

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

No./NIC/Compln.8/2007

Dated Kohima, 17th July, 2007

APPELLANT : **SHRI HELIE RUPREO**
LOWER BAYAVU HILL, KOHIMA.

RESPONDENT : **DEPARTMENT OF SCHOOL EDUCATION**
PUBLIC AUTHORITY : **(SCERT)**
GOVERNMENT OF NAGALAND, KOHIMA.

Date of Hearing : **4.7.2007.**
Date of Decision : **17.7.2007**

FACTS

The Appellant Shri Helie Rupreo, Lower Bayavü Hill, Kohima submitted RTI Application dated 12.3.2007 to the Public Information Officer, Government of Nagaland, Department of School Education (SCERT), Kohima on 19.3.2007, requesting for the following information pertaining to DIET (SCERT) regarding Seniority and promotions, listed in his application in Serial Nos. 1 to 6.

He did not receive any information in reply to his application within the prescribed 30 days. Hence he preferred appeal to the Appellate Authority, Government of Nagaland, Department of School Education (SCERT) Kohima on 26.4.2007.

He received a letter dated 5.6.2007 from the Deputy Secretary, Government of Nagaland Education Department Kohima furnishing him “Information/Comments under RTI Act 2005 pertaining to the Final Seniority and Promotion under SCERT/DIETS”, referring to his application dated 12.3.2007 and appeal dated 26.4.2007, forwarding him a copy of the Final Seniority list of Officers under SCERT/DIET and para wise comments to the informations sought.

The Commission received his second Appeal on 11.6.2007, stating that he had failed to obtain information and comments sought under RTI as both PIO and Appellate Authority refused informations to him within the time frame. He expressed dissatisfaction that the Deputy Secretary had forwarded to him the final seniority list of Officers under SCERT/DIET along with para wise replies furnished by the Director SCERT. He complained that whereas he had sought information and comments from Competent authority who instead had asked Director SCERT to provide misleading, incorrect and incomplete replies.

He approached the Commission to take up the matter as deemed fit under purview of the RTI Act.

The Appeal was heard by the full Commission on 4.7.2007. The following were present.

1. Shri Helie Rupreo
Lower Bayavü Hill, Kohima.
2. Shri Sashitemjen, Aier, Senior Academic Officer and
PIO of SCERT Directorate Kohima.

Both the PIO, Department of Education, Government of Nagaland and the first Appellate Authority did not appear.

Both parties were given opportunity to make their statements and heard.

The PIO of the SCERT Directorate submitted that they had given information and parawise comments to the Government, Department of Education on being asked by the letter but the RTI application was neither addressed nor submitted to the SCERT Directorate.

Shri Helie Rupreo, Appellant stated that on 12.3.2007 he was asked by Secretary Education to take the RTI Application to Director SCERT as the same concern SCERT, but on 19.3.2007 he on his insistence, could submit to Secretary Education, who gave the same to the Deputy Secretary, as the Superintendent, Education told him that there was no PIO in the Department, but issued a receipt for the application.

He submitted that the informations furnished to him vide letter of 5.6.2007 are not satisfactory on following counts, item wise.

1. The reply that Notification No. AR-5(ASS)-98 dated Kohima the 16th November, 2006 may cover all Departments in not clear.
2. The reply that the SCERT was not aware of the Cabinet approval OM No. CAB-2/2003 dated 3.10.2006 nor the Government Notification No. AR-5 (ASS)-98 dated Kohima 16.11.2006 is misleading.
3. He had asked for the proceedings/Minutes of tentative seniority list examination No. EDS/DIET-1/05(pt) dated 17.11.2006, pertaining to Mrs. Kerüüpfëü, Sr. Lecturer DIET and Sr. Lecturers Sl. No. 1 – 6 which was not given.
4. He had asked whether the final seniority list 2006 would stand as notified, but the Department had only forwarded the Comments/views of the Director SCERT, without giving the specific information sought.
5. He had wanted information on progress status of representations, and those responsible for delay; if any action is contemplated against those if found guilty, but received only the information of SCERT Directorate that it has been forwarded to Government.
6. He wanted to know if laid down Rules and Regulations pertaining to departmental promotion procedure were adhered to, and if so justifications with relevant rules etc., from the Department but only SCERT Director comments that the same were dealt with at Government level were forwarded to him.

He therefore prayed that all the specific informations that he had requested the Department may be given to him.

In the absence of any representative of the Respondent Public Authority at the Government level, no clarifications could be obtained.

DECISION NOTICE.

The Commission note that the reply to serial No. 1. of the application contains nothing negative but can be clarified about its applicability. The applicant had addressed the RTI application to the Department of Education, (SCERT), Government of Nagaland seeking specific information on every one of the items in the application. We find that while a reply has been given by the Department, informations given are of an interim nature of comments/views that the matters are resting at, or can be given from the Government level of the Department. It is necessary for the authority at the appropriate level of the Department which is dealing with such matters to furnish the informations which are held by it, which in this case is the Department of Education (SCERT), Government of Nagaland.

The Commission therefore direct the PIO of the Department of Education (SCERT) to furnish the informations sought to the appellant, free of cost, within 10 (ten) working days from the date of issue of this decision and report compliance.

The Commission also observe that the Department has not handled this RTI application in the initial stages carefully, informing applicant that there is no PIO in the Department and simply forwarding comments of the Director (SCERT). The Department is advised to be more careful in handling such RTI applications in future.

The Commission also observe that the Appellant has in his appeal to the Commission, alleged that the competent authority, i.e. Department of Education, "had asked Director SCERT to provide misleading, incorrect and incomplete replies with no relevant information". This allegation has not been substantiated. The appellant is advised not to use such allegations against the respondent Public Authority in future unless it can be substantiated.

The Commission find that there has been a delay of 47 days, from 19.3.2007, the date of receipt of the RTI Application, to the day the reply/information was given on 5.6.2007. The application of Shri Helie Rupreo dated 12.3.2007 was received in the Department on 19.3.2007 and the information sought should have been given by 19.4.2007, within the prescribed 30 days.

As per section 20 (1) of the RTI Act 2005 penalty is to be charged at a rate of Rs. 250/- per day, starting from the completion of 30 days from the date of receipt of the original application, till the actual date of providing the information, subject to a maximum of Rs. 25,000/-. Therefore, the penalty is liable to be imposed for the number of days from 19.3.2007 to the date the same is furnished, i.e. 5.7.2007.

Hence the PIO is directed to appear before the Commission on 3.8.2007 (Friday) at 1100 hours in the Zonal Council Hall, Kohima to show cause as to why he should not pay a penalty of Rs. 250/- per day for every day of delay in furnishing the documents/information sought to the appellants, subject to a maximum of Rs. 25,000/-.

This decision is pronounced in open proceedings today 17th July, 2007.

Copy of this decision be given to the parties.

One copy each be given to

1. The Principal Secretary to Government of Nagaland, Department of Education (SCERT) Kohima.
2. The Director (SCERT) Nagaland, Kohima.

S/- P. TALITEMJEN AO
Chief Information Commissioner,
Nagaland.

Sd/-
REV. DR. W. PONGSING KONYAK
State Information Commissioner,
Nagaland.

Sd/-
DR. KUHOI K ZHIMOMI
State Information Commissioner,
Nagaland.

Authenticated

(ADINO)
Sr. P.S. to Chief Information Commissioner,
Nagaland.

Copy to
Home Commissioner, Nagaland, Kohima.
(Shri A. Jami, Secretary Home)