NAGALAND INFORMATION COMMISSION

NAGALAND COMMISSIONS' COMPLEX
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RIGHT TO INFORMATION

No. NIC/APPEAL-30/2024-25 /605 **Dated Kohima, the 22nd April, 2025**

Appellant : (i) Shri. Niuka Zhimo,
Mobile No. 9862733705.

(ii) Shri. Atobo Sumi,
Mobile No. 7630802288.

Respondents : (i) Shri. Thepfusalie Guozi,
Chief Engineer & FAA,
Water Resources Department,
Nagaland, Kohima.

(ii) Er. Hutovi Swu,
Executive Engineer & PIO,
Water Resources Department,
Chumoukedima, Nagaland.

Public Authority : Water Resources Department, Chumoukedima, Nagaland.

Date of hearing : 16.04.2025 at 11:30 AM.
Date of Decision : 22.04.2025

Present:

1. Shri. Thepfusalie Guozi, Chief Engineer & FAA, Water Resources Department, Nagaland, Kohima, Mobile No. 9436016673.
2. Er. Khrotso Koza, S.E & PIO, Water Resources Department, Nagaland, Kohima, Mobile No. 7085192311.
3. Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland, Mobile No. 9436404325.
4. Shri. Lhokashe Swu, SDO & APIO, Water Resources Department, Mobile No. 8974417944.
5. One of the applicants (now appellants), Shri. Atobo Sumi, Mobile No. 7630802288.

The applicant (now appellant), Shri. Niuka Zhimo, Mobile No. 9862733705 did not appear for the hearing on health grounds.

FACT OF THE CASE

Two applicants, Shri. Niuka Zhimo and Shri. Atobo Sumi had jointly submitted a RTI application dated ***05.12.2024*** along with an application fee of Rs. 10/- addressed to the PIO, Water Resources Department, Dimapur, Nagaland seeking the following information pertaining to PMKSY of Dimapur District from 2019 till date as quoted below: -

1. *Kindly furnish the utilization certificate, completion certificate and work order?*
2. *Kindly furnish both sanctioned and release order and provide cheque leaves and bank statement.*

3. *Kindly furnish the name of the beneficiaries, villages and the amount received by the beneficiaries.*
4. *Kindly provide pictographically proof of the project along with its Geo-tagging assets and its ID No.?*

On receipt of the above RTI application dated 05.12.2024, Er. ***Hutovi Swu***, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland had, vide letter ***No. WRD/DD/TECH-26/2018-19/240-41*** dated ***20.12.2024***, informed the applicants that the cost of information was Rs. 200/- and requested to deposit and collect the information.

On receipt of the payment for information, Er. ***Hutovi Swu***, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland had, vide letter ***No. WRD/DD/TECH-26/2018-19/239*** dated ***20.12.2024*** furnished the information to the applicants.

However, on not being satisfied with the reply of the PIO that the information provided was fabricated, misleading and incomplete and that the queries for the period 2019-2024 were not adequately provided, the applicants had submitted a First Appeal dated ***20.01.2025*** addressed to the FAA, Directorate of Water Resources, Nagaland, Kohima on the following grounds of appeal as quoted below: -

1. *Violation of Section 3: My fundamental right to access information has been denied as the reply was incomplete and vague.*
2. *Non-compliance with Section 4(1)(d): The public authority failed to provide clear and specific information that I requested.*
3. *Failure under Section 7(1): The PIO did not furnish the information in full within the mandated 30-day period.*
4. *Lack of Justification (Section 7(8): The PIO's reply does not adequately explain why the requested information, particularly for the period 2019-2024, could not be furnished.*

Following Right has been deprived.
1. *Right to Access Information (Section 3).*
2. *Obligation of Public Authority to provide Information Section 4(1)(d).*
3. *Right to timely Information Section 7(1).*
4. *Right to seek classification on denial Section 6 and Section 7(8).*

The information provided by the PIO appears to be illegitimate. Reports circumscribe discrepancies and do not reflect the actual ground reports.

On receipt of the above First Appeal on 20.01.2025, Er. K. Hutoi Sema, Chief Engineer & FAA, Water Resources Department, Nagaland, Kohima had, vide No. WRD/RTI/TECH/Case No. 22/2024/2747 dated 27.01.2025, requested the applicants *to substantiate their allegation with evidence such that credibility may be established for initiating further necessary action.*

In response to the above letter of the FAA, the applicants had submitted another appeal dated 04.02.2025 to the FAA stating the following reasons for their dissatisfaction to the information furnished by the PIO: -

1. *Violation of Section 3: My fundamental right to access information has been denied as the reply was incomplete and vague.*
2. *Non-compliance with Section 4(1)(d): The public authority failed to provide clear and specific information that I requested.*
3. *Failure under Section 7(1): The PIO did not furnish the information in full within the mandated 30-day period.*
4. *Lack of Justification (Section 7(8): The PIO's reply does not adequately explain why the requested information, particularly for the period 2019-2024, could not be furnished.*

Key points to highlight:

1. *Denial without justification: The response states that the information is "Not available at the divisional level," which is not a valid exemption under the RTI Act. As per Section 4(1)(a) of the RTI Act, all public authorities are legally bound to maintain and disclose records.*
2. *Failure to provide financial records: My request for Utilization Certificates, Completion Certificates, Work Orders, sanctioned and released amounts, and bank statements has been denied without any valid legal reason. If payment were made through PFMS the department must provide transaction details. This violates the transparency and accountability provisions of the RTI Act.*
3. *Failure to provide year-wise information: The PIO has not provided the details for each year separately (2019, 2020, 2021, 2022, 2023, 2024, etc) which was specifically requested. This makes it difficult to analyze the allocation and utilization of funds over the years.*
4. *Only 24 beneficiaries listed instead of full records: The Response does not provide a complete list of all beneficiaries from 2019 till date. There is no justification as to why only 24 names have been provided.*
5. *Lack of Geo-Tagging & ID Numbers: The PIO has provided only 22 photographs without any geo-tagging details or asset ID numbers which were explicitly requested. Geo-Tagging is crucial to verify the actual location and execution of the projects.*
6. *Failure to provide year-wise information: The response does not contain segregated year-wise details of the projects from 2019 to date making it difficult to track project progress over time.*

PIO's response is vague and misleading: Instead of providing the requested data in a structured and comprehensive manner, the PIO has given an incomplete list that does not fulfil the RTI request.

The information provided by the PIO appears to be illegitimate. Reports circumscribe discrepancies and do not reflect the actual ground reports.

On receipt of the above appeal, the FAA had, vide No. WRD/RTI/TECH/Case No. 22/2024/2887-89 dated 06.02.2025 (but signed on 05.02.2025), directed the Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland to re-examine the RTI application and furnish the information as sought at the earliest with intimation to his office.

On the direction of the Chief Engineer & FAA, Water Resources Department, Nagaland, Kohima, Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland had, vide letter No. WRD/DD/TECH-26/2018-19/296-297 dated 19.02.2025, invited the applicants to his office on any working day for clarification of the information provided.

However, the applicants (now appellants) had filed a Second Appeal dated 24.02.2025 before the Commission stating that the FAA had, instead of hearing their appeal, directed the PIO to re-examine their RTI application which was in violation of Section 19(1) of the RTI Act, 2005. Further, on the above letter dated 19.02.2025 of the Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland to visit his office for '*clarification*' instead of furnishing the information, the applicants (now appellants) feared to be a deliberate attempt to harass, intimidate, and discourage them.

Though the FAA had not heard the First Appeal, since the applicants (now appellants) had feared of harassment by demanding physical visit to the Executive Engineer & PIO's office at Chumoukedima, the Commission has decided to hear the above mentioned appeal by giving opportunity of being heard to all the parties on ***16th April, 2025 (Wednesday)*** at ***11:30 AM*** in the ***Hearing Room of Nagaland Information Commission, Nagaland Commissions' Complex,***

Below NBCC Convention Centre, New Capital Complex, Nagaland, Kohima and the following parties are directed 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. Er. K. Hutoi Sema, Chief Engineer & FAA, Water Resources Department, Nagaland.
2. Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland.
3. The applicants (now appellants), Shri. Niuka Zhimo (9862733705) & Shri. Atobo Sumi (7630802288).

OBSERVATIONS AND FINDINGS:

Er. K. Hutoi Sema, Chief Engineer & FAA, Water Resources Department, Nagaland, Kohima retired from service on superannuation, hence he did not appear for the hearing.

Though no record of hearing of the First Appeal by the FAA, since the applicants(now the appellants) had, in their second appeal dated 24.02.2025 submitted fear of "**harassment, intimidation and discouragement their legal right to information**", the Commission had decided for a hearing directly.

On being asked by the Commission about the harassment and proof of harassment, one of the applicants (now appellants), Shri. Atobo Sumi who was present in the hearing replied that since the PIO had told them to do this and to do that, they felt harassed. However, the Commission dismissed the allegation of harassment meted out to them by the PIO since the applicant could not prove it.

During the hearing, Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland stated that he had received the RTI application dated 05.12.2024 on 06.12.2024 and on 20.12.2024 he had called up the applicants (now appellants) to collect the information, however, the applicants (now appellants) had collected the information only on 06.01.2025.

On the allegation of harassment, Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland stated that he, being a government servant is to serve the people and not to harass the people. He confirmed that there was no such harassment and the allegations by the applicants (now appellants) are baseless and deceptive.

The applicants (now appellants) confirmed that the information was received but not satisfied and moreover stated that *the PIO had not provided the details for each year separately (2019, 2020, 2021, 2022, 2023, 2024, etc) which was specifically requested which makes it difficult to analyze the allocation and utilization of funds over the years. The response does not contain segregated year-wise details of the projects from 2019 to date making it difficult to track project progress over time.*

Regarding Query No. 1:

The applicants (now appellants) were not satisfied on the reply of the PIO that *information not available at Divisional Level. The listed projects are ongoing as such no Completion Certificate has been yet issued. The PMKSY Projects are beneficiary based, as such No work Order is issued unless otherwise specifically enclosed.*

During the hearing, Er. Khrotso Koza, S.E & PIO, Water Resources Department, Nagaland, Kohima replied that the Department receives one sanction from the Ministry and accordingly only one **Utilisation Certificate** for the whole State is submitted. However, the applicant had sought for Dimapur district, but since the Department prepare

Utilisation Certificate (UC) for the whole State and not district-wise, UC for Dimapur district alone could not be given.

Regarding the **Completion Certificate**, it is issued or given only after the project is completed and handed over to the beneficiaries.

On the **Work Order**, since the project is a beneficiary mode project and not tendering of works, no work orders are issued.

On the **Sanction Orders**, no separate Sanction Order for the district are given since only sanction order for the whole State is given by the Ministry.

Regarding Query No. 2:

The PIO replied that *not available at Divisional Level. The Division does not operate Bank Account. All payments are routed through PFMS System.* However, the applicant(now appellant) stated that the PIO had denied without any valid legal reason and if payment were made through PFMS the department must provide transaction details.

Er. Khrotso Koza, S.E & PIO, Water Resources Department, Nagaland, Kohima explained that regarding to the **Release Order**, release of funds is done through the PFMS credited to the beneficiaries directly.

Furnishing of **Cheque leaves** does not arise since the amount is directly transferred to the beneficiaries.

Regarding **Bank Statement**: Each district maintains an account known as Child Account and since the amount is credited into the child accounts of the districts, it can be furnished.

Regarding Query No. 3:

The applicant (now appellant) stated that **only *24 beneficiaries*** *were listed instead of full records and hence the Response does not provide a complete list of all beneficiaries from 2019 till date. There is no justification as to why only 24 names have been provided.*

Er. Khrotso Koza, S.E & PIO, Water Resources Department, Nagaland, Kohima replied that from 2019-2024, there were only 24 beneficiaries and the name of beneficiaries, amount, project names, village names and photos were furnished.

Regarding Query No. 4:

The applicant (now appellant) stated that *the PIO had provided **only 22 photographs** without any geo-tagging details or asset ID numbers which were explicitly requested. Geo-Tagging is crucial to verify the actual location and execution of the projects.*

Er. Khrotso Koza, S.E & PIO, Water Resources Department, Nagaland, Kohima replied that from 2019-2024, out of the 24 beneficiaries, 22 photographs were furnished since two (2) projects were yet to start at the time of filing their RTI application. Now that the photos for the remaining two (2) were kept ready and can be furnished.

On the above explanation, the applicant (now appellant) expressed his **satisfaction**.

The Commission viewed seriously the allegations of harassment by the applicants(now appellants) against the PIO and had therefore cautioned the applicants (now appellants) that RTI tool is for accessing information and not for harassment.

No delay observed and hence no penalty.

DECISION

On the above observations and findings, since the applicants(now the appellants) had received the information and had also expressed satisfaction with the explanation of the public authority during the hearing, the Commission declared the case as **closed**.

Decision pronounced in the presence of both the parties on 16.04.2025 at 11:00 AM.

Copies be given to:

1. Shri. Thepfusalie Guozi, Chief Engineer & FAA, Water Resources Department, Nagaland, Kohima, Mobile No. 9436016673.
2. Er. Hutovi Swu, Executive Engineer & PIO, Water Resources Department, Chumoukedima, Nagaland, Mobile No. 9436404325.
3. The Computer Programmer, Nagaland Information Commission for uploading on the website.
4. The applicants (now appellants), Shri. Niuka Zhimo, Mobile No. 9862733705 and Shri. Atobo Sumi, Mobile No. 7630802288.
5. Office copy.

Sd/-
KEVISA KENSE (IAS Retd.)
Chief Information Commissioner

Sd/-
T. KEKONGCHIM YIMKHIUNG
State Information Commissioner

Sd/-
NOSAZOL CHARLES
State Information Commissioner

Authenticated true copy:

22/4/25

(Worhonthung Ezung)
Deputy Secretary