

OMIZORAM INFORMATION COMMISSION
NEW SECRETARIAT COMPLEX, KHATLA
MIZORAM : AIZAWL



SECOND APPEAL NO.C.62/2011-MSIC U/S.19(3) OF THE RTI ACT,2005.

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| 1. Pu Lalsangzuala Ngente
C/o MZP Office, Upper Khatla
Near Raj Bhawan, Aizawl Mizoram. | | Appellant. |
| Vrs | | |
| 2. State Public Information Officer,
Mizoram Board of School Education,
Chaltlang, Aizawl Mizoram. | | Respondent. |

ORDER

The State Technical Examination (STEE), 2011 was conducted by the Mizoram Board of School Education on 26th April, 2011 and the result has been declared on 6th May, 2011. On the publication of the result, the following candidates did not satisfy with their marks and wanted to obtain photo copy of their Answer Sheets and Answer Keys of each subject and the Appellant has been authorized by them to act on their behalf :-

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| 1. Fiona Lalmalsawmi (Roll No.M-0139) | 2. Osain Lalnunmawii (Roll No.M-0518) |
| 3. Julia Vanlalruati Pachuau (Roll No.M-0214) | 4. Beirathatipha Khithie (Roll No.M-0714) |
| 5. F.Jonathan Vanlalthazuala (Roll No.B.0121) | 6. Miriam Lalramdinpuii (Roll No.M-0501) |
| 7. Noel Lalremruata Sailo (Roll No.M-1012) | 8. H.Lalramnghaki (Roll No.B-0021) |
| 9. Rualthantluanga Pachuau (Roll No.B-0210) | 10. Vanlalmuanpuia Fanai (Roll No.M-1097) |
| 11. Vanlalremruata (Roll No.M-1099) | 12. Alex Lalbiaknunga (Roll No.M-0699) |
| 13. Lyna Pawngia Solo (Roll No.B-0052) | 14. L.Vabeichhisah Azyu (Roll No.B-0153) |
| 15. Vanlalnghaka (Roll No.E-0359) | 16. Lalmuankima (Roll No.B-0163) |
| 17. Lalthlannunga (Roll No.B-0179) | 18. Lalhrulaitlunaga (Roll No.M-0900) |
| 19. Eddie Vanlaldika (Roll No. M-0769) | 20. Lalmuanpuia (Roll No.E-0228). |

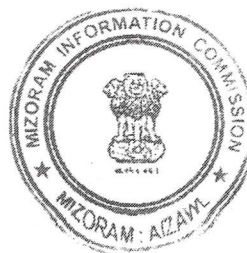
The Appellant submitted his application under RTI Act, 2005 with a request to supply photo copy of – (a) the Answer Sheets in respect of the aforesaid candidates and (b) the Answer Keys of each subject. The SPIO, MBSE replied to the Appellant that the information could not be furnished citing on the ground that (i) As per sub-section(3) of Section.34 of the MBSE Examination Bye-Laws which states, “No candidate shall claim or be entitled to re-evaluation of his/her answers or disclosure or inspection of the answer scripts of any documents”; (ii) the provision of Section.8(1)(e) of the RTI Act, 2005 reads with “Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information”. The authority conducting the examination and the examiners evaluating the answer sheets stands in fiduciary relationship between each other;

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(iii) In the Appeal Case No.CIC/WB/A/2006/00469 & 00394 and the Appeal Case No.CIC/OK/A/2006/00266/00058/00066/00315 which were taken up together by the Central Information Commission, New Delhi clearly mentions that "In regard to public examinations conducted by institutions established by the Constitution like UPSC or institutions established by any enactment by the Parliament or Rules made there under like CBSE, Staff Selection Committee, Universities, etc., the function of which is mainly to conduct examinations and which have an established system as fool-proof as that can be, and which, by their own rules and regulations prohibit disclosure of evaluated answer sheets would result in rendering the system unworkable in practice and on the basis of the rationale followed by the Supreme Court in the above two cases, we would like to put at rest the matter of disclosure of answer sheets. We, therefore, decide that in such cases, a citizen cannot seek disclosure of the evaluated answer sheets under the RTI Act, 2005".

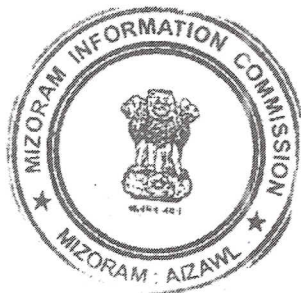
Being aggrieved and not being satisfied with the reply of the SPIO MBSE, the Appellant filed an Appeal before the Mizoram Information Commission on 18.05.2011 seeking to obtain the desired information. The Appeal was Heard on 24.05.2011. The concerned SPIO Pu David Lallawmkima Fanai appeared in person and explained his position. He is directed by the Commission to submit the original copy of the connected documents, the Answer Sheets of the applicants concerned and the Answer Keys of each subject within 7(seven) days for examination and verification. On submission of the required documents, the Commission carefully examined and scrutinized the Answer Sheets of the applicants alongwith the Answer Keys of each subject and the Result Book duly prepared by the MBSE. The Commission observed that the Mizoram Board of School Education had maintained fair and correct evaluation with proper checks and balances and not exhibited unfair advantage at any stage.

It is noted that the Respondent's decision that not to disclosure of the information under Section.8(1)(e) of the RTI Act,2005 is convincing on the basis of the Hon'ble Supreme Court and the Central Information Commission's Rulings. However, being every Information Commission is an independent institution, the Mizoram Information Commission takes opinion in this particular case that the disclosure of information at this stage would not result in rendering the system unworkable in practice and would also not jeopardize the fiduciary relationship between the authority and the examiners. It would, rather prove and show that the correctness and fairness being maintained by the MBSE in regard to conduct of the various examinations, which will create the larger public confidence as well as the Respondent in future.



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The Commission has, therefore agreed to allow the Respondent and one reliable MZP Office Bearer, inspection of the Answer Sheets of the aforesaid 20(twenty) candidates alongwith its Answer Keys, in the presences of the SPIO, MBSE and the SPIO, Higher & Technical Education Department. Consequently, the SPIO, MBSE is hereby directed to conduct and to facilitate the inspection of the requisite information under a healthy atmosphere. The date, time and venue for inspection should be fixed by the SPIO, MBSE within 1(one) week from the date of issue of this order with intimation to the Mizoram Information Commission.




(K.TLANTHANGA)

INFORMATION COMMISSIONER,
Mizoram Information Commission

Memo No.C.62/2011-MSIC

: Dated Aizawl, the 6th June, 2011

Copy to :-

1. Pu David Lallawmkima Fanai, SPIO Mizoram Board of School Education, Mizoram [Mobile No.9436199193] for favour of information and necessary action. Documents submitted to this Commission is returned herewith in original. He is also informed that as per Section.4(d) of the Mizoram Right to Information Rules, 2010, *no fee* should be levied for inspection of records for the *first hour* and a fee of Rs.5/- (Rupees five)only should be charged for each subsequent hour (or fraction thereof).
2. Pu Zochungnunga, SPIO, Higher & Technical Education Department Mizoram, Aizawl for favour of information and necessary action.
3. Pu Lalsangzuala Ngente s/o Laldawngliana Ngente C/O MZP Office, Khatla. Near Raj Bhawan Aizawl, Mizoram [Mobile No.9615445452]for favour of information and necessary action. He is informed to select one person from MZP Office Bearer to accompany him at the time of inspection.


(K.ZADAWLA)

UNDER SECRETARY,
Mizoram Information Commission
Mizoram : Aizawl