

NAGALAND INFORMATION COMMISSION
OLD SECRETARIAT COMPLEX,
POST BOX NO. 148
NAGALAND
KOHIMA – 797001

No. NIC/Compln-11/2008

Dated Kohima, the 27th August , 2008

COMPLAINANT : Shri Md. Joynal Uddin,
C/o Firoz Manzil, South Ramnager
(PEC) Akhaora Road, Agartala – 799001
Tripura.

RESPONDENT : Department of Transport and
PUBLIC AUTHORITY : Communication, Office of the District
Transport Officer, Mokokchung
Nagaland.

DATE OF HEARING - 6.2.2008
DATE OF DESISION - 27.2.2008

Date of order on show cause Notice 27.8.2008

The Commission in its decision on 27.2.2008 had directed the PIO and RTO, Mokokchung to show cause as to why he should not pay penalty for delay of 117 days in furnishing information sought at the rate of Rs. 250/- per each day of delay from 7.10.2007 to 31.1.2008, subject to maximum of Rs. 25,000.00.

Shri Elias T. Lotha PIO and RTO Mokokchung in his reply dated 10.3.2008 submitted that he took charge of the Office of the RTO Mokokchung on 18.10.2007 whereas the RTI application was received in the office on 6.9.2007, that the application was recovered from the locker of Ms. Tsükjemkala, LDA on 30.1.2008 and information as sought was furnished on 1.2.2008, that the delay was caused at the level of L.D.A. He submitted that he may be condoned from paying the penalty for no guilt of his as he had no role in the delay.

The Commission had therefore on 11.7.2008 directed the LDA Miss Tsükjemkala to show cause as to why she should not pay penalty for the period of delay at her level in furnishing the information sought at the rate of Rs. 250/- per each day of delay subject to maximum of Rs. 25,000.00. Miss Tsükjemkala in her written reply on 21.7.2008 submitted that she is assigned with office receipt and dispatch work, that on 6.9.2007 she received a speed post letter from the Md. Joynal Uddin, Agartala with Rs. 10.00 and since the letter was different from any normal letter she kept it aside in her locker to notify her senior/controlling Officer later but forgot about it till reminded by her H.A. on 30.1.2008. She submitted that she may be condoned from paying the penalty as she was ignorant of the Act (RTI Act 2005) and its implications and did not deliberately cause the delay.

The Commission has carefully examined the submissions of both the PIO and LDA. It is noted that the RTI Act 2005 was implemented in the State from 12 October 2005 and all Departments under the State Government have been made aware of the same through various Notifications, meetings and trainings.

Shri Elias T. Lotha joined as RTO Mokokchung on 18.10.2007 and by virtue of the PIO for that Office having being notified by official designation, became PIO from that date. On assuming charge of any such office, it is the duty of the incoming officer to take charge of all such offices and charges entrusted upon him/her and become aware of the responsibilities, including pending issues such as time bound matters under RTI as PIO of the Office. While it is observed that the LDA concerned did not bring to the notice of the PIO about the RTI application received and kept with her, the PIO cannot be altogether absolved of the responsibility of not becoming conscious of his duties as PIO and not inquiring about RTI applications pending in his Office, that also for such a longtime. It is observed that the pending RTI application was traced out on 30.1.2008 only when the Department had received notice from the Commission dated 28.1.2008 about complaint from the information seeker, not because of the sensitization of the office about RTI.

The Commission in view of above find the submission of the PIO not fully convincing nor justifiable for condonation of the penalty under Section 20 of the Act.

Miss Tsükjemkala, LDA was assigned the work of office receipt and dispatch from the time she joined the office, and in the process had received the RTI Application with fee of Rs. 10.00 by from Md. Joynal Uddin by Speed Post on 6.9.2007. She noticed that it was different from normal letter and set it aside in her locker on 6.9.2008 for notifying her controlling officer. The letter was recovered from the locker on 30.1.2008 only on being reminded by H.A. We have no comments about pendency of normal papers in that office. But under RTI there are time frames to adhere to. The locker in which the RTI application was kept must be accessible to the LDA daily in course of her work. The submission that from 6.9.2007 to 30.1.2008 the letter was not/could not be brought to notice of her superiors, that the mention of RTI Act 2005 in the subject of that application was not noticed on receipt is not reasonable.

The Commission find that the submission of the LDA Miss Tsükjemkala that she simply forgot to notify her superiors about the letter kept with her for such a long period is not fully convincing nor justifiable.

The RTI Act 2005 was implemented in the State from 12.10.2005 and various Notifications and directives have been issued by State Government as well as the Commission after its constitution on 14.3.2006 to all Departments in the State for implementation of the various provisions of the Act. The Commission had also held meeting on RTI Act 2005 at Mokokchung on 27th July 2007 during which all Heads of Offices had been called to interact on RTI implementation.

The Commission therefore decides that both the PIO and the LDA cannot be absolved of their responsibilities for the delay in furnishing the information sought and should pay penalties as per provision of the Act.

Under Section 20 (1) of the RTI Act, penalty is to be imposed at the rate of Rs. 250/- for each day of delay subject to a maximum of Rs. 25,000.00. There is a delay of 117 days i.e. from 7.10.2007 to 31.1.2008. While the LDA was the same through out, there are 2 PIOs during this period. One PIO from 6.9.2007 to 18.10.2008. One PIO from 19.10.2007 to 31.1.2008.

The penalty amount is limited to Rs. 25,000.00. For the period of delay from 18.10.2007 to 31.1.2008 – 105 days, the penalty amount is apportioned between the PIO Shri Elias T. Lotha and LDA Miss Tsükjemkala.

For the earlier period of delay from 7.10.2007 to 18.10.2007 – 12 days, the penalty amount is apportioned between the PIO of the period and the LDA Miss Tsükjemkala.

The penalty amount is worked out as follows.

7.10.2007 – 18.10.2007 = 12 days x Rs. 250 = Rs. **3,000.00**
19.10.2007 – 31.1.2008 = 105 days x Rs. 250 = Rs. **26,250.00**, limited to remaining amount of Rs. **22,000.00**.

Hence apportioned penalty amount imposed under Section 20 (1) of the Act will be as follows.

1. **Shri Elias T. Lotha PIO – Rs. 11,000.00**
2. **Miss Tsukjemkala LDA - Rs. 12,500.00**

They are directed to pay the amount by depositing it in the Government Treasury through Treasury Challan in favour of

Consultant (Accounts)
Nagaland Information Commission

Under:

Head of Account ‘0070’	-	Other Administrative Services
Minor Head 800	-	Other receipts fines under RTI Act.

Quoting this order number, date, name of the PIO and Department.

They may pay the penalty amount in 3 equal installments, by 30th September, 2008, 31st October, 2008 and 30th November, 2008.

1. For Shri Elias T. Lotha PIO – Rs. 3500.00 per installment and the remaining amount of Rs. 500.00 by 31st January 2009.
2. For Miss Tsükjemkala LDA – Rs. 3500.00 per installment and the remaining amount of Rs. 2000.00 by 31st January 2009.

Copy of the Treasury Challan showing deposit and receipt by the Treasury should be given to the consultant (Accounts) of the Commission latest by 3rd October, 2008 for 1st installment, 4th November, 2008 for the 2nd installment, 4th December, 2008 for 3rd installment and by first week of February 2009 for the balance amount.

The PIO, of the period 6.9.2007 to 18.10.2007, Office of the District Transport Officer, Mokochung, is directed to show cause as to why he should not pay penalty at the rate of Rs. 250/- per each day of delay from 7.10.2007 to 18.10.2007 as per Section 20(1) of the Act, in writing latest by 6.9.2008.

Pronounced in open proceeding today 27.8.2008.

Copies of the order be given to the parties, and to PIO of the period 6.9.2007 to 18.10.2007 Office of the District Transport Officer Mokokchung C/o the Transport Commissioner, Nagaland, Kohima.

One copy each of the order be given to

1. The Commissioner & Secretary to Government, Department of Transport, Nagaland.
2. The Transport Commissioner, Nagaland.

(P. TALITEMJEN AO)IAS (Rtd)
Chief information Commissioner,
Nagaland

(REV.DR. W. PONGSING KONYAK)
State Information Commissioner,
Nagaland

(DR. KUHOI K ZHIMOMI)
State Information Commissioner,
Nagaland.