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**NAGALAND INFORMATION COMMISSION**

Nagaland Commissions' Complex

Below NBCC Convention Centre,

Post Box - 148

Nagaland, Kohima - 797004

Email: [cic.nagaland@gmail.com](mailto:cic.nagaland@gmail.com) | Website: [www.nsic.nagaland.gov.in](http://www.nsic.nagaland.gov.in)

No. NIC/APPEAL-9/2023-24 / 97

Dated Kohima, the 25<sup>th</sup> August, 2023

Appellants : Shri. Inato & Associates,  
Social Activist,  
Mobile Nos. 9863302011/ 7005960261.

Respondents : (i) Shri. Lhouchalie Viya, IAS,  
Commissioner & Secretary & FAA,  
NSDMA,  
Home Department,  
Nagaland, Kohima.

(ii) Shri. Temsuwangshi Jamir,  
Assistant Manager & PIO,  
NSDMA,  
Home Department,  
Nagaland, Kohima.

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

Date of hearing : 22.08.2023 at 11:00 AM

Date of Decision : 25.08.2023.

Present:

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7085053755.
2. Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.
3. Shri. Kuthophuyi Tetseo, JSO, Mobile No. 8731896419.
4. Shri. Kevisede Usuo, SA & APIO, NSDMA, Mobile No. 7204242480.
5. The applicants (now appellants), Shri. Inato Y. Chiso, Social Activist, Kohima, Mobile No. 9863302011 and Shri. Puloto Achumi, Dimapur, Mobile No. 7005960261.

**FACT OF THE CASE**

The applicants, Shri. Inato & Associates had submitted an RTI application dated *NIL* along with application fee of Rs. 10/- addressed to the PIO, NSDMA, Nagaland seeking the following information pertaining to **Additional Drought Relief Fund** from 2020 till date: -

1. Kindly furnish total amount of money received from both the central and state?
2. Give an abstract the list of the beneficiaries, total amount received per beneficiaries, cheque leaves, and relevant documents of beneficiaries?
3. Kindly furnish the sanction order, utilization certificate, and completion certificate countersigned by the concern officer to support the claim?
4. Kindly furnish the pictographically proof of the project, naming the list of the beneficiaries, locations with its proper Geo-tagging assets?

The above RTI application was received by the Department vide Receipt No. 23-98 dated 06.02.2023 of the Home Department, DM Branch, as evidenced on the body of the application. However, on the failure of the PIO to respond to the above RTI application even after expiry of the stipulated time period of 30 days, the applicants had submitted a First Appeal dated *NIL* to the

FAA, NSDMA, Nagaland, which the Department had received on **16.03.2023** vide Receipt No. 23-113 of the Home Department, DM Branch as evidenced on the body of the First Appeal.

On receipt of the First Appeal, Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland had heard the appeal on **26.04.2023** at 12:00 noon in the presence of the appellants, PIO and APIO and after the hearing, passed decision on the matter vide letter No. **NSDMA/RTI/274-1013/2019/431** dated **27.04.2023** stating the following as reproduced below:-

*“ 3. The Appellate Authority noted that the PIO had delayed furnishing the information as the concerned officer was undergoing medical treatment. Appellate Authority observed that the information should be furnished within the time limit as enshrined in the RTI Act, however if there is delay or difficulty the applicants should have been informed but due to the reason stated by the PIO, the said could not be communicated.*

*4. The Appellate Authority observed that personal information as sought in point 1,2 and 4 of their RTI application cannot be furnished by the PIO/NSDMA as per Section 8 (1) (j) of the RTI, Act, 2005. Appellate Authority also observed that the information sought in point 4 of their RTI application is not applicable as the Drought Relief Fund received by NSDMA is not an infrastructural development fund. Hence forth, the Appellate Authority directed PIO, NSDMA to furnish information which is readily available as sought in their RTI application.*

*5. The appellate authority after further discussion/ deliberation gave a decision that the PIO, NSDMA is to provide information on or before 05/05/2023 free of cost to the appellants. The above appeal stands disposed of.”*

In compliance to the above decision of the FAA, Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA, Home Department, Nagaland had, vide letter No. **NSDMA/RTI/274-1013/2019/438** dated **02.05.2023**, furnished the information to the applicants (now appellants). However, on being dissatisfied with the information furnished by the PIO, NSDMA, the applicants (now appellants) had submitted a Second Appeal dated **NIL** before the Commission stating that the information which was received on 11.05.2023 was *“completely vague and comprehensive and is leading to obfuscation and buffling the applicant to hide around the bushes, the applicants seek for Additional Drought Fund from 2020 till date, where as the furnished information was on various other relief funds.”* Moreover, since the information sought in regard to the said scheme is *“vividly a public welfare scheme”* and denying disclosure under Section 8(1) (j) of the RTI Act, 2005 does not apply but amount to misuse by the Department.

Since the applicants (now appellants) are dissatisfied with the response of the FAA to their First Appeal dated **NIL**, which was submitted against the non-response of the PIO to their RTI application dated **NIL**, the Commission has decided to hear the above mentioned appeal by giving opportunity of being heard to all the parties on **22<sup>nd</sup> August, 2023 (Tuesday) at 11:00 A.M in the Hearing Room of the Nagaland Information Commission, Nagaland Commissions' Complex, Below NBCC Convention Centre, Post Box – 148, Nagaland, Kohima – 797004** and also to bring the files and relevant documents in question for scrutiny on the above date and time for hearing.

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima.
2. Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA, Home Department, Nagaland, Kohima.
3. The applicants (now appellants), Shri. Inato & Associates, Social Activist, Mobile Nos. 9863302011/ 7005960261.

#### **OBSERVATIONS AND FINDINGS:**

During the hearing, the applicant(now appellant), Shri. Inato Y. Chiso stated that no information was received within the 30 days time and even on the date of the first appeal hearing on 26.04.2023. It was only after the hearing on 26.04.2023, that the PIO had furnished the information on 02.05.2023, however, the information so received was vague and incomprehensible, hence not satisfied and therefore the appeals.



Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima stated that during the first appeal hearing held on 26.04.2023 at 12:00 noon, the case was discussed threadbare and the applicants (now appellants) had expressed satisfaction, however, it was not known why and how they were still not satisfied. Regarding reply to **query No. 4**, he stated that there was no such information pertaining to **Additional Drought Relief Fund**, since under Additional Drought Relief Fund there cannot be pictographic proof of the project and locations with Geo-tagging asset.

The applicant (now appellant) stated that the replies to query Nos. 1 and 4 were satisfied, however, the reply to Query Nos. 2 and 3 were not satisfied.

Regarding the reply to **Query No. 2**, the applicant (now appellant) stated that the information on **Additional Drought Relief Fund** were sought and the PIO had furnished the information about:-

- i. Relief given to 10,127 beneficiaries through DDMA's,
- ii. ERF to the DDMA's,
- iii. Relief Rice to the DDMA's and
- iv. Bovine Deaths to the DDMA's,

however, the *List of the beneficiaries* was **denied** quoting under Section 8(1) (j) of the RTI Act, 2005. He further asked how the list of the beneficiaries could be termed as '*personal information*' and how its disclosure would be a threat to the life of the persons (here in this case the beneficiaries).

The Commission observed that the nature of information sought i.e. *list of beneficiaries* cannot be personal information and hence need to be disclosed. Referring to earlier similar cases of the NSDMA, wherein the list of beneficiaries were furnished to the applicants in the following cases:-

- i. No. NIC/Appeal-7/2022-23, Shri. Boto Y Swu
- ii. No. NIC/Appeal-37/2022-23, Shri. Roka Swu and Shri. Cheno,
- iii. No. NIC/Appeal-40/2022-23, Shri. Honoto I. Yeptho and Shri. Ikato Sumi,
- iv. No. NIC/Appeal-46/2022-23, Shri. Avituo, Shri. Atuolie, Shri. Asa, and Shri. Akum.

the Commission observed that the *list of beneficiaries* should be furnished in this case also.

Producing a copy of the format of the beneficiaries, Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA stated that the format contains personal details like name, father's name, Aadhaar number, ID Proof No., Gender, Phone No., present and permanent addresses and hence the *List of the beneficiaries* was denied in this case.

The Commission observed that like in **No. NIC/Appeal-46/2022-23**, wherein the Aadhaar numbers of the beneficiaries/individuals were not allowed for disclosure since they contain personal details and disclosing of which do not have any public interest, similarly, in this instant appeal, though the duly filled format contains Aadhaar number of the beneficiary/individual, the Aadhaar number need not be disclosed and the list of beneficiaries as sought by the applicants (now appellants) be furnished to them.

Regarding **Query No. 3**, the PIO stated that since all the Utilization Certificates and Completion Certificates were under process and not fully received, he did not furnish to the applicants (now appellants). He was of the view to furnish once all the Utilization Certificates and Completion Certificates were received.

The Commission observed that the RTI application dated NIL was received on 06.02.2023 by the NSDMA vide Receipt No. 23-98, however no reply was given by the PIO even after the expiry of the stipulated time period of 30 days, which happened to be on **08.03.2023**. Information was furnished only on 02.05.2023 after the FAA hearing and on the direction of the FAA on 27.04.2023. Hence, from the date of receipt of the RTI application dated NIL on 06.02.2023 to the date of furnishing the information on 02.05.2023, there was a total of 85 days, and considering the 30 days time limit, the days of delay becomes  $85-30 = 55$  days.

On the delay in furnishing the information to the applicants (now appellants), the PIO stated that he was on leave on and off on account of medical treatment during the period and hence could

not furnish. Copies of his medical leave treatment were produced before the Commission. His leave periods were as shown under:-

- i. 1<sup>st</sup> to 10<sup>th</sup> Feb. 2023  
12<sup>th</sup> Feb. 2023 (Sunday)
- ii. 13<sup>th</sup> Feb. to 7<sup>th</sup> March, 2023.  
8<sup>th</sup> March, 2023 (Holi) and 9<sup>th</sup> March, 2023 (Working day)
- iii. 10<sup>th</sup> & 11<sup>th</sup> March, 2023.  
12<sup>th</sup> March, 2023 (Sunday)
- iv. 13<sup>th</sup> to 18<sup>th</sup> March, 2023.  
19<sup>th</sup> March, 2023 (Sunday)
- v. 20<sup>th</sup> March to 4<sup>th</sup> April, 2023.
- vi. 5<sup>th</sup> to 24<sup>th</sup> April, 2023.

On examination, the Commission observed that the RTI application dated NIL was received on 06.02.2023 by the NSDMA when the said PIO was on leave w.e.f 1<sup>st</sup> February, 2023. As per his leave records, the **only working day** the PIO did not avail leave was on **9<sup>th</sup> March, 2023** and he could have attended to the RTI application by endorsing it to his APIO or the rightful branch or officer that deals with the matter, however he failed to do so. The Commission also observed that after the receipt of the RTI application dated NIL on 06.02.2023 by the NSDMA, since the 30 days expired already on **08.03.2023**, the PIO is not absolved from the penalty. However, taking a lenient view on account of the leave period by considering the date of receipt of the RTI application by the said PIO on **09.03.2023** and to the date of furnishing the information on 02.05.2023, the Commission observed that there was a total of 54 days, and taking into account the 30 days time limit, the days of delay becomes  $54-30 = 24$  days, for which penalty is attracted.

The Commission further observed that when the PIO applied for leave, an alternative arrangement should have been made by the public authority by entrusting or delegating the APIO or other officer to look after the charge of the PIO. However, since the public authority was casual and had failed to do so, the Commission took a serious view and cautioned that the public authority should not repeat such failure in future. It warned that in case of such failure in the future, the AHOD/HOD and the FAA concerned shall be held responsible for failure to furnish information.

### DECISION

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

1. Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA shall furnish the following to the applicants(now appellants) and with a copy to the Commission on or before the **30<sup>th</sup> September, 2023**:-
  - i) For **query No. 2**, the list of beneficiaries with only the names and amount received by each beneficiary.
  - ii) For **query No. 3**, the Utilization Certificates and Completion Certificates whatever were ready or completed or available.
2. On receipt of the above information, the applicants (now appellants) 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 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for **twenty four (24) days** amounting to **Rs. 6000.00/-** (Rupees Six Thousand only) is imposed on Shri. Temsuwangshi Jamir, Assistant Manager & PIO, NSDMA 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

Decision pronounced in the presence of both the parties on 22.08.2023 at 11:00 A.M.

Copies be given to:

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima.
2. Shri. Temsuwangshi Jamir, Assistant Manager & 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 applicants (now appellants), Shri. Inato & Associates, Social Activist, Mobile Nos. 9863302011/ 7005960261.
6. Office Copy.

Sd/-

**I. MEYIONEN JAMIR**  
Chief Information Commissioner

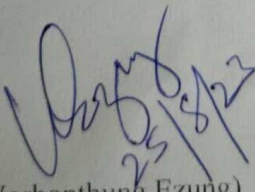
Sd/-

**T. KEKONGCHIM YIMKHIUNG**  
State Information Commissioner

Sd/-

**NOSAZOL CHARLES**  
State Information Commissioner

Authenticated true copy:

  
(Worhonthung Ezung)  
Deputy Secretary