

No. S.A. 87/2022 - MIC  
MIZORAM INFORMATION COMMISSION  
MIZORAM NEW CAPITAL COMPLEX  
KHATLA, AIZAWL

Mr. H.B. Thapa, : Appellant  
Near Lai House,  
Bungkawn, Aizawl.  
Ph : 9862308258

Mr. Lalramngaia, : Respondent  
Deputy Secretary,  
General Administration Department,  
Mizoram, Aizawl.

ORDER  
(12.08.2022)

1. Mr H.B. Thapa submitted an RTI application dated 06.04.2022 to the SPIO, General Administration Department (GAD) as shown below: -
  - i) Who is the authority to issue certificate to economically weaker section in Mizoram?
  - ii) Who is the General Category declared by Government of Mizoram?
  - iii) Is there any community who are not covered by ST/SC/OBC and is there any provision made for those communities to apply EWS certificate in Mizoram?
  - iv) If not, what is the reason for non-implementation of EWS granted by Government of India, Ministry of Social Justice and Empowerment vide letter No. F.20013/01/2018-BC-II of 17<sup>th</sup> January 2019?
  - v) Why the Government of Mizoram fails to amend the Business Advisory Rules for implementation of EWS?
  
2. Mr Lalramngaia, Deputy Secretary, GAD forwarded a copy of the RTI application vide I.D. No. F.14011/5/2022-GAD dt 29.04.2022 to the Under Secretary, Planning & Programme Implementation Department on 29.04.2022 with a request to furnish the replies directly to the applicant with intimation to GAD. However, the Under Secretary, P&PI department informed the Deputy Secretary, GAD vide I.D. No.F.21011/13/2019-PLG dt. 10.05.2022 that since the subject does not fall under the purview of P&PI department under the Mizoram Allocation of Business Rules, 2019, the matter is returned herewith.

3. Mr Lalramngaia, Deputy Secretary, GAD then forwarded a copy of the RTI application to the Under Secretary, Social Welfare & Tribal Affairs department vide I.D. No. F. 14015/5/2022-GAD dt. 29.04.2022. The Under Secretary, SW&TA department returned the application vide I.D. No. C.31011/8/2021-SWD dt. 06.05.2022 stating that the subject is not under the purview of their department.
  
4. Feeling aggrieved, Mr H.B. Thapa preferred First Appeal dated 17.05.2022 to the Departmental Appellate Authority (DAA), GAD requesting him to furnish the required information at the earliest. On 25.07.2022, Mr Lalramngaia, Deputy Secretary, GAD sent a letter to the President, Mizoram Gorkha Sangh stating that there is no person/people who can be declared as 'Economically Weaker Section' in Mizoram as we all belong to the 'Scheduled Tribe' status by the Constitution.
  
5. Not satisfied with the reply furnished, Mr H.B. Thapa preferred Second Appeal to the Chief Information Commissioner, MIC with a request to help him get the required information at the earliest. Summon has been issued to both the Appellant and Respondent to appear before the Chief Information Commissioner, MIC on 10.08.2022 (Wednesday) at 12:00 noon. As scheduled, hearing was held in the office chamber of the CIC wherein Mr Lalnunmawia Chuaungo, Chief Information Commissioner (CIC) and Mr Zoramawia, Information Commissioner (IC) were present. The appellant and the respondent were also present.
  
6. In the hearing, the appellant was asked to present his grievances and in reply, he said that since the Gorkhalis are not covered by the status of ST/SC or OBC they had requested the Deputy Commissioner, Aizawl several times to issue them certificates in this regard but she had objected to issue the required certificates and instead forwarded their application to Home Department, Government of Mizoram. However, even after approaching Home Department and General Administration Department, no positive response has been received by them till date. He then handed over a copy of EWS reservation issued by Ministry of Social Justice and Empowerment dt 1701/2019 and also posted on 03.08.2021 by PIB, Delhi to the Commission.
  
7. On enquiry as to why the reply furnished to the appellant was not under the name and signature of the SPIO. Mr Lalramngaia, Deputy Secretary, GAD informed that during that period both the SPIO/Under Secretary and SAPIO/Superintendent, GAD were transferred and their relievers had not yet joined. So instead of leaving the RTI application unattended, he furnished the reply in his capacity as Deputy Secretary, GAD even though he was not the designated SPIO. He also informed that the government has recently allocated the subject Economically Weaker Section (EWS) to Social Welfare & Tribal Affairs Department vide Memo no.A.46012/1/2022-GAD dt.07.07.2022 and handed over a copy of the notification to the Commission.

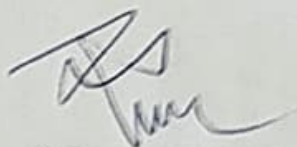
8. After hearing both the parties, the Commission observed that :-

(i) GAD has made some lapses in disposing the RTI application of Mr H.B. Thapa. As per the provisions of the RTI Act, 2005 when an SPIO/SAPIO is transferred or on leave other than casual leave, any other officer in the department should be entrusted in writing to act as SPIO. In absence of such arrangement, the designated SPIO or SAPIO can not be held responsible for any delays in providing information as SPIOs are bound to provide information within the specified period of 30 (thirty) days as per Section 7(1) of the Act. The Public Authority of such department should issue simultaneous order appointing the SPIO when the incumbent is under order of transfer.

(ii) As Allocation of Business Rules under the Government of Mizoram comes under the purview of GAD, instead of forwarding the RTI application of Mr H.B. Thapa to 2 (two) other departments without ascertaining whether the subject matter falls under them as per Allocation of Business Rules, @ SPIO, GAD should have given replies.

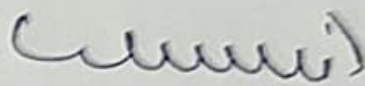
In view of the above, *the Commission hereby directs that the SPIO, GAD shall give replies to the appellant within 7 (seven) days from the date of issue of this order excluding point no. (v) since the term 'information' as defined in Section 2 (f) of the RTI Act, 2005 does not include answers to the questions like 'why' as per O.M No. 1/7/2009-IR dt. 01.06.2009 issued by the Department of Personnel & Training, Government of India. The Department should also ensure that either SPIO or SAPIO is available at any given time.*

The matter is disposed of accordingly. Copy of the decision to be given free of cost to the parties.



(ZORAMAWIA)

Information Commissioner  
Mizoram Information Commission



(LALNUNMAWIA CHUAUNGO)

Chief Information Commissioner  
Mizoram Information Commission

