

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

No. NIC/Compln-37/2009/

Dated Kohima, the 25<sup>th</sup> November, 2009.

**Complainant** : 1. **Shri. Nesücho Keyho Vice President DCC, Phek.**  
2. **Shri Mikha Kenye, President DCC Phek, P.O. Pfutsero Ketoupa Colony Phek district.**

**Respondent** : **Department of Rural Development , Nagaland**  
**Public Authority** : **Office of the DRDA (DRDA) Phek, Nagaland.**

**Date of hearing** - **4.11.2009**

**Date of Decision** - **25.11.2009**

**Present** : 1. **Mr. Mikha Kenye.**  
2. **Mr. Japra Swüro BDO Kikruma**  
3. **Mr. Toniho Sema, Asstt. Engineer, DRDA Phek** } **both representing**  
} **the PIO, DRDA, Phek.**

**Facts**

The Commission received a complaint from Shri Mikha Kenye, President, D.C.C. Phek, Pfutsero on 8.9.2009 stating that they had submitted RTI Application addressed to the PIO, Office of the DRDA Phek on 29.6.2009 seeking 9 items of information but that the PIO had given them misleading and incomplete information and hence they were submitting complaint to the Commission.

Shri. Nesücho Keyho, Shri Khosapa Venuh and Shri K. P. Kapfo had submitted RTI application to the PIO, Office of the DRDA Phek on 29.6.2009 seeking the following information.

1. Copy of allocation of fund (sanction order), block-wise.
2. Copy of distribution of fund, village-wise under each block.
3. List of Job Card holders, village-wise under each block.
4. Copy of work orders issued to individuals/groups and type of work for which sanctioned, village-wise under each block.
5. Equipments/materials-quantity received and value of such kind, block-wise.
6. Copy of MLA/Ministers recommendation/Instruction if any.
7. Total No. of days allocated for 2008-09 block-wise.
8. Total payment released till date block-wise.
9. Copy of APR (Actual Payment Received) block-wise.

The PIO and Project Director, DRDA Phek had vide his letter dated 29.7.2009 had given information item wise to the applicant Shri Nesücho Keyho. The applicants complain that the informations are misleading and incomplete.

During the hearing on 4.11.2009 the complainants stated as follows –  
Information on item 1 and 2 are incomplete – Pfutsero and Sekruzu RD Blocks sanction orders and work orders are not there.

Item No. 3. List of Job Card Holders of Sekruzu RD Block are not furnished.

Item No. 4. The information furnished is misleading - NREGA rules do not permit work by individuals, contracts, machinery. Contrary to reply, Individuals still continue to execute the works.

Item No. 5 - Information not in the form requested and is incomplete.

Item No. 6 - Copies of MLA/Minister recommendations were not given.

Item No. 7 - Mandays are not specific – They should be specific and convergence should be specifically mentioned.

Item No. 8 - Total payment released till date (i.e. 29.6.2009) should be block-wise, not a blanket reply.

Item No. 9 - Incomplete – APRs of only 1 Block were given. APRs of remaining 4 Blocks Sekruzu, Kikruma, Pfutsero and Phek were not furnished.

The complainant submitted that while Government had prescribed and notified rates for providing information for photo-copying on different sizes of paper etc, they were charged at unreasonably high rates ranging from Rs. 3/- to Rs. 10/- per copy, no conforming to the rates prescribed by Government.

Shri Neposo Theluo, Project Director and PIO, DRDA Phek submitted that on receipt of the RTI application dated 29.6.2009, he had called for the informations from the concerned Block Development Officers (BDOs) but some BDOs are yet to give him the information sought. Regarding the complain about charging at unreasonably high rates for providing photo copies of information, he submitted that the printing costs were higher than the prescribed rates.

He stated as follows

Item No. 1- Some information remain to be given but he is not sure whether it is for 1 Block or 2 Blocks.

Item No. 2- Full information was not given.

Item No.3- One BDO – Sekruzu Block – did not submit in time and hence Job Cards of 1 Block were not furnished.

Item No.4- Work orders inadvertently issued contravention of NREGA rules were cancelled. These wrong work orders are not valid.

- Item No.5- The information furnished is not complete as the same were as given by the BDOs concerned.
- Item No. 6- Letter stated to have been given to BDO Sekrüzou from VIP is not in the knowledge of the Project Director/PIO. List of Schemes submitted by Ministers and MLAs under LADP convergence are there.
- Item No. 7- To avoid fractions, average mandays including convergence were furnished.
- Item No. 8- Information was given that full payment was made for all allocations for 2008-09 in a simplistic manner and not Block-wise as sought.
- Item No. 9- Some APRs were furnished as received from BDOs.

The Commission note that the informations sought have not been furnished in full. The PIO in his statement made during the hearing has submitted that on receipt of the RTI application of 29.6.2009, he had called for the information from the concerned BDOs, and had given those informations as received to the applicants, in respect of most of the items. It appears that some informations are yet to be collected/received from the BDOs. The RTI Act 2005 prescribes a period of 30 days within which information sought are to be furnished, without attracting the imposition of penalty for delay. Sub Sections (4) and (5) of Section 5 of the RTI Act 2005 clearly prescribe the role and responsibilities of the Officer/Officers whose assistance the Public Information Officer has sought.

The RTI application was received on 29.6.2009 and the prescribed 30 days for furnishing information without attracting penalty for delay expired on 29.7.2009. While some information was given on 29.7.2009 these were incomplete and remain to be furnished. Hence in respect of these informations not furnished, the period of delay begins from 30.7.2009 till the information is furnished.

## **DECISION**

The Commission, in view of the finding that the informations given are not complete, direct the PIO and Project Director, DRDA Phek to furnish the complete information as sought to the applicant, free of cost for the remaining information, within 10 (ten) days from the date of pronouncement of this decision, under intimation to the Commission.

The Commission also direct the PIO & Project Director DRDA Phek to refund to the applicant whatever amount have been charged and realized for the information already furnished to the applicant over and above the rates prescribed by the Nagaland State Right to information (Regulation of Fee and Cost) Rules 2005, **i.e.** the difference between the prescribed rate and charged rate.

Under Section 20 of the RTI Act 2005, a penalty of Rs. 250/- is imposeable for each day of delay in furnishing the information without any reasonable cause, subject to maximum of Rs. 25,000.00, as also for furnishing incomplete information.

The Commission therefore direct Shri Neposo Theluo PIO and Project Director DRDA Phek to show cause as to why he should not pay penalty of Rs. 250/- for each day of delay in furnishing the remaining information for the period beginning 30.7.2009 to the date the information is actually furnished, as well as for furnishing incomplete information, within 10 days from the date of this decision.

Pronounced in open proceedings today.  
Copies be given to the parties.  
Copy be given to

1. Commissioner and Secretary, Rural Development Department, Nagaland, Kohima.
2. Director, Rural Development, Nagaland, Kohima.

Sd/-  
**P. Talitemjen Ao IAS (Rtd)**  
Chief Information Commissioner,  
Nagaland

Sd/-  
**Rev.Dr. W. Pongsing Konyak**  
State Information Commissioner,  
Nagaland

Sd/-  
**Dr. Kuhoi K Zhimomi**  
State Information Commissioner,  
Nagaland.

Authenticated by :

**(SOYIMNA AIER KOZA)**  
Under Secretary  
Nagaland Information Commission  
Kohima