

NAGALAND INFORMATION COMMISSION

Nagaland Commissions' Complex

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Nagaland, Kohima - 797004

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No. NIC/APPEAL-15/2023-24 /199

Dated Kohima, the 7th December, 2023

Appellants : i) Shri. Twahei Nda (9612608087) and
ii) Shri. Namgai Ndang (9862644007).

Respondents : (i) Shri. Chubawati Chang, NCS
Director & First Appellate Authority,
Directorate of Food & Civil Supplies,
Nagaland, Dimapur-797112.
(ii) Shri. Neisazo Domeh,
Assistant Director of Supply & PIO,
Food & Civil Supplies,
Peren, Nagaland.

Public Authority : Food & Civil Supplies, Peren, Nagaland.

Date of hearing : 06.12.2023 at 11:00 AM

Date of Decision : 07.12.2023.

Present:

1. Shri. Chubawati Chang, NCS, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur -797112, Mobile No. 9436216757/8731925079.
2. Shri. Neisazo Domeh, Assistant Director of Supply & PIO, Food & Civil Supplies, Peren, Nagaland, Mobile No. 8798791297.

The following **did not appear** for the hearing.

3. The applicants (now appellants), Shri. Twahei Nda (9612608087) and Shri. Namgai Ndang (9862644007).

ORDER

FACT OF THE CASE

Two applicants, Shri. Twahei Nda and Shri. Namgai Ndang had jointly submitted a RTI application dated **13.07.2023** along with an application fee of Rs. 10/- only to the PIO, Department of Food & Civil Supplies, Peren, Nagaland, seeking the following information: -

- a) *In respect of Peren FPS, it is learnt that PHH is being deducted 1 Kilogram per person. If there is such order from the directorate office please provide the order letter.*
- b) *From the reliable sources it is learnt that AAY beneficiaries, they are suppose to received 35 kilograms per card. But in respect of Peren FPS they are providing only 25 kilogram. If there is such order from the directorate office please provide the order letter.*
- c) *Provide details record of receipt book maintain in district office from 2018 to till date year wise, in respect of Peren Block, name of Village.*
- d) *It is learnt from the reliable source that both AAY and PHH are suppose to be supplied every month. But in respect of Peren FPS it is supplied alternatively. If there is such order from the directorate office please provide the order letter.*

The above RTI application was received by the department on **17.07.2023** as evidenced on the body of the above RTI application letter, however on not getting any reply or information within the stipulated time, the applicants had submitted a First Appeal dated **18.08.2023** to the FAA, Directorate of Food & Civil Supplies, Nagaland, Dimapur.

On receipt of the First Appeal dated 18.08.2023 by the department on the same date i.e. 18.08.2023 as evidenced on the body of the first appeal, since the FAA had failed to respond to their First Appeal, the applicants (now appellants) had, vide letter dated 19.09.2023, submitted a Second Appeal to the Commission, which the Commission had received on 04.10.2023.

On receipt of the above Second Appeal dated **19.09.2023**, since the first appeal was not heard, the Commission had, vide letter of even No. dated 20.10.2023, directed the Director & FAA, Directorate of Food & Civil Supplies, Nagaland to hear the First Appeal within 20 (twenty) days from the date of receipt of its directive.

Shri. Chubawati Chang, NCS, Director & FAA, Food & Civil Supplies, Nagaland had, vide letter No. DSE/RTI-1/2022-23/589 dated 21.11.2023 forwarded to the Commission a copy of withdrawal letter dated 12.10.2023 submitted by the applicants (now appellants) wherein the applicants (now appellants) had stated that all the necessary information had been produced by the department in due time and found it satisfactory. Further, the FAA had also informed that in view of the above withdrawal letter, the hearing of the First Appeal which was scheduled to be held on 19.11.2023 had been called off.

Since the Commission was not convinced with the above grounds for withdrawal of the RTI application and that there was no proof of any information been furnished to the applicants (now appellants), the Commission has decided to hear the above mentioned appeal by giving opportunity of being heard to all the parties on **6th December, 2023 (Wednesday) at 11:00 AM in the Hearing Room of Nagaland Information Commission, Nagaland Commissions' Complex, New Capital Complex, 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: -

1. Shri. Chubawati Chang, NCS, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur -797112.
2. Shri. Neisazo Domeh, Assistant Director of Supply & PIO, Food & Civil Supplies, Peren, Nagaland.
3. The applicants (now appellants), Shri. Twahei Nda (9612608087) and Shri. Namgai Ndong (9862644007).

OBSERVATIONS AND FINDINGS:

The applicants (now appellants) did not appear for the hearing and there was no prior intimation to the Commission regarding their non-appearance in the hearing.

During the hearing, Shri. Neisazo Domeh, ADS & PIO, Peren stated that on the direction of the Additional Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur vide letter No. DSE/RTI-1/2022-23/378 dated 26.09.2023, he had submitted the information to the Director vide letter No. PR/RTI-1/2021-22/60 dated 03.10.2023. He further stated that the applicants were informed to collect the information, however, the applicants did not collect the information and instead submitted a letter dated 12.10.2023 withdrawing their RTI request.

The Commission observed that there is no withdrawal provision in the RTI Act and in the instant case, the applicants had withdrawn from the PIO and not from the Commission though the case lies with the Commission. Moreover, the grounds given by the applicants withdrawing the RTI stating *all the necessary information had been produced by the department in due time and found it satisfactory* was not convincing since there was no record of any furnishing of the information as sought by the applicants nor any record of having received the information as sought. The Commission opined that the ADS & PIO, Peren should not have accepted the withdrawal letter in the first place.

Shri. Chubawati Chang, NCS, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur stated that on the directive of the Commission on 20.10.2023, he had called for a hearing of the first appeal on 19.11.2023, however since the applicants did not appear and instead withdrew their RTI request, he had called off the hearing. He admitted the failure to conduct the hearing and stated that there was some communication gap that on receipt of the first appeal, since the information pertains to Peren district, the ADS & PIO, Peren was directed to furnish the information on or before **03.10.2023**.

On scrutiny of the letter No. DSE/RTI-1/2022-23/378 dated 26.09.2023 issued by the Additional Director & PIO, Directorate of Food & Civil Supplies, Nagaland, Dimapur to the ADS & PIO, Peren, the Commission observed that though the ADS & PIO, Peren was directed to furnish the information directly to the applicants with a copy to the Directorate of Food & Civil Supplies, Nagaland, Dimapur on or before **03.10.2023**, the ADS & PIO, Peren had, instead submitted the information only to the Director on 03.10.2023 and not to the applicants. Hence, the applicants would not receive the information. The Commission also pointed out that the applicants had, in their withdrawal letter stated that *all the necessary information had been produced by the department in due time and found it satisfactory*, however, during the hearing, the ADS & PIO, Peren submitted that he had not provided the information. Therefore, the Commission wondered how the information was received by the applicants when the ADS & PIO, Peren had submitted the information only to the Director and not to the applicants?

Shri. Neisazo Domeh, ADS & PIO, Peren disclosed that though he did not provide the information, it was learnt that one **Shri. Naunibo, Store Keeper, Peren** had provided the information to the applicants and basing on which the applicants had submitted the withdrawal letter. Hence, Shri. Naunibo, Store Keeper, Peren was contacted over the phone during the hearing, and he stated that he had received the information from the ADS & PIO, Peren and had provided the information to the applicants. However, the ADS & PIO, Peren denied having provided the information to the applicants.

Since the Commission was not able to ascertain how and when the applicants had received the information and submitted satisfaction, during the hearing, two officials of the Commission had tried to contact the applicants at their two given mobile numbers, however, the applicants did not answer the calls.

The Commission observed that relying on the above statement of the ADS & PIO, Peren, since Shri. Naunibo, Store Keeper, Peren had furnished the information, he has become the '*deemed PIO*' and hence need to be heard along with the applicants (now appellants).

ORDER

On the above observations and findings, since there was conflicting statements given by the ADS & PIO, Peren and the Store Keeper, Peren, the Commission need to hear the Store Keeper, Peren and the applicants (now appellants) and hence decided to **reserved its decision** till the next hearing which shall be notified later.

Order pronounced in the presence of only the respondents on 06.12.2023 at 11:00 A.M.

Copies be given to:

1. Shri. Chubawati Chang, NCS, Director & First Appellate Authority, Directorate of Food & Civil Supplies, Nagaland, Dimapur -797112, Mobile No. 9436216757/8731925079.
2. Shri. Neisazo Domeh, Assistant Director of Supply & PIO, Food & Civil Supplies, Peren, Nagaland, Mobile No. 8798791297.
3. The Computer Programmer, Nagaland Information Commission for uploading on the website.
4. The applicants (now appellants), Shri. Twahei Nda (9612608087) and Shri. Namgai Ndong (9862644007).
5. Office Copy.

Sd/-

I. MEYIONEN JAMIR
Chief Information Commissioner

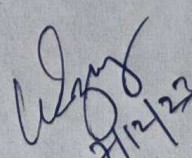
Sd/-

T. KEKONGCHIM YIMKHIUNG
State Information Commissioner

Sd/-

NOSAZOL CHARLES
State Information Commissioner

Authenticated true copy:


(Worhonthung Ezung)
Deputy Secretary