NO.S.A.44/2014-MIC
MIZORAM INFORMATION COMMISSION
MIZORAM AIZAWL

DECISION

Name of the Appellant : Zoremmluanga Advocate, Chanmari West, Aizawl.
Name of the Respondent : SPIO, Police Headquarters, Aizawl, Mizoram.

FACTS : The Appellant, Mr. Zoremmluanga Advocate submitted an RTI Application dated 10.07.2014 before the State Public Information Officer (SPIO), Police Headquarters, Mizoram Aizawl seeking information to furnish him a full copy of the Departmental Promotion Committee 2013 Result for promotion of Havildars to Armed Branch Sub-Inspector (ABSI) held in between 19th August, 2013 and 26th August, 2013.

2. Vide letter No.CB/PHQ/INFO-RTIA/2014/6 dt.21.07.2014, the State Public Information Officer (SPIO) denied to furnish the information under Section 8(1)(e) & (j) of the RTI Act, 2005.

3. Feeling aggrieved with the decision of the SPIO, the Appellant submitted his First Appeal to the Departmental Appellate Authority (DAA), Police Headquarters, Mizoram Aizawl which has been received by the Police Headquarters, Mizoram Aizawl on 23.07.2014. The Departmental Appellate Authority (DAA), Police Headquarters, Mizoram Aizawl summarily rejected the request without holding any hearing and upheld the decision of the SPIO vide letter No.CB/PHQ/INFO-RTIA/2014/19 dt.13.08.2014.

4. Not satisfied with the response of the Public Authority, the Appellant preferred his Second Appeal before the Mizoram Information Commission vide letter No.Nil dt.14.08.2014 and sought the following reliefs :-

(i) To admit his appeal and issue notice calling upon what he called the erring Subordinate Information Officers;

(ii) To direct the SPIO, Police Headquarters, Aizawl to furnish him with a full copy of Departmental Promotion Committee 2013 Result conducted in between 19.08.2013 to 26.08.2013 for promotion of Havildars to Armed Branch Sub-Inspector (ABSI) posts.

(iii) To pass any order favourable to him.

(iv) To duly issue order of suitable punishment to erring Subordinate Information Officer in the case.
5. **Hearing of the Respondent** was conducted both by the Chief Information Commissioner (CIC), MIC and the Information Commissioner (IC), MIC on 17.09.2014 at 11.00 a.m. where Mr.P.C.Lalchhuanawma MPS, SPIO/AIG-I, Police Headquarters, Aizawl Mizoram was present in person.

6. When questioned about whether the Respondent knew what information the Appellant actually wanted and why had the Respondent not supplied the same. The Respondent stated that according to him, the Appellant asked to furnish a full copy of Departmental Promotion Committee 2013 result for promotion of Havildars to ABSI held in between 19th August, 2013 to 26th August, 2013 and he had rejected the request under Section 8(1)(e) & (j) of the RTI Act, 2005 on the ground that the information sought by the Applicant/Appellant was not of his (Applicant’s) personal case but concerning others. The Respondent added that they had, in the earlier instance, provided such information to the Applicants when it concerned the Applicant’s personal information. He further stated that in making decision on First Appeal, the Departmental Appellate Authority (DAA) upheld his reply without conducting any hearing. In the course of hearing, the Respondent was directed to submit in writing the ground for rejection of information.

7. In the submission of the Respondent vide letter No.CB/PHQ/INFO-RTIA/2014/28 dt.18.09.2014, he indicated that the ground for his rejection of the RTI petition the under Section 8(1)(e)& and (j) of the RTI Act, 2005 which was because “the information relates to personal information of the Candidates who appeared in the said examination and as the Applicant is not a Candidate nor involved in any way in the Departmental promotion conducted for promotion of Havildars to ABSI held in 2013. His reason for seeking the information is not known and it was believed that the said information, if furnished, can be misused for other reasons”. It was further stated that “The RTI Application was rejected from this Office as it is found that it is not for public interest and would cause un-warranted invasion of the privacy of others”.

8. The Appellant was also heard both by the Chief Information Commissioner, MIC and the Information Commissioner, MIC on 05.11.2014 at 11 a.m. where Pu Zoremthuinga, Advocate Chanmari West was present in person. When questioned, the Appellant stated that what he asked for was the result of promotion of Havildars to Armed Branch Sub-Inspector (ABSI) considered between 19th -26th August, 2013 declared by the Departmental Promotion Committee (DPC). In the hearing, the Appellant brought along with him what he stated to be the “full copy of the Departmental Test – Havildars to ABSI (in order of merit) dt.23.09.2008” and showed to the CIC and the IC stating that such results have been displayed in the Notice Board in the previous years but not this time. He stated that he wanted similar full Results. With his permission, photo copies of the documents he brought were made by the Commission for official record and reference.
The Commission Vide No.S.A.44/2014-MIC dt.11.11.2014 asked the Respondent as to whether the full result for promotion of Havildars to ABSI had been displayed openly in the Notice Board in the past. In the reply of the Respondent vide letter No.E/PHQ/A-197/119 dt.25.11.2014, he stated that the full results for promotion of Havildars to ABSI had never been displayed/posted openly in the past but copy of promotion order were given to the officers and Commandants/Unit concerned.

In view of the contradictory statements wherein the Appellant Mr. Zoremthluanga Advocate said the Result of the Departmental Promotion Committee for promotion of Havildars to Armed Branch Sub-Inspector (ABSI) had been displayed in the Notice Board in the previous years whereas the Respondent Mr. P.C.Lalchhuanawma, SPIO of the Police Headquarters Aizawl clearly said that the same had never been displayed in the Notice Board, the Commission in order to find out the factual and correct position of the case, had written to the Director General of Police (DGP), Mizoram requesting him to inform the Mizoram Information Commission as to whether the Result of Departmental Promotion Committee for promotion of Havildars to Armed Branch Sub-Inspector (ABSI) had been displayed in the Notice Board in the previous years. In reply to MIC’s letter No.S.A.44/2014-MIC dt.06.01.2015 the DGP, Mizoram vide letter No.CB/PHQ/INFO-RTIA/2014/35 dt. 14.01.2015 informed the MIC as follows - “... the Departmental Promotion Committee had never displayed the full results for promotion of Havildar to ABSI in the past. However, the results were given to Commandants of all Battalions in order of merits (without details of Marks). It may be mentioned that there is no Rule in the Mizoram Police Manual to display such results in the Notice Board. He indicated that the detailed results of 2008 Test with marks were given to Govt. of Mizoram in connection with WPC No.26/2009. The result of the Departmental Promotion Committee for promotion of Havildar to ABSI held in between 19th – 26th August, 2013 was not displayed in the Notice Board but copy of promotion order were given to the Officers and Commandants / Unit concerned”.

Taking the above paras into consideration, the Commission is surprised to learn that while the DGP, Mizoram and the authorities in Police Headquarters have clearly confirmed that such results had never been displayed openly in the past, the Appellant had contended that the said results had been openly displayed in the Notice Board in the previous years. Thus it appears he had made incorrect statement to the Commission.
12. From the submission of copies of the Result of Departmental Test Havildars to ABSI, 2008, the Commission learnt that the same had contents of the following personal details:-

(i) Rank, Name, Unit.
(ii) Date of birth, Date of appointment.
(iii) Date of promotion to L/Nk, Nk, Havildar.
(iv) Personal Turn Out.
(v) Proficiency in drill.
(vi) Command and Control.
(vii) Handling and practical knowledge of weapon.
(viii) Field Craft and Map Reading.
(ix) General Knowledge (Written).
(x) Punishment – Major / Minor, if any.
(xi) Bonus Mark.
(xii) Total Mark
(xiii) Remarks.

13. The Commission observed that Information sought by the Applicants/Appellant involves a large number of “Third Parties” i.e., the Candidates in the said Examination and Section 11 of the RTI Act 2005, which had not been reflected or taken into consideration by the SPIO and the DAA while rejecting the Application / the 1st Appeal, will be applicable.

Section 11 of the RTI Act, 2005 enumerated –

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interests in disclosure outweighs in importance any possible harm or injury to the interests of such third party.
(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

14. In view of the above, the Respondent is directed to take action in accordance with the provisions of Section 11 of the RTI Act, 2005 by writing to the ‘Third Parties’ concerned to ascertain whether or not they agree to disclosure of information of the full result of the DPC 2013 i.e. results for Promotion of Havildar to ABSI (Armed Branch Sub-Inspector) held from 19th August to 26th August, 2013 to the Appellant. Keeping in view the submission of the third party a decision about disclosure of information or otherwise may be taken. Or if the Respondent is satisfied that the larger public interest outweighs the disclosure of such third party information, to provide the requested information to the Appellant.

The Appeal is disposed of.

(L. HRANGNAWNA)  
Information Commissioner  
Mizoram Information Commission  
Mizoram Aizawl

(LAL DINGLIANA)  
Chief Information Commissioner  
Mizoram Information Commission  
Mizoram Aizawl