

**NAGALAND INFORMATION COMMISSION**

**Nagaland Commissions' Complex**

**Below NBCC Convention Centre,**

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**Nagaland, Kohima - 797004**

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**No. NIC/APPEAL-23/2023-24 /201**

**Dated Kohima, the 18<sup>th</sup> May, 2024**

Appellant : Shri. Keneisetuo Kiewhuo,  
Roll No 10029938,  
Khikha Colony,  
Kohima, Nagaland,  
Mobile No- 7005531391

Respondents : (i) Shri. B. Henok Buchem, NCS,  
Secretary & First Appellate Authority,  
Nagaland Staff Selection Board,  
Nagaland, Kohima.

(ii) Shri. Vekhrope K. Lasuh,  
Deputy Secretary & PIO,  
Nagaland Staff Selection Board,  
Nagaland, Kohima

Public Authority : Nagaland Staff Selection Board, Nagaland, Kohima.

Date of hearing : 17.05.2024 at 11:00 AM

Date of Decision : 18.05.2024.

**Present:**

1. Shri. B. Henok Buchem, NCS, Secretary & First Appellate Authority, Nagaland Staff Selection Board, Nagaland, Kohima, Mobile No. 9436062332.
2. Smti. T. Kalivi Yephthomi, COE & new PIO, NSSB, Nagaland, Kohima, Mobile No. 7005270850.
3. Smti. Katisenla Pongener, Asstt. Superintendent & APIO, NSSB, Nagaland, Kohima, Mobile No. 7005229561.
4. The applicant (now appellant), Shri. Keneisetuo Kiewhuo, Roll No 10029938, Khikha Colony, Kohima, Nagaland, Mobile No. 7005531391.
5. Shri. Kekhriengulie, Advocate, Guwahati High Court, representative of the applicant (now appellant), Mobile No. 9436400237.
6. Smti. Thejasenuo Vitsu, Advocate, Guwahati High Court, representative of the applicant (now appellant), Mobile No. 7005179791.
7. Shri. Kekhriesalie, Khikha Colony, Kohima, Nagaland, Mobile No. 7005015242.
8. Shri. Vekhrope K. Lasuh, Deputy Secretary & former PIO, Nagaland Staff Selection Board, Nagaland, Kohima **did not appear** for the hearing.

**FACT OF THE CASE**

An applicant, Shri. Keneisetuo Kiewhuo had submitted a RTI application dated NIL addressed to the PIO, Nagaland Staff Selection Board, Nagaland, Kohima along with RTI application fee of Rs. 10/- seeking the information under RTI Act, 2005:-

1. Answer sheet of CPT of the undersigned for the year 2022.
2. Total number of candidates who scored total mark with Viva between 337.45 to 340 in the examination conducted by the board during 2022 but were not qualified for appointment.



On receipt of the above RTI application on 29.11.2023 as evidenced on the body of the application, Shri. Vekhrope K Lashu, Deputy Secretary & PIO, NSSB, Nagaland, Kohima had, vide letter No. NSSB/RTI-1/6/2022/676 dated 20/12/2023 furnished the reply as below:-

*Query 1: Providing candidate's answer sheets could compromise and affect the fairness and impartiality of the selection process and potentially influence future examinations. Hence disclosure of answer sheet is regretfully denied. The candidate can however apply fresh RTI to check his CPT marks.*

*Query 2: 25 candidates who scored between 337.45 to 340 were not qualified for appointment.*

However, on not being satisfied with the above information furnished by the PIO, the applicant had submitted first appeal dated 02/02/2024 to the FAA, Nagaland Staff Selection Board, Nagaland, Kohima.

On receipt of the first appeal, Shri.B. Henok Buchem, NCS, Secretary & FAA, Nagaland Staff Selection Board, Nagaland, Kohima had, vide letter No. NSSB/RTI-1/6/2022/715 dated 26/02/2024 relied on the decision of the PIO in denying the information stating that it would not serve public interest by disclosing such information as per section 8(1) (j) of the RTI Act, 2005. Further, the applicant was referred to the Hon'ble Supreme Court judgement on similar case in **Agnesh Kumar versus UPSC in 2018** for better clarity and application of the issue.

On receipt of the above reply to his first appeal from the Secretary & FAA, Nagaland Staff Selection Board, Nagaland, Kohima, the applicant (now appellant) had preferred Second Appeal dated 21/03/2024 before the Nagaland Information Commission stating that furnishing of Answer Sheet would in no way conflict with other public interest. Secondly, the Appellate Authority did not make any observation while endorsing upon the contention of the applicant and simply passing its decision dated 26/02/2024 upon the decision of the PIO and as such, the decision was passed without application of mind. Thirdly, the fact as in the case of Agnesh Kumar versus UPSC in 2018 is a different case and totally irrelevant from the case of the applicant at hand.

Since the applicant (now appellant) was denied information by the PIO and was also not satisfied with the reply/ decision of the FAA to his first appeal, the Commission has decided to hear the above mentioned appeal by giving opportunity of being heard to all the parties on **17<sup>th</sup> May, 2024 (Friday) at 11:00 A.M in the Hearing Room of Nagaland Information Commission, Nagaland Commissions' Complex, Below NBCC Convention Centre, Nagaland, Kohima,** and had also directed to bring the files and relevant documents in question for scrutiny on the above date and time for hearing.

1. Shri. B. Henok Buchem, NCS, Secretary & First Appellate Authority, Nagaland Staff Selection Board, Nagaland, Kohima.
2. Shri. Vekhrope K. Lasuh, Deputy Secretary & PIO, Nagaland Staff Selection Board, Nagaland, Kohima.
3. The applicant (now appellant), Shri. Keneisetuo Kiewhuo, Roll No 10029938, Khikha Colony, Kohima, Nagaland, Mobile No- 7005531391.

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

The Commission had received and accepted Vaklatnama dated 17.05.2024 submitted by the applicant (now appellant) stating that Shri. Kekhriengulie, Advocate, Guwahati High Court and Smti. Thejasenuo Vitsu, Advocate, Guwahati High Court had represented him.

Shri. B. Henok Buchem, NCS, Secretary & First Appellate Authority (hereafter FAA), Nagaland Staff Selection Board (hereafter NSSB), Nagaland, Kohima informed that Shri. Vekhrope K. Lasuh, Deputy Secretary, NSSB, Nagaland, Kohima was no more the PIO and he could not appear for the hearing on medical grounds. He further informed that a new PIO and a new APIO have been appointed and they had appeared in the hearing.



The FAA stated that since it was an unprecedented exam, the NSSB decided not to maintain any reserved list or waiting list, and citing the Preamble of the RTI Act, 2005, *Angesh Kumar versus UPSC* and *Prashant Ramesh Chakkarwar versus UPSC* cases, the information was denied. He stated that the NSSB is ready to disclose if the Commission so decide, however, the NSSB stands on its principle and do not want to create any precedence, if it is correct to disclose or not.

During the hearing, Shri. Kekhriengulie, the representative of the applicant (now appellant) stated that the FAA had denied the first appeal without giving any opportunity of being heard to the applicant (now appellant), and that the denial of the information under Section 8(1)(j) of the RTI Act, 2005 do not apply to the instant case since the applicant had sought his own answer sheet. He also stated that the UPSC is a Constitutional body established under the Constitution of India, but the NSSB was constituted by a Regulation passed by the Nagaland State Legislative Assembly. He, therefore questioned as to why the information was denied when the NSSB is not a subordinate body to the UPSC, that the NSSB do not follow or adopt all the regulations of the UPSC and that the NSSB do not have any policy or rule debarring disclosing of answer sheet. Referring to the Hon'ble Supreme Court judgment in the *Central Board of Education and another vs. Aditya Bandopadhyay and others reported in (2011) 8 SCC 497* and the *Central Information Commission decision of Laxmikanta Giri vs. PIO, Council for Indian School Certificate Examinations in No. CIC/SA/A/2015/001554 decided on 23.01.2017*, he stated that the information should not be denied since the information sought was not of any third party and did not fall under Sections 8(1)(e) and 8(1)(j) of the RTI Act, 2005.

The Commission observed that the former PIO, Shri. Vekhrope K. Lasuh, Deputy Secretary, NSSB failed to appear in the hearing before the Commission and there was no prior intimation to the Commission. The Commission was also not aware about the change of the PIO and the APIO and no supporting document was produced during the hearing.

The Commission also observed that the applicant (now appellant) had preferred the first and second appeals against the denial of information to his query No. 1 of his RTI application, whereas there was no appeal against the reply to query No. 2 since reply has been furnished. The rejection of the PIO was **untenable** with no grounds or proof how disclosure of answer sheet would compromise the fairness and impartiality of the examination or the selection process. The FAA had relied on the Hon'ble Supreme Court's judgment in **Angesh Kumar versus UPSC of 2018** and denied disclosure of the information i.e. answer sheet of Computer Proficiency Test (hereafter CPT) for the year 2022 of the applicant (now appellant). The rejection of the First Appellate Authority is a bland one without any basis as there are no grounds made out for the rejection except for citing Angesh Kumar's Case. The decision of the Hon'ble Supreme Court in Angesh Kumar's case does not cast a blanket bar on providing information to the candidates. The said judgment has been misconstrued and misinterpreted by the First Appellate Authority.

In the Angesh Kumar's case, the information sought for was the *cut-off marks for every subject, disclosure of marks (raw and scaled), scaling methodology, model answers and complete result of all candidates*. Since the information have been sought of **all the candidates**, the Hon'ble Supreme Court of India has held the denial of furnishing that the information could not be furnished **mechanically** as it would not only incur usage of physical and fiscal resources, but would also amount to breach of confidentiality of other candidates and would result to disclosure of some sensitive information.

Whereas in the present case, the Commission observed that the applicant had sought for his **own answer sheet of CPT** which he wrote in 2022 and not the answer sheets or books of **all or other candidates**, hence the nature of information sought by the applicant was different in **content** and **context**. He has not sought for any information relating to any **third party** or any **confidential** nor **sensitive** information, or any that would harm or **invade the privacy** of other individuals or candidates which could be treated to come under the exceptions/exemptions as prescribed and



detailed under **Section 8** of the RTI Act, but he had sought for information only pertaining to himself. Moreover, answer sheets does not contain any sensitive information as the applicant is the candidate himself who wrote the answers and as such shall be disclosed and made available under the Act unless providing of such answer sheet would involve an infringement of **copyright** as provided under **Section 9** of the RTI Act. Further, the **fiduciary relationship** between the examinee and the examiner or the authority conducting the examination is personal and is limited to only the disclosure of the name and identity of the Head examiners, examiners, invigilators, scrutinisers, coordinators and any other person involved with the process and as such Section 8(1)(e) or 8(1)(j) will not exempt disclosure of the evaluated Answer sheets if their confidentiality is ensured or maintained.

Further, relying on the Karnataka High Court judgment in the Writ Petition No. 8676/2020(GM-RES) dated 26.08.2020 in Karnataka Public Service Commission versus Mr. Vinay Kumar Ramaiah of Bengaluru and Karnataka Information Commission, wherein the Angesh Kumar versus UPSC of (2018) 4 SCC 530 and the Prashant Ramesh Chakkarwar versus UPSC, (2013) 12 SCC 489 cases have been taken care of, it is the considered opinion of this Commission that the embargo in the decision of the Apex Court in Angesh Kumar's case would not be applicable to the present case and therefore, the answer sheet of the CPT of the applicant (now appellant) who is the candidate himself shall be furnished to him.

Also, on examination of the "*Nagaland Staff Selection Board Regulations, 2020*", under **Regulation No. 43**, the Commission pointed out that there is no room or provision for re-evaluation, however it is the right of the candidate to get not only his/her own evaluated answer sheets/scripts/papers but also re-evaluated, which in fact is a **fundamental right** and hence cannot be denied to him/her. Moreover, **Section 22** of the RTI Act, 2005 provide for overriding effect of any other law for the time being in force or in any instrument having effect by virtue of any law. Hence, there should be an inbuilt system of ensuring fair and correct evaluation and re-evaluation with proper checks and balances so that confidence is not only built up amongst the candidates or applicants but also ensure transparency and accountability which is the main objective of the RTI.

Since transparency and disclosure go hand in hand, maintaining transparency would only add to the credibility of the public authority i.e NSSB in the constitutional conspectus in which it is placed. Transparency will also add to the confidence of the people regarding the purity of the conduct of not only the examinations but also the public authority. An examinee is entitled to satisfy himself / herself as to the fairness and transparency of the examination and the selection procedure and to maintain such fairness and transparency, disclosure of information is a must. This practice will ensure fair play in the competitive environment, where a candidate puts his/her time in preparing for the competitive exams which are conducted in the interest of public and the candidates selected for performance of public service. Moreover, such disclosure would minimize the candidates or applicants in resorting to RTI being filed with the public authority (NSSB) as information would be freely and readily available to the citizens. The confidence that the public repose on the NSSB would only be augmented by the disclosure of information. This will not only boost the confidence of the people seeking government jobs but also lead to better accountability and transparency in the system as selections in public service exams have manifold implications—from social to economic—for the State and the country.

No delay observed, hence no penalty.

### **ORDER**

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

1. The former PIO, Shri. Vekhrope K. Lasuh, Deputy Secretary, Nagaland Staff Selection Board shall submit to the Commission regarding his failure to appear in the hearing along with a copy of his Medical Certificate **within 5 days** from the date of receipt of this Order.



2. The public authority i.e. the NSSB shall cause a copy of the Notification designating the new PIO and the new APIO to the Commission **within 5 days** from the date of receipt of this Order.
3. A print out (hard copy) of the *Answer sheet of CPT of the applicant for the year 2022*, masking any confidential or sensitive information shall be furnished to the applicant (now appellant) **within 10 days** from the date of receipt of this Order. Unlike in other cases, no copy of his answer sheet shall be submitted to this Commission in order to maintain and respect the privacy of the applicant.
4. On receipt of the above information, the applicant (now appellant) shall submit confirmation of receipt to the PIO, NSSB and with a copy to this Commission **within 5 days** from the date of receipt of the information.
5. Under Section 25(5) of the RTI Act, 2005, the Commission recommends that the public authority i.e. the NSSB review its **Regulation No. 43** to incorporate provision for re-evaluation within a reasonable time, preferably before the next examination is held.

On receipt of all the above compliances, the Commission shall close the appeal.

Decision pronounced in the presence of both the parties on 17.05.2024 at 11:00 A.M.

Copies be given to:

1. Shri. B. Henok Buchem, NCS, Secretary & First Appellate Authority, Nagaland Staff Selection Board, Nagaland, Kohima, Mobile No. 9436062332.
2. Shri. Vekhrope K. Lasuh, Deputy Secretary & former PIO, Nagaland Staff Selection Board, Nagaland, Kohima.
3. Smti. T. Kalivi Yephthomi, COE & PIO, NSSB, Nagaland, Kohima, Mobile No. 7005270850.
4. The applicant (now appellant), Shri. Keneisetuo Kiewhuo, Roll No 10029938, Khikha Colony, Kohima, Nagaland, Mobile No. 7005531391.
5. Shri. Kekhriengulie, Advocate, Guwahati High Court, representative of the applicant (now appellant), Mobile No. 9436400237.
- ✓ 6. The Computer Programmer, Nagaland Information Commission for uploading on the website.
7. Office Copy.

Sd/-

**I. MEYIONEN JAMIR**  
Chief Information Commissioner

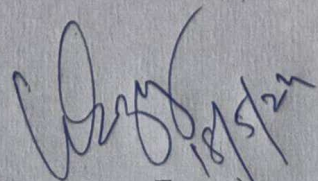
Sd/-

**T. KEKONGCHIM YIMKHIUNG**  
State Information Commissioner

Sd/-

**NOSAZOL CHARLES**  
State Information Commissioner

Authenticated true copy:

  
(Worhonhung Ezung)  
Deputy Secretary