NO.S.A.50/2015-MIC
MIZORAM INFORMATION COMMISSION
NEW SECRETARIAT COMPLEX, KHTLA
MIZORAM : AIZAWL

PI LALTHANZAMI  Kawn Veng-II, Zemabawk Vrs
STATE PUBLIC INFORMATION OFFICER
Mizoram Building & Other Construction Workers' Welfare Board.

COMPLAINANT
RESPONDENT

D E C I S I O N
(16.06.2015)

The Mizoram Information Commission has received a COMPLAINT dt.19.02.2015 from Pi Lalthanzami, Kawn Veng-II, Zemabawk Aizawl against the State Public Information Officer (SPIO), Mizoram Building & Other Construction Workers’ Welfare Board for denying to supply the information sought by her.

BACKGROUND OF THE CASE : The Complainant Pi Lalthanzami, Kawn Veng-II Zemabawk, Aizawl submitted her RTI Application on 08.12.2014 to the SPIO, Mizoram Building & Other Construction Workers’ Welfare Board (MB & OCWWB). The information sought can be seen as under :-

(1) “Khawtin / Veng tina h Nathawk tu in Register tawh an fate Educational Assistance atana tanpuina pawisa pek tawh zawng zawng, mitin hnena pek zat leh pek ni ti langin.

(2) Khawtin / Veng tina h Nathawk tu in Register tawh boral vanga Death benefit pek chhuah tawh zawng zawng, mimal tin hnena pek zat leh pek ni tilangin.

(3) Mizoram Youth Commission hnena pawisa pek chhuah tawh dan – Pek tawh zat, pek hun leh pek chhan ti langin.

(4) Mistiri Training nana pawisa pek chhuah tawh zat, pek hun leh tu hmen / Tu kaltlanga pek nge. Pawisa hman dan chipchiar tarlang telin.

(5) State pawna zirna leh programme hrang hrang atana sponsorship pek tawhte hming, nihna leh address, pek zat leh pek hun tilangin.

(6) Mizoram Building & Other Construction Workers’ Welfare Board atanga Quarry h Nathawk te hnena helmet pek tawh zat, a leina rate, khawi dawr / agent atanga lei leh engtik huna lei nge ?.”.

"RTI hmanga Mizoram Building & Other Construction Workers’ Welfare Board chungchang I zawhna dt.08.12.2014 khan kan lo dawng a, i zawhna te hi uluk takin kan lo enchiang a, chhan ngei che pawh kan duh a, amaherawchhu, Mizoram Building & Other Construction Workers’ Welfare Board chung chang I zawhna dungzui tho hian mi thenkhatin FIR siamin, Police-in an chhui mek a. Chuvang chuan, Chief Information Commissioner thutlukna thenkhat angin I zawhnate hi tun dinhmunah chhan theih a ni rih lo a ni. Hemi avang hian i mi hriathiamna kan ngen a ni.

RTI Act in a sawi angin kan ngenna che ah I lungawi lo a nih chuan Departmental Appellate Authority, Mizoram Building & Other Construction Workers’ Welfare Board, Directorate of Labour Employment & Industrial Training, Upper Republic, Aizawl Mizoram ah I lungawi lohna thlen turin dan angin kan hriattir leh duh che a ni”.

3. Being aggrieved, the Complainant preferred her First Appeal to the Departmental Appellate Authority (DAA), Mizoram Building & Other Construction Workers’ Welfare Board, Mizoram under letter No. Nil dt.15.01.2015 as follows:

"On 8th December, 2014 I submitted an application for information to State Public Information Officer, Mizoram Building & Other Construction Workers’ Welfare Board. I am highly aggrieved by the reply referred above issued by State Public Information Officer (RTI), Mizoram Building & Other Construction Workers’ Welfare Board.

“The State Public Information Officer, Mizoram Building & Other Construction Workers’ Welfare Board, refused to answer my Question on the ground that there is an ongoing Police Investigation in the related matter. It is regretted that the ground of refusal by the SPIO is false. There is an ongoing Police investigation in pursuance of FIR lodged by me in the matter of apparent misappropriation of money in the name of Administration, while the information I seek is completely different. As per Section 4 of RTI Act, 2005 the State Public Information Officer has the obligation to publish the type of information sought by me."

“I pray that this Appellate Authority to kindly take action for wrongful illegal refusal to give information by the said SPIO and to take steps for provision of the information I have applied”.

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4. The Complainant Pi Lalthanzami submitted her Complaint letter No.Nil dt.19.02.2015 to the Mizoram Information Commission stating that the Departmental Appellate Authority (DAA) did not conduct any hearing nor sent her any reply even after 30 days has elapsed. The Mizoram Information Commission pursued the matter vigorously. The Commission wrote to the Complainant twice as the documents submitted to the Commission were found to be incomplete. Further, the Commission had also written to the Superintendent of Police (S.P), Anti-Corruption Bureau (ACB) to ascertain the factual position of the investigation of the case. Thereafter on having received all the required documents, necessary steps were taken for hearing both the parties.

5. The Mizoram Information Commission conducted Hearing of both the parties as follows:-

(A) On 09.06.2015 at 11.00 A.M, Hearing of Pi Lalthanzami Complainant was conducted by Pu Lal Dingliana, Chief Information Commissioner, MIC and Pu L. Hrangnawna, Information Commissioner, MIC in the Office Chamber of the Chief Information Commissioner. Pi Lalthanzami appeared in person.

She was given a chance to explain the reason of her complaint. Availing the opportunity, she stated that an RTI Application was submitted to the State Public Information Officer (SPIO), Mizoram Building & Other Construction Workers’ Welfare Board (MB & OCWWB) on 8.12.2014 but it was rejected by the SPIO on the ground that there was an ongoing police investigation.

Subsequently, First Appeal was preferred to the Departmental Appellate Authority (DAA), Mizoram Building & Other Construction Workers’ Welfare Board but since no response was received even after a lapse of 30 days, she has now approached Mizoram Information Commission.

She also informed that the Police investigation in respect of the apprehended misappropriation of money in the name of Administrative Cost and the investigation has been completed and sent to Vigilance Department for further actions. In this context the report of Superintendent of Police, Anti-Corruption Bureau (ACB) is produced for ready reference. But the information applied by her under RTI is completely different from the matter investigated by Police and she herself was the one who lodged the FIR as she was well acquainted the facts of the case. She mentioned that there was no ground for rejecting her application at that stage and also informed that the information sought is still required as indicated in her RTI Application submitted to the State Public Information Officer, Mizoram Building & Other Construction Workers’ Welfare Board.
On 10.06.2015 at 11.00 A.M., the Respondent Pu Francis Lianmawia SPIO, Mizoram Building & Other Construction Workers' Welfare Board was heard in the Office Chamber of the Chief Information Commissioner, MIC. Both the Chief Information Commissioner and the Information Commissioner conducted the hearing.

(i) The Chief Information Commissioner enquired as to why the required information to the RTI Application submitted by Pi Lalithanzami vide Memo No.NIL dt.08.12.2014 which consisted of 6 (six) points was denied to the Complainant.

The Respondent Pu Francis Lianmawia replied that the information sought by the Applicant could not be supplied since an FIR was lodged to the Police by some person for which he had the assumption that necessary investigation was going on at that moment.

(ii) With regard to the denial of the required information by the Respondent to the Complainant on the aforementioned 6 (six) points, both the Chief Information Commissioner and the Information Commissioner mentioned that—

“Vide letter No.NIL dt 08.12.2014 Pi Lalithanzami submitted her RTI Application to the SPIO during December, 2014 and the SPIO then replied stating that since there is an ongoing investigation of the case by the ACB, the required information could not be furnished. However, as per the record maintained by ACB, the process of investigation of the case in question was started in September, 2014 and the investigation completed by December, 2014. Therefore, there is no reasonable ground to say that there is an ongoing investigation by the ACB and the reply could not be furnished while it has already been completed”.

In reply, the Respondent said that since he was not aware of the fact that the investigation had been completed then, he denied the information sought by the Complainant. He claimed that only when he received a “Show Cause Notice” No.C.33033/4/2013-WB(L&E)/73 dt. 19.01.2015 from the Secretary, Mizoram Building & Other Construction Workers' Welfare Board (MB&OCWWB) from which he learned that the investigation was completed.

(iii) Further, on being asked as to which CIC’s Ruling has been quoted in his letter sent to the Complainant, the Respondent could not give any reply. He however produced a letter he claimed to be the ruling of CIC but did not know which CIC Ruling.

(iv) Also, on being asked as to why the relevant provisions of the RTI Act, 2005 was not quoted in his reply to the Complainant, he informed the Commission that as the Complainant appeared to be satisfied with the reply after discussion of the matter by both of them, the relevant provisions of the RTI Act, 2005 was not mentioned in the letter.
(vi) The Chief Information Commissioner also pointed out that as the reply to the Complainant’s RTI Application was not furnished to her by the SPIO she preferred First Appeal to the DAA who also did not conduct any hearing nor sent any reply. Hence, the Complainant approached MIC. *On being asked as to whether he was aware of the reason for not conducting any hearing by the DAA*, the Respondent informed that a date for hearing of the Complainant was fixed and Pi Lalthanzami was also summoned to appear before the DAA by a letter dispatched through Registered Post. Since she did not turn up on the date fixed, *the hearing* was not conducted and she could not be contacted even through her Mobile Phone number.

(vii) Further, on being asked by the Commission *as to whether the FIR submitted to the Police has any relation / connection with the information sought by Pi Lalthanzami*, the Respondent stated that the requested information under RTI Act, 2005 sought by Pi Lalthanzami were within the context of the FIR submitted to the Police as specific details of the whole expenditure of the Mizoram Building & Other Construction Workers’ Welfare Board had been requisitioned by the Police.

6. After careful examination of the statements of the Complainant and the Respondent, the Mizoram Information Commission observed / opined :-

(a) At the time of submission of the RTI Application by the Complainant *i.e. Pi Lalthanzami vide letter No. Nil. dt. 08.12.2014* to the Respondent, the investigation on the FIR was already completed and the Report was sent to the Vigilance Department *vide letter No.P.E.No.4/2014 dt.28.08.2014* and the same was subsequently forwarded by Vigilance Department to the Secretary, LE & IT Department *vide letter No.C.31016/4/2014-VIG dt.05.11.2015*. The Joint Secretary, LE & IT informed the Secretary, Mizoram Building & Other Construction Workers’ Welfare Board to issue Show Cause Notice to Pu Francis Lianmawia, SPIO for negligence of duty and bringing bad image to the Welfare Board *vide Letter No.B.16012/2/2014-LE&IT dt. 17.12.2014*.

(b) In the meantime, the RTI Application was denied by the Respondent *vide letter No.C.33033/4/2013-WB(L&E)/63 dt. 18.12.2014* on the ground that the information sought by the Complainant was an on-going investigation. In this regard the Respondent claimed that he did not know at his level if the investigation on the FIR lodged was completed or not.

(c) The Complainant preferred First Appeal to the DAA, Mizoram Building & Other Construction Workers’ Welfare Board *vide letter No. Nil dt.15.01.2015*. The DAA, MB&OCWWB sent a *summon* to appear before him on 30.01.2015 at 11.00 A.M. through Indian Post No. A RE439826022IN *vide letter No.C.33033/4/2013-WB(L&E)/78 dt.22.01.2015*. The Complainant did not turn up in the *hearing* and no ruling / decision was made by the DAA. The Complainant had written that she approached the DAA on 18.02.2015 but he was not available in his office.
(d) The requested information sought by the Complainant under RTI Act, 2005 has no direct connection with the investigation of the case by ACB which was registered earlier on the complain of Pi Lalthanzami.

(e) On being asked why has he not quoted any relevant Section of the RTI, Act, 2005 or the relevant Rules of the Mizoram RTI Rules, 2010 in his reply to the applicant, the Respondent simply said his decision was as per some Rulings of the Chief Information Commissioner. The Respondent, when asked could not tell which CIC’s Ruling he is quoting.

(f) On being further asked whether or not the information sought by the Complainant could now be furnished, the Respondent stated that the required information are available with Mizoram Building & Other Construction Workers’ Welfare Board.

7. (i) In view of the above, the Respondent is directed by this Commission to provide the information sought on the 6 (six) points to the Complainant free of cost within 15 (fifteen) days from the date of receipt of this Order.

(ii) The SPIO and the DAA of Mizoram Building & Other Construction Workers’ Welfare Board (MB&OCWWB) are directed that for RTI cases the relevant Sections of the RTI Act must be quoted while responding to RTI Applications and if sample cases are to be quoted they must refer with the source.

(iii) The Departmental Appellate Authority (DAA), Mizoram Building & Other Construction Workers’ Welfare Board is also warned to ensure in future, the summon letter issued to the Complainant is actually received by the concerned person and acknowledgement receipt duly signed should always be obtained.

The Complaint is disposed off accordingly.

(L. BRANGNAWNA)  
Information Commissioner  
Mizoram Information Commission

(LAL DINGLIANA)  
Chief Information Commissioner  
Mizoram Information Commission