

No. S.A. 106/2023 – MIC
MIZORAM INFORMATION COMMISSION
MIZORAM NEW CAPITAL COMPLEX
KHATLA, AIZAWL

Pu Lalhruaitluanga Bawitlung, : *Appellant*
A-3/25 Chhinga Veng,
Near Presbyterian Church, Aizawl,
Ph: 8974741788.

Pu Lalbiakfela, : *Respondent*
State Public Information Officer (SPIO)
&
Under Secretary,
General Administration Department,
Ph: 9612021646.

ORDER
(10.04.2023)

1. Pu Lalhruaitluanga Bawitlung submitted RTI application to the SPIO, General Administration Department (GAD) on 30.11.2022 via Mizoram RTI Online seeking information on the following: -
RD Minister, Sports Minister leh Forest Minister te zin chungchang RTI Act, 2005 tlawhchhanna ka zawhna hi min chhang turin ka ngen a che.
 - i) *An zinna ram*
 - ii) *An tour itenary (full prog)*
 - iii) *Official engzatnge kal ve*
 - iv) *An sum sen zat*
2. The appellant preferred First Appeal to the Joint Secretary/Departmental Appellate Authority (DAA) 02.01.2023 on grounds that he has not been provided information by the SPIO even after a lapse of more than 30 days. Since the DAA did not take any action on the matter, he preferred Second Appeal dated 15.03.2023 to Mizoram Information Commission.
3. Summon was issued to both the appellant and the respondent vide letter No S.A. 106/2023-MIC dated 23rd March, 2023 to appear before the Mizoram Information Commission on 06.04.2023 (Thursday) at 11:00 AM. As scheduled, hearing was held in my office chamber wherein the appellant Pu Lalhruaitluanga Bawitlung was present. However, the respondent Pu Lalbiakfela, SPIO was absent without any intimation to this Commission. Instead, Pu Lalthlamuana Khiangte, SPIO/Superintendent was present.
4. In the hearing, the appellant informed that the respondent did not provide the required information as per his RTI application and his appeal to the Departmental Appellate

Authority dated 2nd January, 2023 has also not been responded at all. He also informed that he was given a letter after 105 days by the SPIO dated 14th March, 2023 stating that as the information requested by him are not available with GAD, the same has been sought from Rural Development, Sports & Youth Service and Environment, Forest & Climate Change Departments. He also expressed concern that there may be an intention to deliberately delay the information sought and requested the Commission to take necessary action so as to enable him to get the requested information as per the RTI Act, 2005.

5. The SAPIO, GAD informed that the respondent relinquished charge of Under Secretary, GAD on 31.03.2023, and that no SPIO has been appointed in his place. He apologized for the lapse in providing the requested information to the appellant. He also submitted copies of replies on the matter received by GAD from P.S. to Minister, Rural Development Department and P.S. to Minister, Environment, Forest & Climate Change.
6. After hearing both the parties and examining the sequences of events, the Commission observed the following: -
 - i) Pu Lalbiakfela, SPIO/Under Secretary, GAD could have transferred the RTI application to the concerned SPIO within 5 (five) days from the date of receipt of the application as per Section 6(3) of the RTI Act, 2005, if the information was not available with them. In this case, instead of transferring the application to the concerned SPIOs, letters were sent to Personal Secretaries of the concerned Ministers only on 10.03.2023 i.e., after a lapse of more than 95 (ninety-five) days, long after the time limit prescribed by section 7(1) of the RTI Act 2005 for providing the information. This is a violation of the provisions of the RTI Act, 2005, and a reflection of wilful negligence and wilful disregard to his duties and responsibilities as SPIO.
 - ii) The SAPIO/Superintendent, GAD who attended the hearing in the absence of the SPIO was not able to provide any plausible reason for not complying with the provisions Section 6(3) or Section 7(1) of the RTI Act, 2005 by the SPIO.
 - iii) The First Appeal submitted to the DAA, GAD appears to have been left unattended as no response on the matter was given to the appellant. This is a violation of Section 19(6) of the RTI Act, 2005 as the appeal has to be decided within 30 days of receipt of the appeal. Deciding appeals under the RTI Act is a quasi-judicial function, and it is necessary that the DAA sees to it that justice is not only done, but it also appears to have been done. In order to do so, the order passed by the DAA should be a speaking order giving justification for the decision arrived at. However, the DAA appears to have simply ignored the appeal received by him.
 - iv) There was wilful negligence and wilful disregard to his responsibilities as SPIO in dealing with this RTI applications on the part of Mr Lalbiakfela. The Commission expresses its serious concerns on the casual and callous approach, and wilful disregard to Sections 6(3) and 7(1) of the RTI Act, 2005 by the

respondent SPIO in responding to the RTI application and also in responding to the summon issued to him to appear before this Commission.

v) The Commission expresses its concerns on the perceived casual and callous approach, and failure to comply with Section 19(6) of the RTI Act, 2005 by the DAA in dealing with this RTI appeal. This Commission would like to draw the attention of the DAA about the need to be more circumspect and mindful about the responsibilities and expectation of high sense of responsibilities from the DAAs.

vi) The respondent was still the SPIO when summon to appear before the Commission was issued to him on 23.03.2023 and given a reasonable opportunity of being heard i.e., before he relinquished charge of Under Secretary, GAD, and that the entire period of defaults in handling the RTI application in question was during his tenure as SPIO concerned.

7. In view of the observations at para 6 above, and taking into account the need to serve the ends of justice, this Commission passed the following orders:

(A) Pu Lalbiakfela, SPIO & the then Under Secretary, GAD shall show cause as to why penalty of Rs 10,000 (Rupees ten thousand only) shall not be imposed on him for wilful negligence and wilful disregard to his responsibilities as SPIO of GAD in dealing with the RTI application of Pu Lalhruaitluanga Bawitlung and failure to justify his position. He shall be at liberty to show cause either in writing to this Commission or by personal appearance before this commission on or before 12.00 Noon of 28th April, 2023.

(B) The Commission hereby directs that the SPIO/ SAPIO, GAD shall provide the information, free of cost, to the appellant not later than 28.04.2023 (Friday) with a copy to Mizoram Information Commission.

or

If the information sought is not available with GAD, he shall transfer the RTI application to the SPIO concerned not later than 5 days from the date of this order, intimating the SPIO concerned to provide the information directly to the appellant with a copy to Mizoram Information Commission. If the RTI application is transferred, the zero date for providing the information to the applicant shall start from the date of this order.

(C) Copy of the decision to be given free of cost to all the parties.

Sd/-
(LALNUNMAWIA CHUAUNGO)
Chief Information Commissioner
Mizoram Information Commission