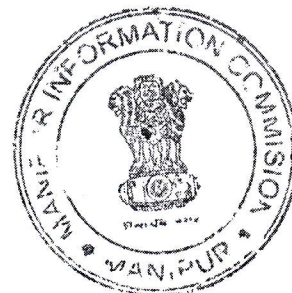


No: A/80/MIC - 2024
MANIPUR INFORMATION COMMISSION

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



Appeal Case No. 80 of 2024

Brahmacharimayum Priyalaxmi – Appellant

-vs-

The SPIO/ Secretary (BOHSEM), Manipur & Anr.

– Respondents

DECISION

Imphal: - 28th January, 2025

The FAA and SPIO are represented by Shri N. Khelemba, Advocate. The Appellant is absent.

Brief fact of the case: The Appellant had filed his RTI application to the State Public Information Officer (SPIO), Office of the Board of Secondary Education Manipur (BOSEM) on 03-06-2024 and sought the following information:

- 1) Whether there is/ was any appointment/ engagement made to the post of Section Officer, Asst. Section Officer (Asst. Programmer), Accountant, LDA/ Data Assistant and Grade-IV of Board subsequent of the issuance of the advertisement dated 24-07-2021 or not?
- 2) Whether there was any appointment to any post on contract/ regular/ engagement basis made subsequent to the issuance of the said advertisement,
- 3) In case there is/ was any appointment please provide the number of appointments made by the Board for the said post with copies thereof.

As no response was received from the SPIO within the mandated period, the Appellant had filed his first appeal to the Chairman (BOSEM) on 19-07-2024. The FAA had passed a decision on 16-08-2024 and directed the SPIO to furnish the information within a period of 1 (one) week. Thereafter, she received information dated 19-08-2024 from the SPIO. Being not satisfied with the information, she filed her second appeal to this Commission on 23-09-2024.

Summary of the case and decision: The case was heard on 18-10-2024, 28-10-2024, 18-12-2024, 14-01-2025 and 28-01-2025.

The Appellant submitted in her second appeal application that after receiving the said order/ decision dated 16-08-2024 and information/ letter dated 19-08-2024, she can availed as many as 5 (five) number of orders which were issued by the Deputy Secretary in-charge (G) of the BOSEM which were issued on 01-03-2024 where by as many as 5 (five) persons were engaged as LDAs and Driver on contract basis for a period of 89 days on consolidated pay of Rs. 12,750/- in respect of LDAs and Rs. 9950/- in respect of Driver per month.

The Appellant also made an allegation against the respondents that she was misinformed to the information sought by her and alleged that the authorities concerned of the BOSEM vide the orders (Annexure- A/5 Colly in the second appeal application) have appointed as many as 5 (five) persons to the post of LDAs and Driver of the BOSEM. And, as such, the respondents have violated the provisions of the RTI Act, 2005 for deceitful means and are liable to face disciplinary proceeding as provided under Section 20(2) of the said Act.

During the course of hearing on 18-10-2024, the Ld. Counsel of the Appellant placed a copy of the advertisement dated 24-07-2021 regarding direct recruitment of Section Officer (SO), Assistant Section Officer (ASO)/ Assistant Programmer, Accountant, LDA/ Data Assistant and Grade-IV in the BOSEM, and submitted that in pursuance of the said advertisement the authority had already conducted DPC for recruitment. However, without considering the case of the previous candidates, the authority had newly engaged SO, ASO, Accountant, LDA and Grade-IV on contract basis without any advertisement.

Regarding the engagement of contractual employees as submitted by the Appellant, the Ld. Counsel of the respondents submitted that he has not received any instruction from the public authority. However, he submitted that in his tentative view the information sought by the Appellant is an exempted information under section 8 (1) (h) of the RTI Act, 2005 as an enquiry by an Enquiry Committee on whether the new recruitment/ engagement on regular/ contractual/ adhoc basis in the past 1 (one) year and procedures followed in the recruitment/ engagement is pending.

The Chairman (BOSEM) in his written statement dated 28-10-2024 submitted that in connection to such queries of the Appellant, the Joint Secretary (Education/S), Govt. of Manipur vide order dated 20-05-2024 constituted an Enquiry Committee to examine Administrative/ Financial/ Academic Irregularities, if any, amongst others, in the functioning of BOSEM. The terms of References of the Committee inter-alia includes to enquire as to whether there have been any new recruitment/ engagement of employees on regular/ contractual/ adhoc basis in the past 1 (one) year and procedures followed in the recruitment/ engagement, if any. And also to identify the officers/ officials responsible for any financial/ administrative irregularity, if any in activities under enquiry.

The respondent/ Chairman (BOSEM) further submitted that the Deputy Secretary (G) had submitted a report dated 18-06-2024 and the respondent have explained to the said Enquiry Committee that orders are not executed and nor implemented in view of the fact that the Model Code of Conduct was applicable at relevant point of time. As such, no order was passed nor handed over to Authorities or concerned persons. Thus, there is no recruitment/ engagement for any post of any kind in the BOSEM. He further submitted that the enquiry is still pending for further adjudication. He also submitted that a Writ Petition W. P. (C) No. 377 of 2024 was filed by one of the interested party and the same is pending for disposal before the Hon'ble High Court of Manipur. And, as such, the matter in issue is also pending before the Hon'ble High Court of Manipur and the same is now a matter of sub-judice and requested the Commission to reject the present appeal case filed by the Appellant.

The Chairman (BOSEM) further clarified that the said order(s) dated 01-03-2024 issued by the Deputy Secretary (G) i/c, BOSEM were not implemented or executed due to Model Code of Conduct and the same was also cancelled by an order dated 19-06-2024 passed by the Deputy Secretary (G) i/c, BOSEM.

During the course of hearing on 14-01-2025, the Ld. Counsel submitted a copy of the order dated 19-06-2024 regarding the cancellation of non-implemented orders issued in respect of one Smt. M. Jenny Chanu and 4 (four) others.

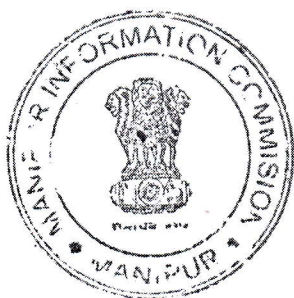
After hearing from the parties present during the hearing and perusal of case records, the Commission is of the view that the SPIO had already provided the clarification and information/reply dated 19-08-2024 and orders dated 19-06-2024. The Commission is also of the view that an enquiry is not synonymous to an investigation under section 8 (1) (h) of the RTI Act, 2005. However, as the said Govt. orders dated 20-05-2024 regarding constitution of an Enquiry Committee has been challenged in W.P.(C) No.377 of 2024 and the same is pending before the Hon'ble High Court of Manipur, the Commission, in its considered view opined that it is not proper to pass any further direction to the respondents as of now and till the disposal of the writ petition.

With the above observation, the appeal case is disposed.

Announced in the open chamber.

Typed by: -

Compared by: -



Sd/-

(K. Radhashyam Singh)

State Chief Information Commissioner,
Manipur Information Commission.

Authenticated by

(S. Inao Singh)

Deputy Registrar (Judicial -I)
Manipur Information Commission

Copy to:

1. The FAA/ Chairman/ Chairperson (BOSEM), Manipur.
2. The SPIO/ Secretary (BOSEM), Manipur
3. Brahmacharimayum Priyalaxmi
Brahmapur Nahabam Puritmayum Leirak, Imphal East, Manipur.

*Note: - 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) on computer and enter the room name as **MIC1**.*