YP

NAGALAND INFORMATION COMMISSION

Nagaland Commissions' Complex Below NBCC Convention Centre, Post Box - 148

Nagaland, Kohima - 797004

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No. NIC/APPEAL-14/2023-24/255

Dated Kohima, the 27th February, 2024

Appellant

Dr. Roland Lotha,

Politician & Social Worker,

Sovima.

Dimapur, Nagaland,

Mobile Nos. 7005111421/9862267010

Respondents

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

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

(iii) Shri. Kevisede Usou,
 Section Assistant(Research & Planning) & APIO,
 NSDMA, Home Department,
 Nagaland, Kohima.

Public Authority

: Home Department (NSDMA), Nagaland, Kohima.

Date of hearing

: 21.02,2024 at 11:00 AM.

Date of Decision

: 27.02.2024.

Present:

1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima, Mobile No 7085053755.

2. Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.

3. Shri. Kevisede Usou, Section Assistant(Research & Planning) & APIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7204242480.

4. The applicant (now appellant), Dr. Roland Lotha, Politician & Social Worker, Sovima, Dimapur, Mobile Nos. 7005111421/9862267010.

FACT OF THE CASE

An applicant, Dr. Roland Lotha, Politician & Social Worker, Sovima, Dimapur, Mobile Nos. 7005111421/ 9862267010 had submitted a RTI application dated NIL addressed to the PIO, NSDMA, Govt. of Nagaland and along with application fee of Rs. 10/- through the District Magistrate/ Chairman, DDMA, Dimapur seeking the following information: -

1. Kindly furnish the total amount sanctioned orders of funds released by the central Government for the State of Nagaland for the financial years of 2018-2022.

2. Kindly furnish the detailed list of the complete works in District wise, Block and village wise.

3. Please respond within 30-35 days guarantees under the RTI Act 2005 and the necessary information sought, be provided through Hard copies/ soft copies.

4. Please furnish drawal authority/ True Certified copies issued by the State Finance Department for the financial years of 2018-2022.

5. Please furnish Audit and Accounts submitted before the Accountant General AG Nagaland: Kohima for the financial years of 2018-2022.

- 6. Please furnish the photograph of the project implemented side and audio visual for the year 2018-2022.
- 7. Please furnish True Certified copies issued by all Chairman's of DDMA for the financial years of 2018-2022.

On receipt of the above RTI application dated NIL on 03.07.2023, Smti. Imlijungla Lemtur, NCS, EAC & APIO, Office of the Deputy Commissioner, Dimapur had, vide letter No. RTI-16/2021-D/3261 dated 03.07.2023, transferred the RTI application along with the application fee of Rs. 10/- to the PIO, NSDMA, Nagaland, Kohima.

On not getting any information to his RTI application even after 40 days, the applicant had, through the ADC & PIO, Dimapur, submitted a First Appeal dated 16.08.2023 addressed to the FAA, NSDMA, Nagaland, Kohima.

Again on not getting information from the FAA, NSDMA, Nagaland, Kohima to his First Appeal dated 16.08.2023, the applicant had submitted a Second Appeal dated NIL seeking intervention of the Commission in the matter.

On receipt of the above Second Appeal dated NIL on 03.10.2023, since there was no response of the FAA, NSDMA, Nagaland to his First Appeal dated 16.08.2023, which was submitted against the non-response of the PIO, NSDMA, Nagaland to his RTI application dated NIL (which was received by the Office of the Deputy Commissioner, Dimapur on 03.07.2023), the Commission had, vide directive No. NIC/APPEAL-14/2023-24/144 dated 20.10.2023, directed the Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima to hear the First Appeal along with the appellant and the PIO within 30 (thirty) days.

In compliance to the Commission's directive dated 20.10.2023, the FAA had heard the First Appeal on 28.11.2023 at 12:30 PM along with the applicant (now appellant), Dr. Roland Lotha, the PIO, Shri. Temsuwangshi Jamir, and the APIO, Shri. Kevisede Üsou.

After hearing the first appeal, the FAA had, vide his decision letter No. NSDMA/RTI/274-1028/2019/1399 dated 28.11.2023, stated that though the PIO had delayed in furnishing, the information had been furnished vide No. NSDMA/RTI/274-1028/2019/1313 dated 07.11.2023 and "the appellant had verbally announced his satisfaction with the reply of the PIO and the information furnished."

On receipt of the information, the applicant (now appellant) had, vide letter dated 29.12.2023, wrote to the FAA, NSDMA, Nagaland, Kohima stating that the information provided by the NSDMA was vague and not satisfactory even after having exceeded 4 (four) months and had, therefore, sought further details of information and clarification from the FAA, NSDMA.

Referring to the decision of the FAA dated 28.11.2023, the applicant (now appellant) had, vide letter dated NIL, which was received by the Commission on 29.01.2024, stated that the above statement made by the FAA vide his decision letter dated 28.11.2023 was "misleading and untrue" and hence not satisfactory and not in line with the questionnaire in the application.

Since the statements made by the FAA and the applicant (now appellant) are contradictory, the Commission has decided to hear the above mentioned appeal by giving opportunity of being heard to all the parties on 21st February (Wednesday) at 11:00 A.M in the Hearing Room of the Nagaland Information Commission, Nagaland Commissions' Complex, Nagaland, Kohima.

The Commission, therefore, directed the following parties to attend the hearing in person or through Video Conference/ virtual hearing where the link for attending the hearing via Google Meet or Zoom or Cisco WebEx or Bharat VC etc. will be shared 15 (Fifteen) minutes prior to the start of the hearing. Further, the respondents are directed to bring/ keep the files and relevant documents in question for ready reference on the above date and time of hearing.

- 1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima.
- 2. Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, Nagaland, Kohima.
- 3. The applicant (now appellant), Dr. Roland Lotha, Politician & Social Worker, Sovima, Dimapur, Mobile Nos. 7005111421/9862267010.

OBSERVATIONS AND FINDINGS

During the hearing, the applicant (now appellant) stated that he had submitted the RTI application dated NIL on 03.07.2023 through the Office of the DC, Dimapur, however, since there was no reply from the NSDMA, he had filed the first appeal dated 16.08.2023 again through the Office of the DC, Dimapur. Further still, since there was no response from the FAA to his first appeal even after the lapse of two (2) months, he had submitted second appeal dated NIL to the Commission, which the Commission had received on 03.10.2023. He stated that on the direction of the Commission, the hearing of the first appeal by the Commissioner & Secretary & FAA, NSDMA was held on 28.11.2023 and since during the hearing it was agreed upon that whatever deficient or incomplete information furnished earlier on 07.11.2023 shall be furnished to him, he had stated satisfaction. However, since he was still not satisfied with the information, he had submitted a letter dated 29.12.2023 to the FAA, NSDMA seeking further clarification and information. Again, on not getting any response to his above mentioned letter from the NSDMA, he had complained to Commission vide letter dated NIL, which the Commission received on 29.01.2024.

The Commission pointed out that there was inconsistency with the decision of the FAA dated 28.11.2023 wherein it was recorded that the applicant (now appellant) was satisfied, and the applicant's subsequent letter dated NIL of non-satisfaction to the Commission (received on 29.01.2024). The applicant (now appellant) clarified that during the hearing of the first appeal on 28.11.2023, he had expressed his satisfaction since the FAA had assured him of furnishing the requisite information, and that his expression of satisfaction was not on the information itself.

On being asked why the applicant (now appellant) had, except on the First Appeal, did not mention the dates in his RTI application, Second Appeal and his subsequent complaint to Commission, the applicant (now appellant) replied that he was of the view that the receipt of the RTI application was important as the counting of days starts from the date of receipt by the PIO. However, the Commission advised him to append the dates in all his applications or letters in future.

Agreeing with Para 7 of the decision of the FAA dated 28.11.2023, the Commission also observed that the letter dated 29.12.2023 submitted by the applicant (now appellant) to the FAA, NSDMA are further clarification and additional information sought, hence will not be considered or taken up in the hearing. However, if the applicant (now appellant) desire to get further information, he is free to seek those additional information by filing a separate RTI application.

Regarding the reply to <u>query No. 1</u>, the applicant (now appellant) expressed his <u>satisfaction</u> since he had received the Sanction Orders from 2018-22.

Reply to query No. 2, the applicant (now appellant) stated that it was inadequately provided. Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, Nagaland, Kohima stated that he had furnished the reply and asked if the applicant had not received the reply, how could he come out with the exact figures i.e. 85 villages under Dimapur district in his subsequent letter? The applicant replied that he got the figures from the website through one of his members in his organisation, NPRAAF.

Reply to <u>query No. 3</u>, the applicant (now appellant) stated that he had not received. The PIO replied that he had furnished the information in hard copies only and not in soft copies since it requires manpower and resources in scanning.

The Commission advised that while furnishing the information to the applicant in hard copies, the PIO could have given the reason for the inability to provide the information in soft copies.

Reply to <u>query No. 4</u>, the applicant (now appellant) stated that he had received the information and was <u>satisfied</u>.

Reply to <u>query No. 5</u>, the applicant (now appellant) stated that he was not provided.

The PIO stated that since the matter was referred to the Public Accounts Committee (PAC) and is still lying with the PAC, the reply could not be given to the applicant (now appellant).

The Commission also agreed with the reply of the PIO that the information shall be provided to the applicant (now appellant) as soon as report from the PAC is received.

Reply to <u>query No. 6</u>, the applicant (now appellant) stated that the reply provided was incomplete since only two (2) pages of photographs were given.

The PIO stated that during the period, from 2018 to 2022, only two (2) projects under Landslide Risk Mitigation Scheme (LRMS) were received and the photographs along with the locations of the projects written on the photographs were already furnished, however since no audio-visual was available, it was not given.

The applicant (now appellant) stated that reply to <u>query No. 7</u> was not provided. The PIO replied that the applicant was not clear and specific on what he had wanted and hence sought clarification.

The applicant (now appellant) explained that for any disaster occurrences or related matters, the respective Deputy Commissioner of the districts who is also the Chairman of the DDMA (District Disaster Management Authority) submits proposals, receipt of funds, utilisation certificates etc. Hence, he wanted the true certified copies of such letters issued by the Chairman of the respective DDMAs in soft copies. However, the PIO replied that such letters or documents cannot be furnished in soft copies since the NSDMA do not receive such letters in soft copies from the DDMAs.

Further, since the information are voluminous, the PIO requested if the applicant can narrow down his requirement, and to which the applicant (now appellant) agreed and had desired that the documents for only Kohima and Dimapur districts for two (2) years i.e. for 2020-21 and 2021-22 be furnished.

The PIO, NSDMA stated that he had received the RTI application dated NIL on 14.07.2023 which was transferred from the Office of the DC, Dimapur. He could furnish the information to the applicant only on 07.11.2023, and had admitted the delay in furnishing the information.

The Commission observed that from the date of receipt of the RTI application by the PIO, NSDMA on 14.07.2023 which was transferred from the DC Office, Dimapur on 03.07.2023 to the date of furnishing the information to the applicant on 07.11.2023, there was a total of 116 days, and considering the 30 days time limit in furnishing the information, the days of delay becomes 116 - 30 = 86 days for which penalty was attracted.

ORDER

On the above observations and findings, the Commission passed the following order that:-

- 1. Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, Nagaland, Kohima shall furnish the information to the following queries to the applicant(now appellant) and with a copy to the Commission within fifteen (15) days from the date of receipt of this order.
 - a) Query No. 2: to be furnished as sought.
 - b) Query No. 3: to be furnished in soft copies whatever available in soft copies.
 - c) Query No. 5: to be furnished as soon as report from the PAC is received.
 - d) Query No. 6: to furnish more photographs, if available.
 - e) Query No. 7: to furnish the information in hard copies for only Kohima and Dimapur districts for two (2) years i.e. for 2020-21 and 2021-22 as desired by the applicant(now appellant) during the hearing.
- 2. On receipt of the information from the PIO, the applicant(now appellant) shall submit satisfaction/non-satisfaction to the public authority within ten (10) days from the date of receipt and with a copy to the Commission.
- 3. Under Section 20 (1) of the RTI Act 2005, penalty at the rate of Rs. 250/- per day of delay for eighty six (86) days amounting to Rs. 21,500.00 (Rupees twenty one thousand and five hundred only) is imposed on Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, 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 <u>treasury challan</u> in favour of the Sr. Accounts Officer, Nagaland Information Commission, Kohima under the Head of Account given below, with a copy of the <u>treasury challan</u> (in original) to this Commission:-

0070 - Other Administrative Services 60 - Other Services 118- Receipts under RTI Act, 2005

This Order is passed in the presence of both the parties on 21.02.2024 at 11:00 A.M.

Copies be given to:

- 1. Shri. Lhouchalie Viya, IAS, Commissioner & Secretary & FAA, NSDMA, Home Department, Nagaland, Kohima, Mobile No 7085053755.
- 2. Shri. Temsuwangshi Jamir, Assistant Manager(Research & Planning) & PIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 8974539125.
- 3. Shri. Kevisede Usou, Section Assistant(Research & Planning) & APIO, NSDMA, Home Department, Nagaland, Kohima, Mobile No. 7204242480.

4. The Sr. Accounts Officer, Nagaland Information Commission for information.

- 5. The Computer Programmer, Nagaland Information Commission for uploading on the website.
 - 6. The applicant (now appellant), Dr. Roland Lotha, Politician & Social Worker, Sovima, Dimapur, Mobile Nos. 7005111421/9862267010.

7. 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