The Mizoram Information Commission has received Second Appeal dt.01.10.2013 from Mr. Z.Khawzawl S/O L.R.Hluna(L), C/O John Sailo B-48 Muka Section, Mission Veng North, Aizawl against the decision made by the Departmental Appellate Authority (DAA), General Administration Department (GAD), Government of Mizoram, Aizawl for denying to supply the information sought by him.

2. **BACKGROUND OF THE CASE**: The Appellant had been engaged as Muster Roll Receptionist in the office of the Liaison Officer, Mizoram House, Government of Mizoram, Silchar on 21.04.1998. He was dismissed from his duty vide L.O. Silchar’s Order No.C.12010/1/2006-LO(SLC)/40 dt.27.04.2012 as his integrity and trustworthiness is doubtful to his employer.

3. The Appellant challenged his dismissal Order and filed Writ Petition (C) No.54 of 2012 in the Gauhati High Court. The Hon’ble High Court quashed dismissal Order on 03.09.2012 as no notice or hearing had been given to the Appellant. In so far as re-engagement of the Petitioner on Muster Roll basis and his prayer for regularization in terms of “Regularization of Muster Roll Employees Mizoram Scheme, 2000” are concerned, the Hon’ble High Court directed that “the Respondent No 2 shall look into the matter and thereafter take a conscious decision taking into account the fact that the Petitioner had rendered about 14 years of service as Muster Roll labour and also the provisions of the aforesaid scheme.”
4. The Appellant was informed by GAD that the Scheme indicates only 25% of the sanctioned posts can be filled up and there is only one post of LDC in Mizoram House, Silchar since then his claim could not be considered. Show Cause Notice dt.21.11.2012 was given as to why he should be re-engaged as LDC on MR basis on 5 points of allegations. The Appellant denied all the allegations made against him.

5. Sub-Divisional Officer (Civil), Vairengte was directed by the GAD on 30.04.2013 to record “Statements of Employees” working in Mizoram House, Government of Mizoram, Silchar and to obtain the feedback on the conduct of the Appellant. Consequently, SDO (C), Vairengte furnished the recorded Statement of 27 Employees and submitted to GAD, Government of Mizoram on 07.05.2013. On consideration of all the facts brought on record, the GAD concluded that re-engagement of the Appellant as MR employee under Mizoram House, Silchar would be subversive to discipline in the office and decided that he does not deserve to be re-engaged.

6. Being aggrieved with the decision of the GAD, the Appellant submitted his RTI application to the SPIO, GAD on 01.07.2013 with a request to supply him photo copies of Statements made by the Employees of Mizoram House, Silchar which has been recorded in writing by the SDO (Civil), Vairengte. The erstwhile SPIO, GAD in his letter dt.05.07.2013 refused to provide the requested information on the ground that the information would cause unwarranted invasion of the privacy of the Employees concerned and in accordance with the provision contained under Section 8(1) of the RTI Act, 2005.

7. Being aggrieved, the Appellant submitted his First Appeal dt.24.07.2013 to the erstwhile Departmental Appellate Authority (DAA), General Administration Department. As stipulated in Section 11 of the RTI Act, the concerned Employees (Third Party) had been directed by the GAD on 29.07.2013 to submit their consent or otherwise for supply of their Statements to the Appellant and none of them permitted to disclose the contents of their respective Statement. The Position had been conveyed to the Appellant on 13.08.2013.

8. The Appellant, not satisfied with the ruling of the Departmental Appellate Authority (DAA) of GAD, Govt. of Mizoram preferred his Second Appeal dt.01.10.2013 to Mizoram Information Commission. The Second Appeal was examined and it was found that the documents submitted were incomplete and after the Appellant furnished the required documents the processing of the Second Appeal was started.
9. After examining the Second Appeal of the Appellant and all the documents supplied by him, **Hearing** of the SPIO, GAD was held on 11.02.2014 (Tuesday) at 11.00 AM where both the Chief Information Commissioner and the Information Commissioner, Mizoram Information Commission (MIC) conducted the “Hearing” and the new SPIO of GAD Ms. Lalremruati was present. The SPIO, GAD had forcefully presented their reasons for not furnishing the information i.e. the Statement of 27 Employees at Mizoram House, Silchar, which the Employees had given in confidence and would not be disclosed. It was also mentioned that they were apprehensive about the Appellant. Subsequently, the SPIO, GAD had furnished detailed documents relating to the case to the MIC, which were not available to MIC earlier as all the documents received were only from the Appellant.

10. All documents have been carefully examined and studied and they have been taken into consideration with reference to the relevant provisions of the RTI Act, especially Section 8(1) and Section 11 of the Act. It is observed that the former SPIO and the former DAA of GAD, while responding to the Applicant/Appellant and giving “Order/Ruling” had not been specific and not clear in invoking the two relevant Sections 8(1)(g) and 11(1) of the RTI Act 2005. Section 8(1)(g) and 8(1)(j) had even been combined. This apparently had led to the Applicant not being satisfied and resorting to Second Appeal to Mizoram Information Commission (MIC).

11. Section 8 of RTI deals with exemption from disclosure of information.

**Section 8(1)(g)** which reads – “information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes”.

**Section 8(1)(j)** provides – “information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person”.

The Appellant had not established any bona fide public utility or interest in having access to the information sought.
12. Section 11 of the RTI Act deals with Third Party information and sub-section (1) thereof can be seen as follows: “(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 a 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 interest in disclosure outweighs in importance any possible harm or injury to the interests of such party”.

13. In the light of the above provisions of the RTI Act, 2005 and after perusal of the facts on record, the Mizoram Information Commission uphold the orders of the State Public Information Officer (SPIO), GAD and the Departmental Appellate Authority (DAA), GAD i.e not to furnish the Statements given in confidence by 27 Employees of Mizoram House, Silchar. The appeal is disposed of.

Copies of this order be given free of cost to the parties.

(L.HRANGNAWNA )
State Information Commissioner
Mizoram Information Commission

(LAL DINGLIANA )
State Chief Information Commissioner
Mizoram Information Commission

(Lal Dingliana IFS (Rtd))
Chief Information Commissioner
Mizoram Information Commission