

MANIPUR INFORMATION COMMISSION IMPHAL

Appeal Case No.189 of 2010

Ms. Laishram Sanatombi Devi, D/O (Late) L. Surjamani Singh, a resident of Yairipok Bishnunaha Mayai Leikai, Bamon Leirak, Thoubal District, Manipur, - Appellant

Vrs

1. The Special Secretary, Department Of Home, Government of Manipur, Imphal /SPIO.

2. The Commissioner, Home Government of Manipur, Ist Appellate Authority -Respondents

ORDER

Imphal, the 31st March, 2011

FACTS

This is an appeal preferred by Ms. Laishram Sanatombi Devi, D/O (Late) L. Surjamani Singh, a resident of Yairipok Bishnunaha Mayai Leikai, Bamon Leirak, Thoubal District, Manipur on the refusal of the State Public Information Officer (S.P.I.O.)/the Special Secretary, Department Of Home, Government of Manipur, Imphal to furnish information sought for, under the Right to Information Act, 2005 vide her application dated 19th July 2010 and the same was received by the office of the S.P.I.O. with the prescribed application fee. In this application, the Appellant has sought for the following information:-

“(I) Please furnish a copy of the list of candidates who undergone/participated in the viva-voice indicating their marks secured in physical, written and viva-voice as in order of merits and signed by the members of the DPC of the above mentioned.

(II) Please furnish a copy of all the sports certificates enclosed by the candidates used for the relaxation of age limits along with the copy of the answer script of the candidate who secured least marks among the general / OBC candidates of the above mentioned.

2. Having not received any response from the S.P.I.O.; the appellant, on 10th September 2010, preferred a first Appeal to the Appellate Authority/the Commissioner, Department of Home, Government of Manipur, stating that the Department of Home from which she sought for information is not under the preview of exemption under the sub-section 4 of section 24 of RTI Act, 2005, as the information sought for, relates to corruption and human right violation. On 18th August 2010, vide an order No. 14/4(18)/2009-H (RTI) Pt dated 18th August 2010 the Appellate Authority/ Commissioner, Home, states that the information sought for is related to Police Department and as per Manipur Government

Notification No.11/4/2005-AR dated 15/10/2005 and its corrigendum, Manipur Police Department is exempted from the purview of RTI Act, 2005 in exercise of the powers conferred to the State Government by the sub-section 4 of section 24 of the Act. Further the Appellate Authority added that there is no materials/evidence to support the allegations of corruption or Human Right Violation and hence the request to furnish the information is rejected.

3. Thereafter, the present Appellant preferred this appeal to this Commission on 10th December 2010, under Section 19 of the R.T.I.Act, 2005, on the basis of which the Commission issued a show cause notice on 10th December 2010, and the case is taken up as an appeal case under section 19 of RTI Act, 2005 and heard on 15.1.2011, 20.1.2011 and 29.1.2011 after giving due notices to the parties.

4. The Commissioner Home Government of Manipur. In his orders No. No.14/4(18)2009-H (RTI) Pt dated 18th September, 2010 has rejected the appeal of the present appellant on the ground that the Police Department is exempted from the purview of R.T.I.ACT, 2005 per the Notifications No. 11/4/2005-AR dated 15th October, 2005 and 25th October, 2005, which were issued in exercise of the powers conferred to the State Government by Sub Section (4) of Section 24 of the Act. Further, it has cited that the appellant has not submitted any specific materials|evidence to support the allegation of corruption and human right violation.

5. As there is no other alternative way, the present appellant filed this petition to this Commission stating that the information sought for is available with the Department of Home as the said post of women Sub-Inspectors were recruited by the Department of Home on the basis of a selection and thereby the Department of Home is not exempted under section 24 of the Act. Further, the Appellant did well in all tests of the recruitment but she was not selected and hence corruption is suspected. Over and above this, had the proof of corruption is there with the appellant, she might have not applied for information under R.T.I. Act, 2005. In his reply to our show cause notice, the Commissioner, Home Government of Manipur has commented as follows –

“(ii)The details sought by the Appellant in her original RTI application ,namely list of all candidates, their marks in physical, written and viva-voce are not available with Home Department. Such details records do not constitute part of the DPC proceedings submitted to Home Department. These records are in the custody of the Manipur Police Department which is exempted from the purview of RTI Act.”

6. During the course of hearing, on 20th December 2010, a written reply vide letter No14/4(18)/2 dated 18th December 2010 along with some information was filed by the Commissioner, Department of Home to this Commission, purportedly stating to be required information. On 6th January 2011, the Appellant has submitted another rejoinder requesting that the information was misleading and thereby she has requested to this Commission for taking up further necessary action so as to get the required information. The Appellant has also argued that the said Sports Certificates is not more than fifteen out of the total of 98 candidates who entered in viva voice and hence the information requested should be furnished, while the S.P.I.O. has stated during the hearing that the required information is too voluminous in respect of Sports certificates.

7. The contention of the Appellate Authority that the Police Department is exempted from the purview of the R.T.I.Act, 2005 is undisputable, at the same time it is also a fact that in such exemptions do not cover in case of information pertaining to the allegations of corruption and human rights violations under the proviso to section 24(4) of the R.T.I.Act, 2005. In her application dated 19th July, 2010 the present appellant has categorically mentioned that the present information pertains to Human Rights violation and corruption, therefore, there is no question of exemption in respect of these information from the purview of the R.T.I.Act, 2005. Further section 6(2) of the R.T.I.Act, 2005 states that

“(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary to contacting him”

.It is also to be noted that without getting the information how can the appellant prove that there is corruption in the said recruitment .The term corruption covers “criminal misconduct”. .A public servant is said to commit an offence of criminal misconduct in the discharge of his duty, if he, by corrupt or illegal means, or otherwise abusing his position as a public servant, obtains for himself or for any other person, any valuable thing or pecuniary advantage. Thus, it cannot be proved mere on assumption, but documents are required. Further, the recruitment of Sub Inspectors of Police is related to the employment of the appellant who is also a candidate for the said post; therefore, it is one of the Human Rights within the definition of Human Rights. Therefore, the information sought for is related to both corruption and violation of Human rights. The contention of the S.P.I.O. that the documents sought for, are with the Police Department, therefore these cannot be given is also unreasonable and unacceptable as the S.P.I.O. of the

Home Department is also S.P.I.O. of the Police Department, if the records are not with the Home Department the same should have been transferred to the S.P.I.O. of the Police Department, as soon as the application for information under R.T.I. Act was received, but which was not done. Further, the Commission does not agree that the information sought for is voluminous as claimed by the S.P.I.O. However, the answer scripts of third party cannot be given.

8. It is a fact that the SPIO / the Special Secretary, Department of Home, Government of Manipur, Imphal has failed to provide the information requested from 19th July 2010 to till date, without any reasonable ground, thus he has violated the provisions of Section 7(1) of the RTI Act, 2005; therefore, he is liable for maximum fine under Section 20 of the Act, of an amount of Rs.25,000/- (Rupees twenty-five thousand) only. At the same time the S.P.I.O. did not transfer the said application within time limits under section 6 (3) of RTI Act if the information is with another Public Authority. Further, because of the non-providing of the information by the SPIO, the /Appellant has to attend the Office of the Commission repeatedly and also has to suffer many detriments which need to be compensated.

DECISION

In the result, stated above, the Commission orders that, (i) the information sought for, by the above Appellant, fully described at para 1 (i) and (ii) above(*except the copy of the answer script of the candidate who secured least marks among the general / OBC candidates of the above mentioned*) should be furnished by the SPIO/ the Special Secretary, Department Of Home, Government of Manipur, Imphal, within a week from the receipt of this order, free of cost, under intimation to this Commission; failing which appropriate penalty as prescribed in section 20 of the RTI Act, 2005 shall be imposed against him. The personal attendance of the appellant in the office of the SPIO is not required. (ii) the Appellant can approach the Commission again in case of any grievance on or before 25th April 2011.

Announced in open.

(RK Angousana Singh)

State Chief Information Commissioner, Manipur

Copy to:-

- 1. The Chief Secretary, Government of Manipur, Imphal**
- 2. The Commissioner, Department of Home, Government of Manipur.**
- 3. The Special Secretary|S.P.I.O., Department Of Home, Government of Manipur**
- 4. Ms. Laishram Sanatombi Devi, D/O (Late) L. Surjamani Singh, a resident of Yairipok Bishnunaha Mayai Leikai, Bamon Leirak, Thoubal District, Manipur**