



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

Case No : S.A. 195/2025-MIC

Dated Aizawl, the 13th February, 2025

***Saiduhzuala
Dawrpui Bara Bazar
H.No-b 136***

..... Appellant

Vs

***1. Zothansanga
SPIO & Additional Secretary
Mizoram Legislative Assembly(Sectt.)***

..... Respondents

***2. Vanlalthantlingi
DAA & Commissioner & Secretary
Mizoram Legislative Assembly(Sectt.)***

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

**ORDER
(13.02.2025)**

Mizoram Legislative Assembly (Secretariat) had conducted recruitment for 1 (one) post of Assistant in 2024. The appellant, Mr. Saiduhzuala, being one of the candidates submitted Several RTI applications to the SPIO/Additional Secretary, MLA (Sectt) seeking information on the marks obtained (written & interview), answer sheet, parentage, relationship with the Commissioner & Secretary of Mr. Vanlalthlanpuia who was selected for the post of Assistant. Most of the information sought was denied on the ground that it comes under exemption from disclosure under Section 8 (1) (j) and third party information under Section 11 (1) of the RTI Act, 2005. Being dissatisfied, the appellant submitted Second Appeal to this Commission with a request to take necessary action on the matter.

2. In the hearing, the appellant mentioned his dissatisfaction with the RTI replies received from the SPIO and DAA and said that the reason why he submitted all the RTI applications pertaining to this recruitment was because he wanted to know if there was transparency in the recruitment process.

3. In reply, the SPIO stated that they have provided whatever information could be given as per the provisions of the RTI Act, 2005 and for information relating to third party information, they had asked for the third party's consent to disclose his information in writing while the reply received from him was orally. He also mentioned that the appellant submitted more than 120 RTI applications which looks more like a harassment as some of the information sought appears to be already known by him. He also apprised the Commission that the appellant has submitted a complaint to Mizoram Lokayukta and the answer sheets of all the candidates have been seized by them.

4. After hearing both parties, the Commission observed the following :-

i. The appellant should keep in mind that RTI is a tool to get information only and not what to do after getting the information. It is also not about Grievance Redressal Mechanism or to solve problems. RTI should not be misused/abused as it can defeat the spirit of the right to know. He is advised to be careful in future while submitting RTI applications as SPIOs are not supposed to create information or to interpret information or to furnish replies to hypothetical questions.

ii. The SPIO should take note that the RTI Act provides access to all information that is available and existing. The Act does not cast an obligation upon the public authority to collect or collate such non available information and then furnish it to an applicant. He is also not required to furnish information which require drawing of inferences and/or making of assumptions.

iii. For every First Appeal received, the DAA, being vested with quasi-judicial powers, should hear both the parties viz appellant and respondent. The DAA, shall in every case inform the date of hearing at least seven (7) clear days before the date fixed. Order of the DAA shall be pronounced in open court and be in writing duly authenticated by the DAA for this purpose. Mrs. Vanlalthantlingi is informed to strictly adhere to the relevant provisions of the RTI Act for every First Appeal received by her in future.

5. The Supreme Court in the case of CBSE and Anr. Vs. Aditya Bandopadhyay held that an examining body does not hold the evaluated answerbooks in a fiduciary relationship. Not being information available to an examining body in its fiduciary relationship, the exemption under Section 8 (1) (e) is not available to the examining bodies with reference to evaluated answer-books. As no other exemption under Section 8 is available in respect of evaluated answer books, the examining bodies will have to permit inspection sought by the examinees.

6. The Chandigarh High Court in **Kewal Singh Gautam v State of Chhattisgarh & ors**, AIR 2011 Chh 143, examined whether this information could be personal information of anybody and held:

“14. In so far as the other reason for rejection of the application, invoking the provision contained in Section 8 (1) (j) of the Act of 2005, that the information sought relates to personal information, the disclosure of which has no relationship to any public activity or interest or would cause unwarranted invasion of the privacy of the individual is concerned, the same is equally misconceived in law and deserves rejection. In a case where such personal information has relationship to any public activity or interest, exemption could not be claimed.... Moreover, this Court has no hesitation in saying that the conduct of examination in the present case by the departmental agency for the purposes of promotion from lower rank to higher rank in Govt. department, are not private activities, but in public domain... It also cannot be said that said disclosure of information would cause unwarranted invasion of the privacy of some individual. The checking and evaluation of answer sheet by an examiner and the marks given by him upon assessment of performance has nothing to do with the privacy of either the examiner or those who are responsible for conducting the examination.”

7. The Commission rejects the contention of the respondent authority as the information sought is neither personal nor held in fiduciary capacity by the respondent authority. Any information relating to transfer, recruitment, promotion and placement falls under the category of official activities and as per the Office Memorandum no. 1/34/2013-IR dated 29.06.2015 by Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, such information should be published on the official website under Section 4(1)(b) of RTI Act.

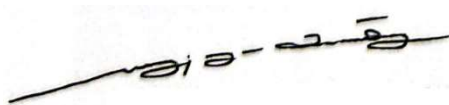
8. The Central Information Commission vide order no. CIC/EPFOG/A/2018/614958 Shailendra Kumar Singh Vs PIO, EPFO has stated that answer-sheets of four co-employees who qualified for promotion while the appellant remained at number 5, are not their personal information, nor do they qualify to be their confidential reports, nor that they could be treated as information relating to fiduciary relationship. The defences put forward by UPSC and CBSE that disclosure of such information would result in choking system etc are not available to this respondent authority because, the candidates who appeared for this promotion qualification examination were around 3000 and answer-sheets sought were about four qualified candidates who got promotion.

DECISION

9. In view of the circumstances, the Commission hereby directs that Mr. Zothansanga, SPIO/Additional Secretary shall provide certified copies of the answer sheet of Mr. Vanlalhlhanpuia to the appellant, free of cost, as and when the same is returned from Mizoram Lokayukta, since examination for government jobs is considered a public activity carried out in public interest. He shall then submit compliance report to Mizoram Information Commission.

With regard to the other information sought viz relationship of the Commissioner & Secretary and Superintendent, Mizoram Legislative Assembly Mr. C. Remsanga with Mr. Vanlalhlhanpuia, the SPIO shall provide information to the appellant on or before 25.02.2025 (Tuesday) with compliance report to this Commission.

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