Mr. Mehmood Pracha  
Chamber No. 134,  
Patiala House Courts Complex,  
New Delhi - 110 001  
SPIO & Under Secretary,  
General Administration Department,  
Mizoram, Aizawl.

Appellant

Vrs  
Respondent

ORDER  
(2.12.2009)

A Second Appeal was filed by Mehmood Pracha, Chamber No. 134, Patiala House Courts Complex, New Delhi-110 001, against the Director of Land Revenue and Settlement, Mizoram, for non-supply of information requested for by the appellant. A case was registered under Section 19(1) of the RTI Act, 2005.

The short facts of the case are that the appellant made an application under Section 6(1) of the RTI Act on 23.3.2009 to the SPIO, Office of the Chief Minister, Mizoram State, regarding Waqf Properties in the State of Mizoram. The Private Secretary to the Chief Minister informed transfer of his application to the State Home Department vide letter No. CMO. 54(A)/2009/9 dated 7.4.2009. The State Home Department transferred the information application to Land Revenue & Settlement Department of the State Government vide I.D. No. C. 22015/2/2008-HM dt. 19.6.2009. The application was further transferred by the Land Revenue & Settlement Department to Director, Land Revenue & Settlement Department, Mizoram, vide No. C. 31012/2/06-REV dated 23.6.2009. Since the Home Department did not give the information applied for and perhaps the transfer of the application communicated to the applicant was not received by him in time, the applicant filed First Appeal to the Chief Secretary of the State Government on 4.6.2009. Since Director, Land Revenue & Settlement Department, did not reply within time, the appellant felt aggrieved by the willful negligence of furnishing the desired information and preferred this Second Appeal.

The SPIO of Directorate of Land Revenue & Settlement, Pu V. Lianzinga, was noticed to appear before the Commission on 12.11.2009. The learned SPIO expressed before the Commission ignorance of the State Government about Waqf Property in Mizoram, the meaning of Waqf, etc. The SPIO was not in a position to give any information, positive or negative, in relation to the information requested for by the appellant. The SPIO of Land Revenue & Settlement Department of the State Government of Mizoram did not know whether the public authority has to deal with Waqf Property or not. Having been blinded by ignorance of the subject-matter being allotted to his Department or not, it appears he sat up on the information application knowing nothing to do about it. The ignorance and the delay in the matter, in the opinion of the Commission, is without any reasonable cause. In the result a show cause notice was issued to the SPIO as to why a penalty under Section 20 of the RTI Act be not imposed on him and, ultimately, a penalty @ Rs. 250/- per day from the date of failure to provide the information to the appellant subject to a maximum of Rs. 25,000/- has been imposed on the SPIO.
The Commission perused the Government of Mizoram (Allocation of Business) Rules, 1987 which does not mention the words "Waqf Properties" being allotted to Land Revenue & Settlement Department or to any other Department. That being so, the SPIO of the General Administration Department was noticed to appear before the Commission on 27.11.2009 to clarify the position. The SPIO of the General Administration Department, appeared in person and was heard. The SPIO informed the Commission, in the course of hearing, that the required information, point-wise, has already been sent to the appellant. With this, the Commission finds no further proceeding against the SPIO.

Since the penalty order has been issued against the SPIO of the Land Revenue and Settlement Department and since the proceeding against the SPIO of the General Department Department has been completed, the appeal stands allowed and disposed of.

Ordered accordingly.

(K.TLANPHANGA)  
Information Commissioner

(ROBERT HRANGDAWLA)  
Chief Information Commissioner
Mr. Mehmood Pracha .......................... Appellant
Chamber No. 134,
Patiala House Courts Complex,
New Delhi – 110 001

Director, .......................... Vrs .......................... Respondent
Directorate of Land Revenue & Settlement,
Mizoram, Aizawl.

ORDER
(13.11.2009)

This second appeal is preferred by Mehmood Pracha, New Delhi, under Section 19(3) of the RTI Act, 2005, against the Director of the Land Revenue & Settlement Department, Mizoram, for not giving the information requested for under the RTI Act, 2005. A Second Appeal case was registered under No. SA. 13/09-MSIC.

The short facts of the case are that the appellant requested the Press Information Officer to the Chief Minister to give certain information on the Waqf Property. However, the Chief Minister’s Secretariat referred the matter to the Home Department. As no information was given, the appellant submitted First Appeal to the Chief Secretary. In the meantime, the Home Department transferred the matter to the Land Revenue & Settlement Department for compliance. As the required information was not given by the Land Revenue & Settlement Department, the appellant submitted a Second Appeal to the State Information Commission to get the required information.

The respondent was noticed to appear before the Commission on 12.11.2009 with all relevant documents in original. The respondent, represented by Pu V. Lianzinga, SPIO & Deputy Director, appeared in person and was heard. The respondent also submitted a written statement expressing the ignorance of the State Government about Waqf Property, its meaning, etc. The Government of Mizoram (Allocation of Business) Rules, 1987 was perused by the Commission and is found that the subject of Waqf or Waqf Property is not allotted to any particular Department. The respondent also informed the Commission that information are being collected despite the Waqf Property not falling under the Department of Revenue as per the Mizoram Allocation of Business Rules, 1987.

On examination of the case, the Commission noticed that the subject ‘Waqf Property’ is not allocated to any Department as per Government of Mizoram Allocation of Business Rules, 1987. The Commission opined that if the subject matter is not allotted to Land Revenue & Settlement Department, then the matter should have been referred to the Government for allocation to a Department and a ‘nil’ information should have been given to the appellant-applicant. Instead, the Land Revenue & Settlement Department left the matter unattended for almost five months.

Since the SPIO admitted negligence of the subject-matter in not giving the required information, the Commission finds that failure to provide the information requested was without any reasonable cause calling for penalty provisions under Section 20 of the RTI Act. And there is nothing on the record to show that the information

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requested for comes under either Section 8 or Section 9 of the RTI Act. In view of the fact that failure to provide the information requested for within the specified time is without any reasonable cause on the record and intentional on the part of the SPIO, a show cause be issued to the SPIO as to why a penalty under Section 20 of the RTI Act be not imposed on him.

Since the Office of the Chief Secretary was silent despite the same information requested and since the Waqf Property does not find a place in the above-mentioned Allocation of Business Rules, SPIOs of both the Office of the Chief Secretary and the General Administration Department be noticed to appear before the Commission on 19.11.2009 at 12:30 p.m. to clarify their position.

Ordered accordingly.

(K.TLANTHANGA)
Information Commissioner

(ROBERT HRANGDAWLA)
Chief Information Commissioner