

**MANIPUR INFORMATION COMMISSION**  
Room No. 317, 3<sup>rd</sup> Floor, New Secretariat Annexe,  
Manipur Secretariat, Imphal- 795 001.

**Complaint Case No. 31(B)/2011**

Smt. Salam (O) Th. Lilabati Devi, W/o. S.Tomba Singh,  
Nagamapal Phougeisangbam Leikai, P.O. Imphal;  
P.S. Lamphel, Imphal West District, Manipur.

- Complainant

- Vs. -

1 The State Public Information Officer,  
Office of the Director, Economics & Statistics  
Department, Government of Manipur.

2 The First Appellate Authority /The  
Principal Secretary, Department of  
Economics & Statistics

- Respondents.

05/9/2011

DECISION

**Brief of the case.**

This is a complaint case lodged by Smt. Salam (Ongbi) Th. Lilabati Devi, w/o S. Tomba Singh of Nagamapal Phougeisangbam Leikai, P.O. Imphal against Shri. Arunkumar Singh, State Public Information Officer (hereinafter referred to SPIO) of the Directorate of Economics & Statistics Department, Government of Manipur and the Principal Secretary, Department of Economics & Statistics, Government of Manipur the First Appellate Authority (hereinafter referred to as the FAA) u/s 18 of the R.T.I. Act (hereinafter referred to as the Act).

The complainant made an application under the Act to the SPIO on 22/11/2010 to furnish the following information :

- i) “the recommendation and grade/marks obtained by the candidates including comparative ACR of the candidates in the DPC held in the year 2010 for the promotion to the post of the Head Clerk in the Department of Economics & Statistics, Government of Manipur.”

The SPIO furnished an extract copy of the proceedings of DPC meeting held on 30-7-2010 i.e., the portion containing the recommendation made by the said DPC without the grade/mark obtained by the candidates including comparative ACR of the candidates considered by the said D.P.C.

Having dissatisfied with the decision of the SPIO, the complainant preferred an appeal with the FAA on 30-12-2010. The FAA did not take up the First Appeal within the stipulated time nor the complete information was furnished to the complainant. To redress her grievances, the complainant lodged a complaint on 4-6-2011 with this

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Commission u/s 18 of the Act. The Commission admitted the complaint since she had exhausted the alternate and efficacious remedy of First Appeal available u/s 19(1) of the Act; and no other alternate provision is there except to lodge a complaint. The complaint is enquired into.

### Findings

The information requested was “.....the recommendation and grade/mark obtained by the candidates including comparative ACR of the candidates in the DPC held in the year 2010 for the promotion to the post of Head Clerk in the Department of Economics & Statistics.” The complainant has put forward violation of service right and suspected corruption.

The SPIO /Director has furnished an extract of DPC proceedings containing the recommendation and withheld the request of the applicant regarding comparative ACRs of the candidates in the DPC on the ground of exemption from disclosure of the ACRs u/s 8 and 11 of the Act.

Comments from the SPIO/respondents was sought on 9/6/2011 to be furnished within a week's time. The respondent sought additional 15 days' time and furnished the comments on 5/7/2011. In his comments, the SPIO stated that the information relating to the grades/marks obtained by the eligible candidates in their Annual Confidential Reports or the comparative grading of the Annual Confidential Reports of the candidates was not furnished to the complainant since “the information required by the Complainant/Applicant are confidential information which relates to personal information of third parties, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion on the privacy of the concerned individuals”, and “the disclosure of which are exempted under section 8 and 11 of the Right to Information Act, 2005. Accordingly, the said information had not been disclosed to the Complainant/Applicant by the State Public Information Officer.”

The complainant submitted that ACR is not an exempted category of information as laid down under Section 8 of the Act. The respondents submitted that section 8(1)(j) operates in the present case in their favour to withhold the ACR. Section 8(1)(j) provides non-disclosure of information which relates to personal information the disclosure of which has no relationship to any public activity or would caused unwarranted invasion of the privacy of the individual . Keeping in view of the legislative intent of the provision, it is clear enough that ACR is not a personal information but is absolutely information relating to public functioning which will be referred to in dealing with promotion and other service matters. Therefore, disclosure of ACR would not relate to section 8(1)(j) of the Act. Further the attention of the Commission is drawn to the decision of Gauhati High Court in District & Sessions Judge, West Tripura District, Agartala & another –Vs- Shri Shailabhadra Sinha, 2011 (1) GLD1(GAU), wherein the facts of the case are that the respondent No. 1 working as a UDC in Establishment of Distrsict & Sessions Judge, applied for copies of his ACRs and minutes of DPC relating to promotion to the post of Head Clerk-cum-Accountant. It was held that an employee is entitled to know the comment of the authority concerned and grading awarded by them. It is also held that information in ACRs not being “personal information” within the meaning of section 8(1)(j) of the Act and withholding of ACR copy was held not justified.

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In this case, the mooted point is as to whether withholding of the information by putting forward a justification of non-disclosure under section 8(1)(j) and 11 of the Act, is justified in the case prescribed by Act or not.

In the present case, the information sought by the complainant is the comparative gradings in the ACRs of the candidates considered by the DPC but in the case referred to above the information sought was a copy of the ACRs of the information seeker. Even though the two cases are not totally similar, the question as to whether an ACR is personal information or not and whether it can be disclosed or not has been clarified in the above cited case. It was held that "The information in the ACRs being not 'personal information' with the meaning of section 8(1)(j), the same cannot be withheld from the respondent No. 1." Therefore, withholding of comparative gradings in the ACRs of the candidates considered by the DPC under the shelter of Section 8(1)(j) of the Act by the respondent SPIO is not justified. Further, Section 11 of the Act under which the SPIO sought to justify the rejection of request is not warranted. Section 11 is not a provision to reject information requested. It is a provision to furnish information in case of third party information by following the procedures laid down therein.

The comparative ACRs of the candidates in the DPC would not attract section 11 because the ACR is not information relating to a third party or supplied by a third party and which has been treated as confidential by that third party. It may refer to more than one person and an official record which relates to a third party. The complainant has not asked an information which relates to or supplied by a third party and which is treated as confidential by the third party. Therefore, the SPIO has misinterpreted and rather misconceived the provision of law laid down under section 11 of the RTI Act, in withholding the information. The act of the respondents revolts against the concept of transparency and accountability in the working of public authority and for the above reasons, this Commission holds that the withholding of information to the applicant was in violation of the spirit of the RTI Act.

### Decision

Accordingly, the Commission directs the respondent SPIO to furnish the withheld information i.e., comparative gradings in the ACR of the candidates in the DPC held in the year 2010 for the promotion to the post of Head Clerk in the Department of Economics & Statistics", within seven days from the date of receipt of this decision.

Pronounced in open.

Thus, the complaint is disposed off. Issue a copy of this decision to the parties.

Sd/-

(CH. BIRENDRA SINGH)  
State Information Commissioner

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Endt. No. C.C.31(B)/2011

Imphal, the 5<sup>th</sup> September, 2011.

Copy to:-

1. The Principal Secretary (Eco.& Statistics)/  
First Appellate Authority, Government of Manipur.
2. The Director/State Public Information Officer,  
Economics & Statistics Department, Government of Manipur, Imphal.
3. Smt. Salam (O) Th. Lilabati Devi, W/o S.Tomba Singh,  
Nagamapal Phougeisangbam Leikai, P.O. Imphal,  
P.S. Lamphel, Imphal West District, Manipur.



(M.N. SHAH)  
Deputy Registrar,  
Manipur Information Commission,  
Imphal.

