

No. S.A. 101/2023 – MIC
MIZORAM INFORMATION COMMISSION
MIZORAM NEW CAPITAL COMPLEX
KHATLA, AIZAWL

Pu Chanchinmawia, : *Appellant*
1st Floor, Koinonia Building,
Champhai Vengthlang,
Ph: 8415851381.

Pi Lalnunpuii, : *Respondent*
State Public Information Officer (SPIO)
&
Sr. Executive Engineer (D&M)
Power & Electricity Department,
Office of the Engineer-in-Chief,
Ph: 9436154040.

ORDER
(06.03.2023)

1. Pu Chanchinmawia, Champhai Vengthlang submitted RTI application via Mizoram RTI Online to the State Public Information Officer (SPIO), Power & Electricity Department, Office of the Engineer-in-Chief seeking information on the following on 05.11.2022: -
“Rulkual, Lawngtlai a hnathawk puitu mi pathumte thihna inquiry report kha khawngaihin min pe thei em?”
2. The SPIO replied "*a dealing branch ah information dil mek ani*". Since the appellant did not receive any other information from the SPIO after 30 days, he preferred First Appeal to the Departmental Appellate Authority (DAA), P&E, E-in-C. The DAA did not take action on the matter and thus, Pu Chanchinmawia preferred Second Appeal to Mizoram Information Commission on 13.02.2023.
3. Summon was issued to both the appellant and the respondent to appear before the Mizoram Information Commission on 06.03.2023 (Monday) at 11:00 AM. As scheduled, hearing was held in the office chamber of the Chief Information Commissioner wherein both the appellant, Pu Chanchinmawia and the respondent, Pi Lalnunpuii, SPIO & Sr. Executive Engineer (D&M), Power & Electricity Department were present.
4. In the hearing, the appellant informed that since he did not receive any reply from the SPIO on the information sought, he preferred First Appeal to the DAA who also remained silent on the matter. He also informed that what he wanted was just a copy of the Inquiry Report pertaining to the incident that happened in Rulkual, Lawngtlai on 05.11.2022.
5. The respondent informed that since the information sought pertains to another branch, she had requested the Deputy Director (Admn) to furnish her the required information. In reply, Pi Lalnunmawii Colney, Deputy Director (Admn), Office of the Engineer in Chief, P&E department informed her that "*I am regretted to inform you that the requested information from Pu Chanchinmawia, Champhai Vengthlang cannot be provided from this branch. This is due to the fact that it is an ongoing proceeding and as per RTI Act, 2005 Section 8(1)(h), it is not obligatory to provide information which may impede the process of investigation or apprehension or prosecution of offenders. This is*

issued with the direction of the Engineer-in-Chief, P&E Department". The respondent also informed that she had sent a reply to the appellant in hard copy vide No. 556/1/22 E-in-C(PD)/17 dt. 10.01.2023 enclosing a copy of the DDA's letter. A copy of this letter was also handed over to me in the hearing.

6. After hearing both the parties, my observation are as follows: -

- i) The SPIO was not able to explain as to how providing the information asked for by the appellant would impede the process of investigation or apprehension or prosecution of offenders, but simply take the shelter of the letter No. 12031/4/2021-EC(P&E) dated 9th January 2023 for denying the information. In the absence of plausible explanation as to how Section 8(1)(h) is attracted, I am of the view that the information asked for by the appellant should have been provided by the SPIO. It is also noted that the availability of the information sought by the appellant is not denied by both the SPIO and the DAA.
- ii) The First Appeal submitted to the DAA appears to be left unattended as no action on the matter was sent to the appellant. This is in violation of Section 19(6) of the RTI Act, 2005 as deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the DAA should see to it that justice is not only done but it should also appear 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.
- iii) Both the SPIO and DAA need to note that RTI applications/appeals are to be given due importance as prescribed by the Law.
- iv) The SPIO informed that a State Assistant Public Information Officer (SAPIO) has not been designated by the controlling authorities of the Department, and this handicapped her functioning as SPIO. Therefore, the office of the Engineer-in-Chief should designate a State Assistant Public Information Officer (SAPIO) as per Section 5(2) of the RTI Act, 2005 at the earliest.

7. There is no plausible explanation from either the SPIO or the DAA as to how providing information to the appellant will impede further investigation or apprehension or prosecution to the offenders. Taking into consideration the orders of the Delhi High Court (2014), in Adesh Kumar vs Union of India, it is hereby ordered that **Pi Lalnunpuii, SPIO & Sr. Executive Engineer (D&M), Power & Electricity Department shall provide the information, free of cost, to the appellant not later than 29.03.2023 (Wednesday) with a copy to Mizoram Information Commission.**

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

(LALNUNMAWIA CHUAUNGO)
Chief Information Commissioner
Mizoram Information Commission