI/274/2019(Pt-III)/6325* dated *01.06.2022* furnished the information to the applicants. However, on not being satisfied with the information furnished by the PIO, the applicants had submitted a First Appeal dated *07.06.2022* to the FAA, NSDMA, Kohima, Nagaland.

On receipt of the First Appeal, Shri. *Temsuwangshi Jamir*, Asst. Manager (R&P) & APIO, NSDMA had, vide letter *No. NSDMA/RTI/274/2019(Pt-III)/6530* dated *25.07.2022* issued notice for hearing of the first appeal to be held on *04.08.2022 at 10:30 A.M* in the office chamber of the Home Commissioner, Nagaland.

On being dissatisfied with the First Appeal hearing, the applicants (now appellants) had filed a Second Appeal dated *18.11.2022* to the Nagaland Information Commission.

The Commission had observed that instead of the FAA, the APIO had issued the Notice for Hearing of the First Appeal and there was no copy of FAA's decision on the First Appeal which was supposed to have been heard on *04.08.2022 at 10:30 AM*.

Since the applicants (now appellants) are still not satisfied with the information furnished by the FAA, NSDMA, Nagaland even after the first appeal hearing, the Commission had decided to hear the above mentioned Second Appeal by giving opportunity of being heard to all the parties on *19th January, 2023 (Thursday) at 12:00 Noon* in the Hearing Room of the 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 applicants (now appellants), Shri. *Honoto I. Yeptho*, Mb- 8575387880 and Shri. *Ikato Sumi*, Mb- 8794230133.

OBSERVATIONS AND FINDINGS:

During the hearing, the Commission pointed out that since the present appeal happened during the tenure of Shri. Abhijit Sinha, IAS, Home Commissioner & First Appellate Authority, NSMDA, Home Department, Nagaland, Kohima and Shri. Lhouchalie Viya, IAS, Secretary & PIO, NSDMA, Home Department, Nagaland, Kohima, notice for hearing was served on 14.12.2022, giving them opportunity of being heard on 19.01.2023 at 12:00 noon, however, they did not appear for the hearing and there was no reason or prior intimation to the Commission regarding their non- appearance before the Commission.

Referring to the Notification No. NSDMA/RTI/274/2019(Pt.III) dated 28.10.2022 issued by the Home Department, NSDMA regarding designating of **new and junior** FAA, PIO and APIO, since the Commission could not accept the above Notification of the Home Department, NSDMA as it was not in conformity with and spirit of the RTI Act, 2005 and the government guidelines for designating of FAA, PIO and APIO, the Commission had vide its letter No. NIC/RTI-MISC/17 dated 11.11.2022, advised the Home Department (NSDMA) to review the above Notification so that the FAA, PIO and APIO would perform their duties effectively, however, there was no update or compliance from the NSDMA till the date of hearing.

The observation of the Commission is reproduced as shown below:-

1. *Public Information Officer (PIO) of a public authority is responsible to supply correct and complete information to an information seeker under the Right to Information Act, 2005 within the specified time. Hence, he should be an officer who have some authority and fair knowledge of the working of the public authority so that information can be accessed easily from the branches and provide within the stipulated time limit. With this aim, the government had notified regarding designating of PIOs & APIOs vide Notification No. AR-3/Gen-147/2002 dated 6th October, 2005 which is enclosed for your ready reference.*

2. 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.

In the light of the above, it is therefore advised to kindly review the above notification so that the FAA, PIO and APIO would perform their duties effectively.

DECISION

On the above observations and findings, since the hearing could not be proceeded in the non-appearance of the rightful FAA and PIO, the Commission decided to **reserve its decision** till the next hearing which shall be notified later.

Decision pronounced in the presence of both the parties on 19.01.2023 at 12:00 Noon.

Copies be given to:-

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 Computer Programmer, Nagaland Information Commission for uploading on the website.
4. The applicants (now appellants), Shri. Honoto I. Yeptho, Mobile No. 8575387880 and Shri. Ikato Sumi, Mobile No. 8794230133.
5. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

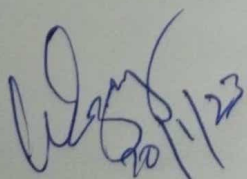
Sd/-

NOSAZOL CHARLES
State Information Commissioner

Sd/-

T. KEKONGCHIM YIMKHIUNG
State Information Commissioner

Authenticated true copy:


(Worhonthung Ezung)
Deputy Secretary