



**MIZORAM INFORMATION COMMISSION
MINECO, KHATLA,
MIZORAM: AIZAWL**

Case No: S.A. 179/2024-MIC

***Rustom Chakma,
Lawngtlai***

...Appellant

Vs

***Lalbiakenga,
former State Public Information Officer
&
Under Secretary,
Vigilance Department***

...Respondent

RTI application filed on	:	12.08.2024
SPIO replied on	:	29.08.2024
First appeal filed on	:	30.08.2024
Appellate Authority order	:	23.09.2024
Second Appeal dated	:	16.10.2024
Date of Hearing	:	21.11.2024 at 02:00 PM
Date of Decision	:	21.11.2024

The Chief Information Commissioner Pu John Neihlaia and the Information Commissioner Pu Mangjangam Touthang presided over the hearing.

Information sought

Copy of the declaration of moveable and immovable assets by Mr. David Chakma (Executive Engineer), Power & Electricity Department as mandated for employees working under Government of Mizoram.

Grounds for the Second Appeal

The State Public Information Officer (SPIO) denied the information under Section 8(1)(j) of the RTI Act and the Departmental Appellate Authority (DAA) upheld the SPIO's decision.

Relevant facts emerging during the hearing

The respondent SPIO Pu Lalbiakenga, Under Secretary (transferred to Administrative Training Institute) and the newly appointed SPIO, Vigilance Department Pi Lalremruati, Under Secretary were present.

The appellant has not authorized any representative to attend the hearing on his behalf and informed of his inability to attend only after commencement of the hearing despite being given the option of Video Conferencing. The Commission has no other course but to proceed with the matter ex parte, as already mentioned in the notice for hearing.

Respondent's statement:

The respondent SPIO referred to Section 8(1)(j) of the RTI Act, 2005 and Government of India's decision below Rule 18 of the CCS (Conduct) Rules, 1964 which states, "*...every such return shall be handled as secret document and the provisions of rule 11 of the Central Civil Services (Conduct) Rules, 1965, as far as may be, apply thereto*" as the ground for denial of information.

OBSERVATIONS:

1. The Hon'ble Supreme Court vide decision dated 03/10/2012 *Girish Ramchandra Deshpande vs. CIC & others* [SLP (Civil) No.27734 of 2012] has held that the details like income tax returns, moveable and immovable property qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act and need not be disclosed unless the petitioner is able to demonstrate that the information sought for is for larger public purpose. The appellant's argument that his RTI application is of prior date is without merit in the light of the dicta aforesaid of the Supreme Court which is binding on this bench. The Hon'ble Bombay High Court, following the aforesaid ruling, vide its decision dated 22/08/2013 (WP No. 1825 of

2013 Subhash Bajirao Khemnar vs. Shri Dilip Nayku Thorat & Others) has held *“that the Chief Information Commissioner was not justified in directing the Information Officer to supply personal information in respect of the service record, income tax returns and assets of the petitioner unless the Commissioner was satisfied that the disclosure of the information was justified in larger public interest.”*

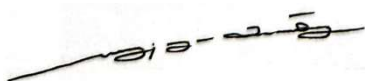
2. The Supreme Court’s SLP (Civil) No. 27734 of 2012 quoted the Central Information Commission’s order 18.06.2009, *“The question for consideration is whether the aforesaid information sought by the Appellant can be treated as ‘personal information’ as defined in clause (j) of Section 8(1) of the RTI Act. It may be pertinent to mention that this issue came up before the Full Bench of the Commission in Appeal No. CIC/AT/A/2008/000628 (Milap Choraria v. Central Board of Direct Taxes) and the Commission vide its decision dated 15.6.2009 held that “the Income Tax return have been rightly held to be personal information exempted from disclosure under Clause (j) of Section 8(1) of the RTI Act by the CPIO and the Appellate Authority, and the appellant herein has not been able to establish that a larger public interest would be served by disclosure of this information. This logic would hold good as far as the ITRs of Shri Lute are concerned. I would like to further observe that the information which has been denied to the appellant essentially fall into two parts – (i) relating to the personal matters pertaining to his services career; and (ii) Shri Lute’s assets & liabilities, movable and immovable properties and other financial aspects. I have no hesitation in holding that this information also qualifies to be the ‘personal information’ as defined in clause (j) of Section 8(1) of the RTI Act and the appellant has not been able to convince the Commission that disclosure thereof is in larger public interest”.*
3. Further, the Appellant did not submit any documentary evidence, justifying the Larger Public Interest involved in the matter. On the issue of larger public interest involved in a matter, the Commission referred to the observation of the Hon’ble Supreme Court in the matter of Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi: (2012) 13 SCC 61 wherein it was held as under:

“The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v. Kameshwar Singh ([AIR 1952 SC 252]). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)].”

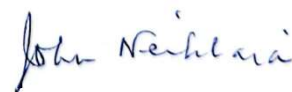
DECISION:

In view of the above, **the Commission hereby upholds the decision of the SPIO and DAA, Vigilance Department in denying information as per Section 8(1)(j) of the RTI Act, 2005 as the appellant has failed to show, to the satisfaction of the Commission that disclosure thereof is in larger public interest.**

The appeal is disposed of accordingly. Copy of decision to be given, free of cost, to all parties.



(MANGJANGAM TOUTHANG)
Information Commissioner
Mizoram Information Commission



(JOHN NEIHLAIA)
Chief Information Commissioner
Mizoram Information Commission