

NO.C.98/2014-MIC
MIZORAM INFORMATION COMMISSION
NEW SECRETARIT COMPLEX, KHATLA
MIZORAM AIZAWL

DECISION

Complainant : Lalawmpuia Khawlhing, Chhing Veng Aizawl.*
Respondent : SPIO, 1st IR Battalion,
Kawnpui (Mualvum) Mizoram.
Date of Decision : 01.08.2014.

Facts : RTI application dated 19 March 2014 was submitted by the Complainant to the SPIO, Home Department to obtain information pertaining to his service documents viz.; Appointment Order for the post of Constable 1st IR Battalion (1994) C/121, Confirmation Order, Memorandum of Charge No.BN/IR/R/proc-35/2010/2654 dt.29.09.2010, Inquiry Report and Removal Order No.BN/IR/R/proc-35/2010/4794 dt.29.03.2011.

2. SPIO, Home Department transferred the RTI application to the Director General of Police, Mizoram with a copy to the Complainant as the requested information does not fall under their Department vide letter No.F.12017/1/2013-HMP dt.21.03.2014.

3. SPIO & Assistant Inspector General of Police-I, Mizoram Aizawl subsequently transferred the application to the Commandant 1st IR Battalion with a request to furnish the required information directly to the Complainant with intimation to him and Home Department vide letter No.CB/PHQ/INFO-RTI/2013-II/148 dt. 25.03.2014.

4. Not receiving a response from the SPIO, 1st IR Battalion Kawnpui (Mualvum), Mizoram, the Complainant preferred his complaint No. NIL. dated 13 May, 2014 before Mizoram Information Commission which was received by the Commission on 16.05.2014.

5. The complaint case was carefully examined by the Commission. Explanation No.C.98/2014-MIC dt.26th May, 2014 was sent to the Respondent indicating : “*An SPIO should take prompt action on the matters of RTI and provide the desired information or intimate the reasons for non-supply of information in writing to the Applicant within the stipulated time of 30 days as specified under RTI Act*”. The following lines were also brought to his notice “*Under Section 20(1) of RTI Act, 2005 any SPIO who has not furnished information within the time specified under sub-section (1) of section 7 of the RTI Act can be imposed a penalty of Rs.250/- (Rupees two hundred fifty) only each day with the maximum of Rs.25,000/-*”. Consequently, the SPIO was directed to submit his explanation in writing to Mizoram Information Commission within 15 days from the receipt of the letter as to why penalty should not be imposed on him for not adhering to the RTI Act.

6. The Respondent, in reply to the explanation *vide* his letter No.BN/IR/R-35/2014/555 dt. 3rd June, 2014 stated that the application was received by him on 27.03.2014 from SPIO, Police Headquarters, Aizawl. On receipt of the application, efforts were made by him straightaway to locate the files concerned without delay. But there was difficulty in finding the file containing Appointment Order of the Complainant which was disposed almost 20 (twenty) years back and that was the reason for not supplying the information in time. The Respondent further mentioned that soon after all the information had been made ready, they informed the Complainant verbally as well as in writing on 27.05.2014 to collect the same and the requested documents were consequently supplied to him on 02.06.2014. The Respondent expressed his regret for causing inconveniences and the circumstances which led to the delay requiring explanation and prayed for acceptance.

7. After carefully reading the explanation made by the Respondent, Mizoram Information Commission observed that if the position of the case stated in Para 6 above were correct, the Respondent should have sent **Interim Reply** to the Complainant informing the reason of delay. Further, computing from the date of receipt of the application i.e.27.03.2014, the last date for furnishing the reply under RTI Act should have been 27.04.2014 but it was supplied only on 27.05.2014 after a lapse of 30 days of the stipulated time given for reply under the RTI Act which indicates there was a delay of 30 days by the Respondent to furnish the requested

information i.e. from 28.04.2014 to 27.05.2014. The Commission issued **Show Cause Notice** No.C.98/2014-MIC dt.13.06.2014 to the Respondent informing him to submit his explanation within 15 days from the receipt of the letter stating as to why a penalty of Rs.7,500/- shall not be imposed on him for failure to furnish information within the time specified under sub-section 1 of Section 7 of RTI Act, 2005. Section 20 Clause (1) of the RTI Act is also reiterated in the letter –“*it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so, however, the total amount of such penalty shall not exceed twenty-five thousand rupees*”.

8. The Respondent, in his reply letter No.NIL dt. 27.06.2014 simply stated that Interim reply was not issued to the Complainant as he was unaware that it was required to be given. He added that genuine effort was taken to locate the order and he even sent a person to the Directorate of Accounts & Treasuries Department, Mizoram to search for the Service Book as the same was sent to them after termination of his employment. He also mentioned that their effort was hampered due to the deployment of their battalion including himself for the Lok Sabha Election on April, 2014 and the border dispute between Mizoram and Assam near Buhchangphai during April – May, 2014. Concluding his letter, he pleaded Mizoram Information Commission to refrain from imposing a penalty on him on humanitarian ground as the delay was not intentionally and negligence on his part.

9. On examination of the reasons of delay as stated at para 8, the Commission learnt that copies of orders pertaining to his deployment for Election duty and border dispute were not enclosed in his letter. The Respondent was directed to submit the same as it was required for considering his plea *vide* No.C.98/2014-MIC dt.10th July, 2014.

10. In reply, on 21.07.2014 the Respondent furnished the following deployment order and other related documents to Mizoram Information Commission with a request to refrain from imposing a penalty on him :-

- (i) PHQ Order No.PHQ/OPS-190/MP-Elect/14/249 dt.01.04.2014.
- (ii) W/T Message from DIG(NR) dt. 29.04.2014.
- (iii) W/T Message from DIG(NR) dt. 05.05.2014.
- (iv) W/T Message from DIG(NR) dt. 16.05.2014.

11. The documents and the averments of the Respondent had been carefully examined by the Commission and observed that documents are found to be genuine and the reasons of delay were acceptable as it was not intentional and negligence on the part of the Respondent. The Commission however advised the Respondent to be more careful in matters of RTI in future and adhere to the provisions given in the RTI Act, 2005 and warned him not to fail sending Interim Reply in future if the required information could not be provided within the stipulated time under the RTI Act.

12. The required information was subsequently furnished to the Complainant on 27.05.2014 and further complaint on this case has not been received by the Commission.

Accordingly the complaint is closed.

L. Hrangawna
27/05/2014
(L.HRANGNAWNA)
Information Commissioner
Mizoram Information Commission
Mizoram Aizawl

Lal Dingliana
04/08/2014
(LAL DINGLIANA)
Chief Information Commissioner
Mizoram Information Commission
Mizoram Aizawl

