

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

No. NIC/Compln-1/2007

Dated Kohima, the 2nd May, 2007

APPELLANT : **SHRI K. C. ANGAMI,
PRESIDENT, (NGRC-I CU)**

RESPONDENT : **DEPARTMENT OF WORKS &
PUBLIC AUTHORITY HOUSING
OFFICE OF THE
CHIEF ENGINEER PWD (HOUSING)
GOVERNMENT OF NAGALAND**

DATE OF HEARING - **18.4.2007**
DATE OF DECISION - **2.5.2007**

FACTS

The appellant Shri K.C. Angami submitted an application dated 28.8.2006 under RTI to the Public Information Officer, Office of the Chief Engineer, PWD (Housing) Nagaland, Kohima requesting for the following documents.

Name of works - i) Construction of Assembly Complex at New Capital Complex, Kohima.
ii) Construction of Medical Directorate at New Capital Complex, Kohima
iii) Construction of PCCF Officer Complex at Kohima.
iv) Construction of Eleven Ministers Bungalow at Kohima.

1. Copy of Notice Inviting Tender with clips of all the newspaper advertisements
2. Copy of Work Order
3. Original Cost
4. Final Revised Cost as on date.
5. Escalation of rate awarded to the contractor.
6. Upto date expenditure along with Bill vouchers
7. Bills of quantities
8. Contract agreement with terms and conditions of contract
9. Comparative statement of tenders

On not receiving any response from the Public Information Officer within 30 days, the applicant submitted an appeal dated 9.11.2006 before the first appellate Authority, the Appellate Authority of the office of the Chief Engineer PWD (Housing).

He did not receive any decision from the Appellate Authority within the statutory time limit.

He therefore preferred second appeal dated 19.3.2007 before the Commission and prayed for necessary action according to provisions of RTI.

The matter was heard by the full Commission on 18.4.2007. The following were present.

1. Shri K.H. Savi Advocate,
Legal Advisor (NGRC-I CU)
2. Shri. N. Chielie,
Engineer-In-Chief PWD, Nagaland
3. Shri Chambemo Lotha,
APIO and SE (Housing).

The PIO was stated to be on tour.

Both the parties were given opportunity to make their averments and heard.

The APIO stated that he was unaware about the request for information.

Shri N. Chielie, the Engineer-In-Chief stated that the first appeal by the appellant was not given to the Appellate Authority the Engineer-In-Chief. He submitted a written statement to the Commission mentioning that

- (1) Almost all the Officers listed as Appellate Authority, PIO and APIOs of the Department have either been transferred to other Departments or retired from service on superannuation, and requested the Commission to issue order/direct the Department to make necessary changes/update.
- (2) The second appeal under Section 19(3) of RTI Act 2005 and Rules there under is barred by limitation and be dismissed.
- (3) The first Appeal dated 9.11.2006 was filled to the wrong authority as Engineer-In-Chief PWD is the first Appellate Authority and not the office of Chief Engineer PWD (Housing). The Engineer- In- Chief (PWD) had not received any appeal and hence the present appeal be dismissed with cost.

- (4) The application Dated 28.8.2006 and the appeal dated 9.11.2006 of NGRC-1 CU were duly initiated by Chief Engineer PWD (Housing) on 13.11.2006, directing the Executive Engineer to furnish the documents as desired by NGRC-1 CU within 3 (Three) days, and that the Chief Engineer PWD (Housing) had personally furnished the desired documents to the President NGRC-! CU vide his letter dated 13.11.2006, directing him to get Xerox Copies from Officers in Charge. He maintained that the Chief Engineer PDW (Housing) had taken initiative and taken action in good faith, hence requested for protection under Section 21 of RTI Act 2005. He requested the second appeal to be dismissed.

The Appellant stated that no information was ever received, and that the papers/documents requested should be ready and furnished by the PIO and his office. Those which are not dealt by the PIO, should be transferred to the concerned Public Authority as per provision of RTI Act. He maintained that the application dated 28.8.2006 was received by the office of the Public Information Officer on 28.8.2006 and the receipt is at Annexure 'B'.

DECISION NOTICE

The APIO Shri Chambemo Lotha, was asked to identify the receipt in question. He confirmed that the receipt was actually issued by the PIO's Office on 28.8.2006.

He submitted that of the 4 (four) works in respect of which documents were requested, 3 (three) works are with PWD (Housing), while 1 (one) work viz, construction of PCCF Office Complex, Kohima is with Forest Department.

The Commission finds that the PIO of the Department had not furnished any information to the to the applicant in response to the application dated 28.8.2006 within the given of 30 days. The Commission is constrained to observe that though there is a clear receipt of having received the application in the PIO's office on 28.8.2006, the Departmental representatives had maintained that they were unaware of the same.

While on receipt of the first appeal dated 9.11.2006, the Chief Engineer Road & Bridges (Housing) had reportedly issued instructions to the Executive Engineer to furnish the documents within 3 days to the appellants, no such documents are on record to have been furnished, till the date of hearing on 19.4.2007. If some of the information sought is held by another Public Authority, it is the responsibility of the PIO to transfer the same under Section 6 (3) of the RTI Act 2005.

There has been a delay of 172 days from the date the information should have been furnished by the PIO. Hence the PIO is directed to appear before the Commission on 15.5.2007 (Tuesday) at 1100 hrs. to show cause why he should not pay a penalty of Rs.250/- per day for every day of delay in furnishing the documents to the applicant.

The Commission also find that there has been default and delay on the part of certain officials in processing/ attending to his application under RTI. The PIO is

directed to inquire into the specific official responsible for such default and delay, fixing the responsibility for the time taken with each. Such Officials will appear before the Commission at 1100 hrs. on 15.5.2007 to show cause why each should not pay a penalty of Rs. 250/- for every day of default.

The Commission hereby directed the PIO of the Department to furnish the documents as requested to the appellants free of cost within 10 (ten) working days from the date of pronouncement of this decision and report compliance.

This decision is pronounced in open proceeding today 2nd May, 2007.

(P. TALITEMJEN AO)
Chief Information Commissioner
Nagaland.

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

(DR. KUHOI K ZHIMOMI)
State Information Commissioner
Nagaland