



No: A/67/ MIC - 2024

MANIPUR INFORMATION COMMISSION

SECRETARIAT NORTH BLOCK, GROUND FLOOR,
BEHIND WESTERN BLOCK,
IMPHAL, MANIPUR.
Phone No: 0385-2456495

Appeal Case No. 67 of 2024

Ngangbam Roben Singh

— Appellant.

-Vs-

The SPIO/ Joint Secretary/ Deputy Secretary (DP) Govt. of Manipur & Anr.

— Respondents.

JUDGEMENT

Dated: - 18.10.2024

The FAA and the SPIO, Department of Personnel are represented by Smt. Nalini Konsam, Deputy Secretary (DP), Government of Manipur through video/ audio conference. Ms. Ana Arambam, SPIO/ Joint Secretary (DP) Government of Manipur is also present. Shri Ng. Roben Singh, (IAS) the Appellant appears in person.

Brief facts of the case: -

This is an RTI Application dated **20.5.2024** filed by Shri Ngangbam Roben Singh, (IAS) seeking information under Section 6 (1) of the RTI Act, from the SPIO/ Department of Personnel, Government of Manipur on two points (i) regarding information on file No. MISCDP-1/20/2023-DP-DP dated 2.8.2023 in connection with the issuance of transfer order and its corresponding file notings issued by Department of Personnel, Government of Manipur. And, (ii) Information relating to file notings and its correspondences pertaining to the process and issuance of court order vide the Department of Personnel File No. COURT-1/110/2023-DP-DP dated 29.12.2023. The concerned Public Authority/ DP issued a letter dated 11.7.2024 to the Applicant and denied the sought information under Section 8 (1) (j) of the RTI Act.

Thereafter, he filed 1st Appeal to the FAA/ Chief Secretary, (DP) Government of Manipur on **12.7.2024** under Section 19 (1) of the RTI Act. Being aggrieved the Appellant filed Second Appeal dated 16.8.2024 to the Commission on 16.8.2024 under section 19 (3) of the RTI Act, 2005, pleading that the Public Authorities have not furnished any information.

Hence, the Second Appeal petition.

Proceedings of the Hearings: -

On the day of hearing dated 5.9.2024, the Appellant submitted that under the RTI Act, an ASPIO is not authorised to furnish information. He also alleged that the present Public Authority who provided a reply for rejection of his subject of request is not the concerned SPIO. He also strongly submitted that the Deputy Secretary, (DP) has rejected/ denied his subject of request vide letter dated 11.8.2024 by simply mentioning Section 8 (1) (a) of the RTI, Act after the lapse of 30 days without giving any valid reason for rejection. He also submitted that in any Appeal proceedings the onus of proof for denial of a request lies on the SPIO, who denied the request as specified in Sub-Clause (5) of Section 19 of the RTI Act. He also added that the concerned FAA (DP) also failed to take up any First Appeal proceedings and as such more than two months has lapsed since the date of filing his RTI Application without getting any information. Lastly, he submitted that the Public Authorities have done a disservice to the RTI Act passed by the Parliament by their conduct.

Smt. Nalini Konsam, Deputy Secretary (DP) attended the hearing through video conference and she submitted that she is attending the hearing as directed by Higher Authorities though she is presently on leave and that she is the ASPIO. She further stated that the information sought for is denied under Section 8 (1) (a) of the RTI Act.

The Appellant in his second Appeal stated that Section 8 (1) (a) of the RTI, Act, 2005 is not applicable in the present matter because the above mentioned Section states that "Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence". The Appellant also submitted that the sought information is related with the file noting for transfer order, speaking order etc., concerning the Appellant who is an IAS officer now under suspension. The sought information is not related with any matters pertaining to intelligence organizations, defence organizations or internal security, etc., as mentioned above in Section 8 (1) (a), the Appellant added.

After hearing from both the parties and examination of records, the Commission finds that the reply of the Deputy Secretary (DP), Government of Manipur dated 11.8.2024 to the Appellant is a denial of the information sought by the Appellant by simply citing Section 8 (1) (a) of the RTI, Act, 2005. Section 7 (8) (i) of the said Act clearly states that, where a request has been rejected under this subsection, the SPIO shall provide the reasons for a such rejection.

The duties and functions of the ASPIO and the SPIO are clearly reflected under Sub-clause (2) & (3) of the Section 5 of the RTI Act. An ASPIO is to collect/ receive application for information or Appeal from such person seeking information and submitted the same to the SPIO within 5 days. The SPIO shall deal with request from persons seeking information. The information shall be provided to the information seeker only by the SPIO.

In a catena of Supreme Court and High Court Judgement/ orders, with regard to the exemption clause from disclosure of information under Section 8 (1) of the RTI Act and corresponding sub clauses, the Public Authority should be able to demonstrate that the information sought for falls under any of the exempted categories of information and that reasons for rejection of requests for information must also be clearly provided. Section 8 (1) of the RTI Act being a non-obstante provision, over-rides other provisions of the RTI Act.

As such, the Commission directs the SPIO/ DP, Government of Manipur to furnish ground for rejection or denial of the present subject of request by giving reason as per the provision of the RTI Act. And, as such, the Commission directs the SPIO, (DP), Government of Manipur to be present.

On the last day of hearing dated 23.9.2024, the Commission received a letter from the SPIO/ Joint Secretary (DP) Government of Manipur, dated 20.9.2024. A similar copy of the same was provided to the Appellant during the course of hearing. The SPIO/ DP submitted that the "RTI Application from Shri Ngangbam Roben Singh dated **11.08.2024** was denied under Section 8(1)(a) of the RTI Act as the decision for transfer and posting of Shri Ng. Roben Singh as DC, Jiribam was taken in relation to the then prevailing situation in Jiribam District and across the State as a result of the ethnic strife. The decision was in the interest of the State's security. The information sought for, if disclosed, may be prejudicial to the State's security interests or it may lead to incitement of offence as Jiribam, as was considered earlier, is currently under unrest. Information sought for, therefore was considered as exempted from disclosure, under the Act. In view of the above reasons, the State Information Commission is requested to kindly consider the information sought by the RTI applicant as exempted under Section 8(1)(a) of the RTI Act."

Reacting to the statement of the SPIO/ DP, the Appellant submitted that the transfer and posting matter of an officer and its relevant file notings are not related with the security of the state

and law and order situation. He also strongly denied that the transfer and posting of an officer could lead to incitement of offence. He added that no unwanted events had happened at Jiribam when the said transfer and posting order was issued by the Government of Manipur. As such, he claimed that the sought information is disclosable information and has no relationship with State security, law and order situation as submitted by the SPIO/ DP, Government of Manipur.

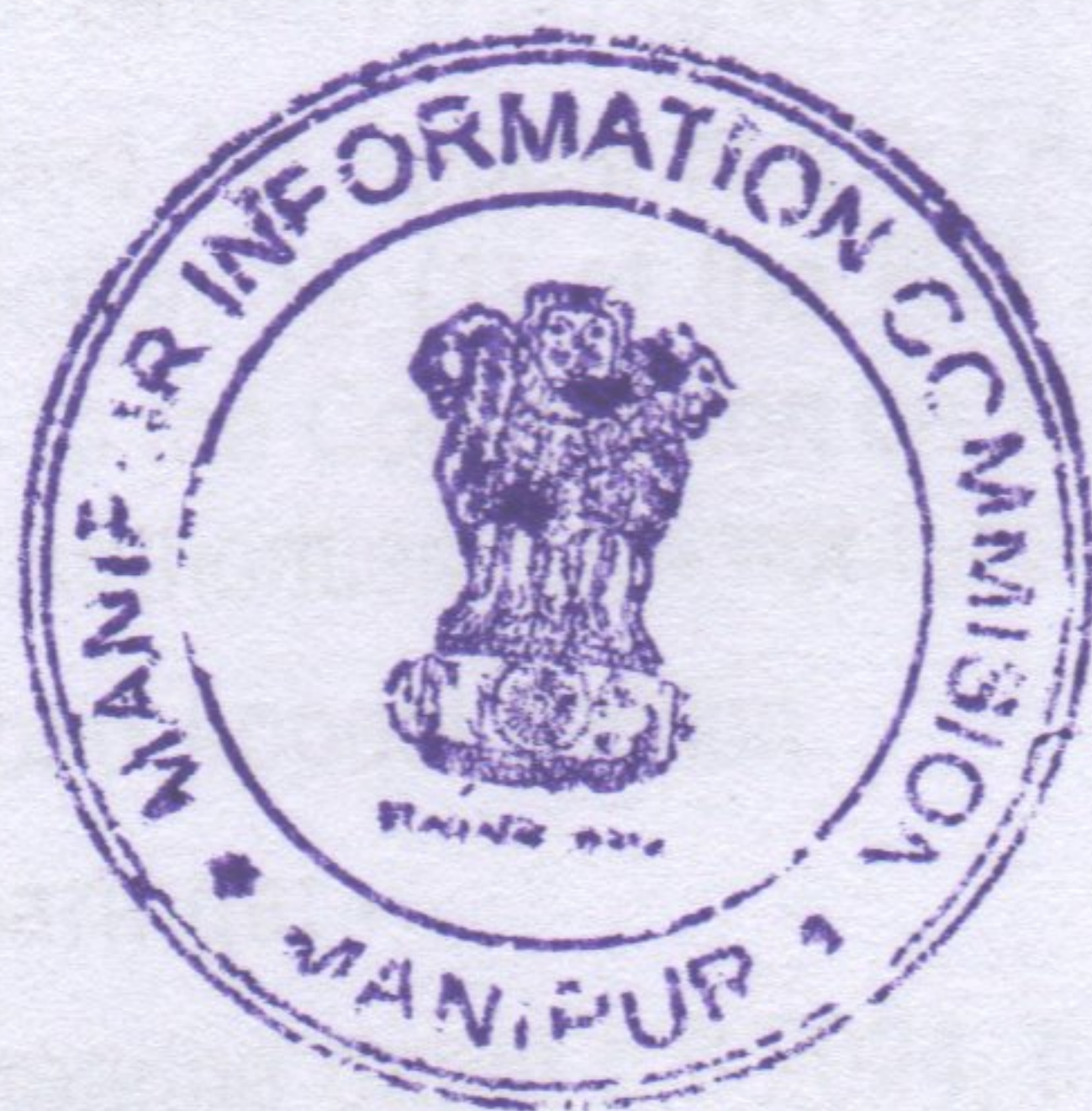
Observation: -

An IAS officer is the backbone of a government, who aid and advise the Government. A Deputy Commissioner is the executive head of the district with multifarious responsibilities pertaining to development, panchayats, local bodies, civil administration, etc. As District Magistrate, he is responsible for upholding the rule of law and maintenance of law and order in his jurisdiction. Deputy Commissioner plays a crucial role in bringing peace and tranquillity in their respective districts.

The Commission further observes from the statement of SPIO/ DP that the RTI Application from Shri Ngangbam Roben Singh dated **11.08.2024** was denied under Section 8(1)(a) of the RTI Act as the decision for transfer and posting of Shri Ng. Roben Singh as DC, Jiribam, was taken in relation to the then prevailing situation in Jiribam District and across the State as a result of the ethnic strife. And, that the decision was taken in the interest of the State's security as the disclosure of the sought information may be prejudicial to the State's security interests as it could lead to incitement of offence as Jiribam, as was considered earlier, is currently under unrest.

Under Section 8 (1) (a) of the RTI Act there is no obligation to give any information to the citizen and as such it is absolute in nature. The Commission upholds the decision of the DP, Government of Manipur dated 20.9.2024, as the decision of the DP, Government of Manipur was taken in consideration with the sensitive and fragile ethnic strife prevailing in Jiribam District. Hence, no further intervention is required.

With this observation the Appeal case is closed.



Sd/-

(K. Radhashyam Singh)
State Chief Information Commissioner,
Manipur Information Commission.

Authenticated by: -

(L. Premananda Singh)
Deputy Registrar (Judl. – II),
Manipur Information Commission

Copy to: -

1. The FAA/ Chief Secy./ Addl. Chief Secy./ Principal Secy./ Commissioner/ Secy. (DP) Government of Manipur.
2. The SPIO/ Joint Secretary (DP), Government of Manipur.
3. The ASPIO/ Dy. Secretary (DP) Government of Manipur.
4. Ng. Roben Singh, # 9436230098, email, ng.roben@yahoo.com.

*Note: Parties may attend the hearing online and for online hearing, he/ she is requested to download the **Jitsi Meet** App for use on a mobile phone or use the link <https://meet.jit.si/MIC1> for video conference (VC) and enter the room name as **MIC1***