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MIZORAM INFORMATION COMMISSION  
KHATLA: AIZAWL

SECOND APPEAL NO. 02/06-MSIC

DECISION


(Dated 25<sup>th</sup> April, 2007)

This second appeal, under Section 19(3) of the RTI Act, 2005, has been preferred by the appellant, Laltanpuia, Laipuitlang, Aizawl, against the First Appellate order dated 16.10.2006 passed by the Secretary, Mizoram Public Service Commission, Mizoram, rejecting the first appeal.

2. The short facts of the case are that the appellant applicant, Laltanpuia, made an application under sub-section (1) of Section 6 of the RTI Act, 2005, for obtaining copy of answer papers (Paper III & V) in Limited Departmental Examination for promotion to the post of Grade IV of Mizoram Ministerial Service conducted on 9<sup>th</sup> and 13<sup>th</sup> respectively of February, 2004. The State Public Information Officer, MPSC, Aizawl, rejected the application for information on the following 3 grounds :-

- (i) The information sought for is prohibited as per Section 27(f) of the Mizoram Public Service Commission Examination Guidelines, 2003;
- (ii) It comes under the exempted category as per the decision of Guwahati High Court, Aizawl Bench decision in WP(C) No. 97/05;
- (iii) The information sought for cannot be furnished as per the decision of the Supreme Court in the case of Pramod Kumar Srivastava Vrs Chairman, Bihar Public Service Commission, Patna and others in Civil Appellate No. 5046/04 arising out of SLP (C) No. 13322/03 decided on 6.8.2004 wherein re-evaluation or giving out Xerox copies of answer scripts cannot be done.

The applicant filed the first appeal before the Secretary-cum-Appellate Authority, MPSC, Aizawl, who, by order dated 14.11.2006, rejected the first appeal on the following four grounds:-

- (i) The information sought for is prohibited as per Section 27(f) of the Mizoram Public Service Commission Examination Guidelines, 2003;
  - (ii) It comes under the exempted category as per the decision of Guwahati High Court, Aizawl Bench decision in WP (C) No. 97/05;
  - (iii) The information sought for cannot be furnished as per the decision of the Supreme Court in the case of Pramod Kumar Srivastava Vrs Chairman, Bihar Public Service Commission, Patna and others in Civil Appellate No. 5046/04 arising out of SLP(C) No. 13322/03 decided on 6.8.3004I wherein re-evaluation or giving out xerox copies of answer scripts cannot be done.
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(iv) A copy of the Mizoram Public Service Commission Regulation is enclosed.

3. Pu C. Lalchhandama, Secretary-cum-Appellate Authority, MPSC, and Pu. Tamlal Lohar, Joint Secretary-cum-SPIO, MPSC, Aizawl, Mizoram, appeared in person. They have been heard in person.

4. The respondents have stated that they rejected the appellant's application for information in order to protect the confidentiality of examination papers; that giving such information may become a trend setter for other Public Service Commissions and may become a burden for others; that the rules of MPSC does not provide for giving copy of answer sheets and that they were apprehensive of re-evaluation being asked for.


5. After examining various provisions of RTI Act, 2005, they have accepted that they were over-cautious in rejecting the application for information; that under RTI Act it becomes mandatory to give the information applied for by the appellant and that giving information under the RTI Act does not have anything to do with possible application for re-evaluation which is under the rules of MPSC. Section 22 of the RTI Act, 2005, has also been perused wherein the provisions of the RTI Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act. It is not disputed that the information applied for does not fall under any of the exceptions contained under Section 8 nor Section 24 of the RTI Act. The information sought for by the applicant, therefore, has to be given to the applicant according to the provisions of the RTI Act, 2005.

6. The grounds used by the two lower authorities for rejection of the appellant-applicant's application are not relevant under the RTI Act, 2005. Accordingly, this second appeal is allowed; the orders of the two lower authorities are hereby set aside. The State Public Information Officer, through the First Appellate Authority, MPSC, Aizawl, is hereby directed to give the information applied for by the appellant applicant on payment of cost of information according to rules. The information shall be supplied by the SPIO, MPSC, Aizawl, as and when the information costs are paid by the appellant applicant. The appellant applicant is hereby informed to contact, and deposit the information cost to, if he so desires, the SPIO, MPSC, Aizawl, and obtain the information applied for by him.

7. Ordered accordingly.

  
(ROBERT HRANGDAWLA)  
Chief Information Commissioner,  
Mizoram Information Commission.

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- 1) The Secretary-cum-First Appellate Authority, MPSC, Aizawl, for information and necessary action.
  2. Joint Secretary-cum-SPIO, MPSC, Aizawl, for information and necessary action.
  - 3) Pu Laltanpuia, appellant applicant, Laipuitlang, Aizawl, for information and necessary action.

  
Sr. PPS to Chief Information Commissioner,  
Mizoram Information Commission.