Before the Central Information Commission

2nd Floor, 'B' Wing, August Kranti Bhawan, Bhikaiji Cama Place, New Delhi- 110 066

Complaint admitted under Section 18(1)(c), (e) and (f) of

The Right to Information Act, 2005

Complaint No. CIC/CC/C/2016/000029

In the matter of

Venkatesh Nayak vs The CPIO, Ministry of Home Affairs

Submission of counter to the response
filed on behalf of the Respondent Public Authority
along with
further amended prayers

Date of submission: 20/01/2017

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S. S. Venkatesh Nayak

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The aforementioned Complainant respectfully submits as below:

1) that this Hon'ble Commission, at its hearing, in the instant case, dated, 20/09/2016 was pleased to record the following observations and issue the following direction:

"**Discussion/Observations:**

11. From the statement of the respondent Ministry of Home it appears that they do not have the documents sought by the complainant as all documents are available with the Office of the Chairman, Joint Intelligence Committee.

12. The respondent may clarify whether the Chairman, Joint Intelligence Committee is part of the Ministry of Home or it is an independent Public Authority. The respondent may categorically indicate whether they have the documents sought for by the complainant. Further, if required, respondent may explain the harm that may be caused by disclosing the document, if they are holding it with them.

Decision:

13. The respondent is directed to take action as per para 12 above.";

2) that after waiting for more than two months and not receiving a copy of the clarification filed by the Respondent Public Authority as per the directions of this Hon'ble Commission, this Complainant contacted the Registry of this Hon'ble Commission in December 2016 to ascertain the status of the instant case. Subsequently, he was informed by the Registry that the Respondent Home Ministry was yet to file its clarification before this Hon'ble Commission. Subsequently, the Registry informed this Complainant telephonically that the Respondent Home Ministry has filed its clarification

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pursuant to the directions of this Hon'ble Commission. This Complainant has not received a copy of the said clarification from the Respondent Public Authority till date. This Complainant obtained a copy of the clarification dated 28 December, 2016, filed by the Respondent Public Authority from the Registry in January, 2017;

3) that in its clarification dated 28 December, 2016 submitted to this Hon'ble Commission, the Respondent Public Authority has stated that it does not hold the documents sought by the Complainant in the instant RTI application, instead the same are held by the official Interlocutor and GOI representative for Naga Peace Talks, New Delhi;

4) that in the said clarification, the Respondent Public Authority has also stated that for RTI queries relating to the Office of the Interlocutor and GOI Representative for Naga Peace Talks, the same will be answered by NE Division of Ministry of Home Affairs in consultation with his office. This Complainant believes that the said clarification filed by the Respondent Public Authority indicates clearly that the Office of the Interlocutor and GOI Representative for Naga Peace Talks is not an independent public authority within the meaning of the term "public authority" as defined in Section 2(h) of the RTI Act. It may therefore be inferred that the Office of the Interlocutor and GOI Representative for Naga Peace Talks is an attached office to the Respondent Public Authority. Further, the absence of a Central Public Information Officer appointed in the Office of the Interlocutor and GOI Representative for Naga Peace Talks and the candid admission by the Respondent Public Authority about the existence of the consultative arrangement between the said office and itself, for the purpose of responding to RTI queries relating to the Office of the Interlocutor and GOI Representative for Naga Peace Talks, both indicate that the ultimate responsibility for making a decision on the information request contained in the instant RTI application vests in the Respondent Public Authority;

5) that para #3 of the clarification submitted by the Respondent Public Authority to this Hon'ble Commission pursuant to its directions issued on 20/9/2016 clearly indicates that the CPIO of the Respondent Public Authority has consulted with the Office of the Interlocutor and GOI Representative for Naga Peace Talks regarding the request for information in the instant RTI application;

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6) that the said para #3 of the clarification submitted by the Respondent Public Authority clearly indicates that the Office of the Interlocutor and GOI Representative for Naga Peace Talks had communicated to the Respondent Public Authority that the 'document' sought in the instant RTI application is a 'secret document' and is exempt under Section 8 (1)(a) of the RTI Act;

7) that in its interim order dated 27/7/2016 in the instant case, this Hon'ble Commission was pleased to direct as follows:

"**Decision:**

10. The respondent is directed to give a detailed justification on points 1 to 4 and 6 to 7 of the RTI application to the Commission with a copy to the appellant within 30 days of the order....";

8) that in light of the facts narrated above in this Complainant's humble opinion the following points emerge for the consideration of this Hon'ble Commission:

8(i) that the consultation conducted by the Respondent Public Authority with the Office of the Interlocutor and GOI Representative for Naga Peace Talks regarding the contents of the instant RTI application takes the colour of assistance sought by the CPIO from any other officer under Section 5(4) of the RTI Act;

8(ii) that the Office of the Interlocutor and GOI Representative for Naga Peace Talks has provided its opinion on whether or not disclose the information in the negative;

8(iii) that the CPIO of the Respondent Public Authority is now required to apply her mind independently to advice received from Office of the Interlocutor and GOI Representative for Naga Peace Talks to the contents of the instant RTI application in light of the requirements for making a decision on the instant RTI application;

9) that nothing in the clarification dated 28th December, 2016 submitted by the Respondent Public Authority indicates that the CPIO has arrived at a decision on the instant RTI application regarding whether or not to disclose the information sought at points #1-4

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and 6 and 7 based on the consultation with the Office of the Interlocutor and GOI Representative for Naga Peace Talks. Instead, the CPIO has only reported the view of the Office of the Interlocutor and GOI Representative for Naga Peace Talks regarding disclosure of the Framework Agreement without an accompanying decision that the RTI Act requires and empowers her to take in this matter;

10) that the opinion tendered by the Office of the Interlocutor and GOI Representative for Naga Peace Talks is merely an opinion and cannot be elevated to the status of a decision of the CPIO for the following reasons:

10(i) because Section 7(1) of the RTI Act vests the power coupled with duty to make a decision on whether or not to disclose the information sought in an RTI application solely in the CPIO of a public authority and nothing in the RTI Act permits the delegation of that power coupled with duty to any other officer howsoever senior or junior in rank;

10(ii) because in the matter of ***J P Agrawal vs Union of India & Ors.,*** **[2011 VII AD (Del.) 625]**, the Hon'ble Delhi High Court was pleased to explain the ambit of Sections 5(4) and 5(5) vis-à-vis the statutory responsibilities of the CPIO under Section 7(1) of the RTI Act in the following terms:

> "7. Section 4 of the Act obliges every public authority to publish inter alia the particulars of facilities available to citizens for obtaining information and the names, designations and other particulars of the PIOs. Section 5 requires the public authorities to designate PIO to provide information to persons requesting for information under the Act. Such PIOs, under Section 5(2) of the Act are to receive applications for information and under Section 5(3) of the Act are to deal with request from persons seeking information and render reasonable assistance to the information seekers. The Act having required the PIOs to "deal with" the request for information and to "render reasonable assistance" to the information seekers, cannot be said to have intended the PIOs to be merely Post Offices as the Petitioner would contend. The expression "deal with", in Karen Lambert v. London Borough of Southwark (2003) EWHC 2121 (Admin) was held to include everything right from receipt of the application till the issue of decision thereon. Under Section 6(1) and 7(1) of the RTI Act, it is the PIO to whom the application is submitted and it is he who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information, the PIO is expected to recommend a remedial action to be taken. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.

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8. Even otherwise, the very requirement of designation of a PIO entails vesting the responsibility for providing information on the said PIO. As has been noticed above, penalty has been imposed on the Petitioner not for the reason of delay which the Petitioner is attributing to Respondent No. 4 but for the reason of the Petitioner having acted merely as a Post Office, pushing the application for information received, to the Respondent No. 4 and forwarding the reply received from the Respondent No. 4 to the information seeker, without himself "dealing" with the application and/or "rendering any assistance" to the information seeker. The CIC has found that the information furnished by the Respondent No. 4 and/or his department and/or his administrative unit was not what was sought and that the Petitioner as PIO, without applying his mind merely forwarded the same to the information seeker. Again, as aforesaid the Petitioner has not been able to urge any ground on this aspect. The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure. A responsible officer cannot escape his responsibility by saying that he depends on the work of his subordinates. The PIO has to apply his own mind independently and take the appropriate decision and cannot blindly approve / forward what his subordinates have done." [emphasis supplied]

Going by the considered opinion of the Hon'ble Delhi High Court it is crystal clear that the CPIO in the instant case cannot abdicate her statutory responsibility for making a decision on an RTI application by merely conveying an opinion of a colleague in the Respondent Public Authority who is not authorised to make any decision in relation to a request for information submitted under the RTI Act. The CPIO herself has admitted that the Office of the Interlocutor and GOI Representative for Naga Peace Talks and it may be reasonably inferred from the clarification filed with this Hon'ble Commission that the said office does not even have a CPIO. Therefore it is reasonable to expect that the Official Interlocutor will not be conversant with the requirements under the RTI Act as would a CPIO specifically designated to perform the mandated functions and responsibilities under the RTI Act. By simply conveying the opinion of the Office of the Interlocutor and GOI Representative for Naga Peace Talks in her clarification the CPIO of the Respondent Public Authority appears to have tacitly agreed with the said opinion. This Complainant believes that this is indicative of a lack of due application of mind to the opinion so tendered;

11) that nothing in the scheme or language of Section 8(1)(a) of the RTI Act enables a CPIO to reject access to information on the ground that it is contained in "secret documents". Further, according to Section 19(5) of the RTI Act the onus or burden of proving that the rejection of a request for information was justified lies on the

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Respondent Public Authority. Nothing in the clarification filed by the said CPIO indicates that this burden has been adequately discharged;

12) that there is clear indication of the intention of transparency regarding the Naga Framework Agreement in the press release caused to be published by the Prime Minister's Office on 03/08/2015 soon after the agreement was signed (**see Annexe 1**). The said para states:

"Within this framework agreement, details and execution plan will be released shortly.";

13) that more than 18 months have passed since the signing of the framework agreement, no further information has been released to the public till date by the Government;

14) that should this Hon'ble Commission arrive at a determination that the information sought at paras #1-4 and 6 and 7 of the RTI application should not be disclosed, this Complainant puts forth the following larger public interest grounds for consideration for directing the disclosure of the information under Section 8(2) of the RTI Act:

14(i) that the Respondent Public Authority extended the application of the Armed Forces (Special Powers) Act as recently as in November 2016 citing the undesirable activities of the very groups with whom the Naga Framework Agreement has been signed. A copy of the notification is at **Annexe 2**;

14(ii) that the CPIO of the Respondent Public Authority has clearly indicated in response to another RTI application filed by this Complainant subsequently, that the Office of the Interlocutor and GOI Representative for Naga Peace Talks has not been consulted prior to the issuance of the said notification. A copy of the RTI application and the CPIO's reply is at **Annexe 3**;

14(iii) that given the well advertised policy of the present Government of zero tolerance of towards militant groups that constitute a threat to public order (*ordre public*), there is no clarity regarding the official policy of the present Government in the instant case;

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14(iv) that transparency of all information requested at paras #1-4 and 6 and 7 is imperative for the public to understand that the present Government has a coherent policy for dealing with public order issues especially in the Northeastern part of India. Therefore the disclosure of the said information will serve the public interest well;

15) that in view of the long delay in the disposal of this case and the clear admission of the Office of the Interlocutor and GOI Representative for Naga Peace Talks that the information should not be disclosed, no purpose will be served by remanding this matter back to the CPIO or the First appellate authority of the Respondent Public Authority;

16) that this Complainant humbly requests for the amendment of the original prayers submitted in the original Complaint dated 29/11/2015 and as amended in the counter filed on 14/9/2016 as follows:

16(i) that this Hon'ble Commission grant leave for converting this Complaint into an appeal under Section 19(3) of the RTI Act;

17) that there is precedent for the conversion of a complaint into an appeal under Section 19(3) of the RTI Act. In the matter of *Venkatesh Nayak vs CPIO, Ministry of Rural Development*, Decision No. CIC/YA/C/2015/000246/SB, dated 20/06/2016, this Hon'ble Commission in a similar case where the Respondent Public Authority denied the existence of the requested information permitted this Complainant to covert the original complaint into an appeal under Section 19(3) of the RTI Act. A copy of the said decision is at **Annexe 4**.

18) I solemnly affirm that the aforementioned facts are true to the best of my knowledge.

Signature of the Complainant/Appellant:

S. P. Venkatesh Nayak

(Venkatesh Nayak) 20/1/17

ANNEXE-1

Print

Press Information Bureau
Government of India
Prime Minister's Office

03-August-2015 19:20 IST

PM witnesses the signing of historic peace accord between Government of India and Nationalist Socialist Council of Nagaland (NSCN)

The Government of India and the National Socialist Council of Nagaland (NSCN) successfully concluded the dialogue on Naga political issue, which has existed for six decades, and signed an agreement today in the presence of the Hon'ble Prime Minister Shri Narendra Modi.

Government's Interlocutor for Naga Peace Talks, Shri R.N. Ravi, signed the Agreement on behalf of the Government of India. Shri Isak Chishi Swu, Chairman and Shri Th. Muivah, General Secretary were the signatories on behalf of the NSCN. The entire top leadership of the NSCN (IM), including all members of the "collective leadership", has fully endorsed the agreement and was present during the ceremony.

This agreement will end the oldest insurgency in the country. It will restore peace and pave the way for prosperity in the North East. It will advance a life of dignity, opportunity and equity for the Naga people, based on their genius and consistent with the uniqueness of the Naga people and their culture and traditions.

Attempts were made from time to time to resolve the issue through discussion with representatives of the Naga people. A fresh attempt for a comprehensive resolution was initiated with the NSCN in 1997.

The new Government on assuming power in May 2014 accorded highest priority to this lingering problem. Prime Minister Shri Narendra Modi has on a number of occasions, including during visits to the Northeast region, articulated his vision for transforming the Northeast and has attached the highest priority to peace, security, connectivity and economic development in the region. This has also been at the heart of the Government's foreign policy, especially 'Act East' Policy.

The sustained dialogue between the two sides, conducted in a spirit of equality, respect and trust, deepened their mutual understanding and confidence, and enabled the two sides to reach an equitable agreement. The Government of India recognized the unique history, culture and position of the Nagas and their sentiments and aspirations. The NSCN understood and appreciated the Indian political system and governance.

The Government interlocutor also held frequent consultations with broad spectrum of Naga leaders, including those from the traditional tribal bodies, civil society, youth and students' bodies, women's groups, elected representatives and other stakeholders. These consultations helped in distilling the popular aspirations of the Naga people and in enhancing a healthy atmosphere of trust and understanding.

In his statement at the signing ceremony, the Hon'ble Prime Minister lauded the courage and wisdom of the Naga leaders and civil society and thanked them for their co-operation in reaching the agreement. He also praised the Naga people for their support and the NSCN for maintaining the ceasefire for nearly two decades that enabled the dialogue to succeed. Prime Minister spoke of his vision for the transformation of the Northeast region. He also expressed confidence that the agreement will open a glorious new chapter for the Naga people to build a bright future for Nagaland and also contribute to the nation with a sense of pride and confidence.

Shri Th. Muivah, General Secretary, NSCN, narrated the history of Nagas' struggle and thanked the Hon'ble Prime Minister for his vision and resolve, which made it possible for the Government of India and the NSCN to reach an honourable settlement.

Within this framework agreement, details and execution plan will be released shortly.

Hon'ble Home Minister, Shri Rajnath Singh, National Security Adviser, Shri Ajit Doval and other high dignitaries of the Government of India were present.

The NSCN was represented by its entire collective leadership and senior leaders of various Naga tribes.

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ANNEXE 2

रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 4 नवम्बर, 2016

का.आ. 3383(अ).—यत: केन्द्रीय सरकार ने, सशस्त्र बल (विशेष शक्तियां) अधिनियम, 1958 (1958 का 28) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, दिनांक 04.05.2016 की अधिसूचना का.आ. 1646 (अ) के अंतर्गत अरुणाचल प्रदेश के तिरप, चांगलांग एवं लांगडिंग जिलों तथा असम राज्य की सीमा से लगे अरुणाचल प्रदेश के जिलों में सोलह पुलिस थानों/पुलिस चौकी के अधिकार क्षेत्र में आने वाले क्षेत्र को 'अशांत क्षेत्र' के रूप में घोषित किया था।

और यत: अरुणाचल प्रदेश के तिरप, चांगलांग एवं लांगडिंग जिलों और असम राज्य की सीमा से लगे अरुणाचल प्रदेश के जिलों में सोलह पुलिस थानों/पुलिस चौकी के क्षेत्राधिकार के भीतर आने वाले क्षेत्र में कानून एवं व्यवस्था की स्थिति की समीक्षा से यह पता चलता है कि :-

(i) अभी तक जारी नागा विद्रोह की वजह से तिरप,चांगलांग एवं लांगडिंग जिलों में सुरक्षा की स्थिति खराब बनी हुई है;

(ii) एनएससीएन/के, एनएससीएन/आईएम, एनएससीएन/आर तथा एनएससीएन/एनके नामक नागा भूमिगत गुट जबरन धनवसूली, क्षेत्र आधिपत्य, अन्तर गुटीय शत्रुता जैसी गतिविधियों में संलिप्त हैं;

(iii) एनएससीएन (के) उल्फा (आई) के साथ सक्रिय रूप से मिलकर सुरक्षा बलों को निशाना बनाने के अपने प्रयासों को जारी रखे हुए है·

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(D)

(iv) एनएससीएन (आई एम) अब तक एनएससीएन (के) द्वारा अधिकृत क्षेत्रों पर आधिपत्य प्राप्त करने का प्रयास कर रहा है तथा डराने/धमकाने और जबरन धन वसूली करने का कार्य कर रहा है;

(v) एनएससीएन (आर) तिरप, लांगडिंग तथा चांगलांग जिलों में भी सक्रिय हैं तथा अपने सशस्त्र काडरों के साथ स्थानीय युवकों को भर्ती करने पर ध्यान केन्द्रित कर रहा है;

(vi) एनएससीएन (एन के) लांगडिंग जिले में अपना प्रभाव जमाने में सफल रहा है तथा वह जबरन धनवसूली एवं अपहरण में लगा हुआ है;

(vii) उल्फा (आई) ने अरुणाचल-असम सीमा पर कतिपय पॉकेटों में जबरन धन वसूली में संलिप्त होना शुरू कर दिया है। इन क्षेत्रों में विद्रोह-रोधी प्रचालनों से बचने तथा म्यांमार में/से घुसपैठ करने के लिए एनडीएफबी (एस) तथा एनडीएफबी (आर) काडरों की आवाजाही की भी सूचना है।

अत: अब, अरुणाचल प्रदेश के तिरप, चांगलांग एवं लांगडिंग जिलों तथा असम राज्य की सीमा से सटे अरुणाचल प्रदेश के जिलों के निम्नलिखित पुलिस थानों/पुलिस चौकी के अधिकार क्षेत्र में आने वाले क्षेत्रों को सशस्त्र बल (विशेष शक्तियां) अधिनियम, 1958 की धारा 3 के अंतर्गत दिनांक 4.11.2016 से छह महीने के लिए, जब तक कि इससे पहले इसे वापस न लिया जाए, 'अशांत क्षेत्र' घोषित किया जाता है:-

(i) पपूमपारे जिले में बंदरदेवा, देवमुख, बालिजन एवं किमिन पुलिस थाने;

(ii) पश्चिम सियांग जिले में लिकाबली पुलिस थाना;

(iii) पूर्वी सियांग जिले में रुक्सिन, नारी एवं ओयान पुलिस थाने;

(iv) निचली दिबांग घाटी जिले में रोइंग पुलिस थाना;

(v) पूर्वी कैमंग जिले में सेइजोसा पुलिस थाना;

(vi) पश्चिमी कैमंग जिले में भालूकपोंग एवं बालेमू पुलिस थाने;

(vii) नामसई जिले में नामसई एवं महादेवपुर थाने;

(viii) लोहित जिले में सनपुरा पुलिस थाना;

(ix) दुलुंग मुख पुलिस चौकी, लोअर सुबनसिरी जिला।

[फा.सं. 11011/104/2015-एन ई-V]

सत्येन्द्र गर्ग, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 4th November, 2016

S.O. 3383 (E).—Whereas the Central Government in exercise of the powers conferred by Section 3 of the Armed Forces (Special Powers) Act, 1958(28 of 1958) had declared the Tirap, Changlang and Longding districts of Arunachal Pradesh and the area falling within the jurisdiction of sixteen police stations/police out post in the districts of Arunachal Pradesh bordering State of Assam as 'disturbed area' vide Notification S.O. 1646(E) dated 4.5.2016.

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And whereas a further review of the law and order situation in Tirap, Changlang and Longding districts of Arunachal Pradesh and in the area falling within the jurisdiction of sixteen police stations/police out post in districts of Arunachal Pradesh, bordering the State of Assam indicate that: -

i) security scenario in Tirap, Changlang and Longding districts remains vitiated by the spillover of Naga insurgency;
ii) Naga UG factions namely NSCN/K, NSCN/IM, NSCN/R & NSCN/NK continue to indulge in extortion, area domination, recruitment of locals, inter-factional rivalry;
iii) NSCN(K), in active participation with ULFA(I), is persisting with its attempts to target Security Forces;
iv) NSCN (IM) is contriving to dominate areas hitherto occupied by NSCN(K) and is resorting to intimidation and extortion;
v) NSCN(R) is also active in Tirap, Longding and Changlang districts and with its armed cadres has been focusing on recruiting local youth;
vi) NSCN(NK) has managed to gain a foothold in Longding district and is engaging in extortion and abduction;
vii) ULFA(I) has started indulging in extortion in certain pockets along Arunachal-Assam boundary. Movement of NDFB(S) and NDFB (R) cadres has also been reported in these areas for escaping Counter Insurgency operations and for infiltrating to/from Myanmar.

Now, therefore, Tirap, Changlang and Longding districts in Arunachal Pradesh and the areas falling within the jurisdiction of the following police stations/police out post in the districts of Arunachal Pradesh, bordering the State of Assam, are declared as 'disturbed area' under Section 3 of the Armed Forces (Special Powers) Act, 1958 for six months w.e.f. 4.11.2016, unless withdrawn earlier: -

i) Banderdewa, Doimukh, Balijan and Kimin police stations in Papumpare district;
ii) Likabali police station in West Siang district;
iii) Ruksin, Nari and Oyan police stations in East Siang district;
iv) Roing police station in Lower Dibang Valley district;
v) Seijosa police station in East Kameng district;
vi) Bhalukpong and Balemu police station in West Kameng district;
vii) Namsai and Mahadevpur police stations in Namsai district;
viii) Sunpura police station in Lohit district; and
ix) Dulung Mukh Police Out Post, Lower Subansiri district.

[F. No. 11011/104/2015-NE-V]

SATYENDRA GARG, Jt. Secy.

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Issue Copy
S-S. Kulkarni, Nagpur

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ANNEXE 3

No. RTI/GoI/MHA/2016/10 Date: 10/11/2016

From,
Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi- 110 016

To,
The Central Public Information Officer
Ministry of Home Affairs
Government of India
North Block
New Delhi -110 001

अधिपत्र COUNTERFOIL
इसे फाड़कर प्रेषक अपने पास रख ले।
To be detached and kept by the Sender.
पोस्टल आर्डर
₹ 10
POSTAL ORDER
किसे अदा करना
To whom payable
किस डाकघर में
At what Office
क्या इसे क्रास किया है
Whether crossed NO
भेजने की तारीख
Date sent 10/11/16
38F 078269

Dear sir,

Sub: Submission of request for information under *The Right to Information Act, 2005*

I would like to obtain the following information in relation to your Ministry's notification– S. O. No. 3383 (E) published in the Gazette of India (Extraordinary) dated 04/11/2016, under the RTI Act:

a) a clear photocopy of all inputs received from any source, related file notings, as well as the correspondence pertaining to the decision to declare the districts of Tirap, Changlang and Longding and the 16 police stations/outposts in the State of Arunachal Pradesh bordering the State of Assam as specified in the said notification, as 'disturbed areas' under Section 3 of *The Armed Forces (Special Powers) Act, 1958* (AFSPA);

b) a clear photocopy of all representations/petitions/submissions from any source opposing or supporting the decision to notify the said districts and areas under AFSPA received from 01 November 2013, till date;

c) A clear copy of all correspondence entered into with the Government of Arunachal Pradesh in relation to the said notification prior to its issuance;

d) A clear copy of all correspondence entered into with the Government of India Interlocutor/Office of the Government of India Representative for Naga Peace Talks in relation to the issuance of the said notification; and

e) A clear copy of all file notings related to the subject matter specified in para #1(d) above.

I am a citizen of India. I have enclosed an IPO (bearing #38F 012813) for Rs. 10/- towards payment of the prescribed application fee. I would like to receive this information by post at my address mentioned above. Kindly inform me of the additional fee payable for obtaining the information described above.

Thanking you,
Yours sincerely,

S.S. Venkatesh Nayak 10/11/16

Venkatesh Nayak

Face Copy
S.S. Venkatesh Nayak

(13)

RTI MATTER

No. 6/13/2015-NE.I (pt.)
Government of India
Ministry of Home Affairs
* * *

North Block, New Delhi-1
Dated the 15th Dec. 2016

To

Shri Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chamber-I
Kalu Sarai
New Delhi – 110 016.

Sub.: Information under RTI Act, 2005

Sir,

I am to refer to your RTI application Regn. No. MHOME/R/2016/03033 dated 02.12.2016 received in this Ministry on 06.12.2016 and forwarded by D S (NE.II), MHA (endorsement No. 11011/65/2012-NE.V dated 13.12.2016) on the subject cited above and to say that in so far as issues (d) & (e) of the application are concerned, that no correspondence between this Ministry and Government of India Interlocutor/ O/o Govt. of India Representative for Naga Peace Talks took place on issuance of the said notification.

2. The Appellate Authority in this case is Shri Satyendra Garg, JS (NE), MHA, R.No. 109-C, North Block, New Delhi-110 001.

Yours faithfully,

A. Radharani

(A. Radha Rani)
Deputy Secretary (NE-III) / CPIO
TELE NO. 2309 2485

Copy to:

(i) D S (NE-II), MHA w.r.t their endorsement quoted above;
(ii) S O (IT Cell).

Faxed Copy
S. S. Venkatesh Nayak

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ANNEXE-4

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110066

Decision No. CIC/YA/C/2015/000246/SB

Dated 20.06.2016

Complainant	:	Shri Venkatesh Nayak, 55-A, 3rd Floor, Siddharth Chabers-1, Kalu Sarai, New Delhi-110016.
Respondent	:	The Central Public Information Officer, Ministry of Rural Development, Department of Land Resources, 'G' Wing, NBO Building, Nirman Bhawan, New Delhi-110001.
Date of Hearing	:	20.06.2016

Relevant dates emerging from the appeal:

RTI application filed on	:	05.01.2015
CPIO's reply	:	13.01.2015(Transfer)/03.03.2015
First Appeal filed on	:	26.02.2015
FAA's Order	:	No order
Complaint filed on	:	01.05.2015

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ORDER

1. Shri Venkatesh Nayak filed an application dated 05.01.2015 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), President's Secretariat who had transferred the application to the Department of Land Resources (DoLR) seeking photo copies of (i) all materials on the basis of which the President of India was satisfied that circumstances existed for him to take immediate action by promulgating the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement (Amendment) Ordinance, 2014 and (ii) all file notings available on record in relation to the materials referred to on point no. 1 of the application.

2. Shri Venkatesh Nayak filed a complaint dated 01.05.2015 before the Commission on the grounds that the CPIO, DoLR had intimated to him that the information sought is not available in his department, and vide his letter dated 18.03.2015 he had transferred the RTI application to the Legislative Department as directed by the FAA of the department. The complainant requested the Commission to determine whether the respondent public authority holds the information sought in his RTI application or not and also to direct the CPIO to provide all the information sought by him.

Hearing:

3. The complainant Shri Venkatesh Nayak was present in person. The respondent was not present despite notice.

4. The complainant submitted that his RTI application was transferred by the President's Secretariat to the Deptt. of Land Resources under Section 6(3) of the RTI Act vide letter dated 13.01.2015. Further, the Deptt. of Land Resources, MoRD vide letter dated 03.03.2015 informed

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S.S. Venkatesh Nayak

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the complainant that no such information is available in the Deptt. of Land Resources and further transferred the application to the Legislative Department vide letter dated 18.03.2015. The Legislative Department vide letter dated 06.05.2015 informed the complainant that the subject matter of the information sought falls under the administrative ambit of the MoRD and records relating to the promulgation of the said Ordinance would be available with the Department of Land Resources. The complainant also requested that his complaint be treated as a second appeal as he does not wish to insist on an imposition of penalty on the CPIO but just wants information to be provided to him.

Decision:

5. The Commission after hearing the submissions of the complainant and perusing the records, notes that the information sought has not been provided by the respondent to the complainant. Further, as per the Legislative Department, the records relating to the promulgation of the said Ordinance would be available with the Department of Land Resources. In view of this, the Commission directs the respondent to provide information sought to the complainant within a period of four weeks from the date of receipt of a copy of this decision under intimation to the Commission.

6. With the above observation, the appeal is disposed of.

7. Copy of the decision be provided to both the parties free of cost.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

True copy
S.S. Venkatesh Nayak

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(V.K. Sharma)
Designated Officer

True copy
S.S. Venkatesh Nayak

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