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(LALCHATUANHANGI)

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ABBREVIATIONS

RTI	:	Right to Information
UN	:	United Nation
NCPRI:		National Campaign for People’s Right to Information
PCI	:	Press Council of India
NIRD	:	National Institute of Rural Development
FOI	:	Freedom of Information
UPA	:	United Progressive Alliance
CIC	:	Central Information Commission
MSIC	:	Mizoram State Information Commission
SCIC	:	State Chief Information Commissioner
SIC	:	State Information Commissioner
PPS	:	Principal Private Secretary
UDC	:	Upper Division Clerk
LDC	:	Lower Division Clerk
TA	:	Travelling Allowances
LTC	:	Long Term Care
CID	:	Crime Investigation Department
SPIO	:	State Public Information Officer
SAPIO:		State Assistant Public Information Officer
BPL	:	Below Poverty Line
DAA	:	Department Appellate Authority
CEC	:	Chief Election Commissioner
EC	:	Election Commissioner

**MIZORAM STATE INFORMATION COMMISSION:
ORGANIZATION AND WORKING**

**A DISSERTATION
SUBMITTED TO THE MIZORAM UNIVERSITY IN PARTIAL
FULFILLMENT OF THE DEGREE OF
MASTER OF PHILOSOPHY IN PUBLIC ADMINISTRATION
(SCHOOL OF SOCIAL SCIENCES)**

SUBMITTED BY

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UNDER THE SUPERVISION OF

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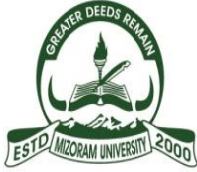


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This is to certify that Mrs. Lalchatuanthangi, M. Phil Scholar in the Department of Public Administration, Mizoram University worked under my supervision on the topic '**Mizoram State Information Commission: Organization and Working**' for the award of the Degree of Master of Philosophy in Public Administration. The dissertation is the product of her own original research work and it does not form a part of any other dissertation. She is permitted to submit the dissertation for examination.

Place: Aizawl

(LALNEIHZOVI)

Date:

DECLARATION

I, Lalchatuanthangi hereby declare that the dissertation entitled **Mizoram State Information Commission: Organization and Working** is a record of work done by me during 2011 to 2012 under the supervision and guidance of Prof. Lalneihzovi of the Department of Public Administration, Mizoram University. The dissertation did not form basis of award of any previous degree to me or to the best of my knowledge to anybody else, and it has not been submitted by me or anybody else for any research degree in any other University/Institute.

This is being submitted to the Mizoram University for the degree of Master of Philosophy in Public Administration

(LALCHATUANTHANGI)

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CHAPTER I

INTRODUCTION

Brief Profile of Mizoram

Mizoram, the homeland of the Mizo tribe is situated in the southern most part of the North-East India. It was carved out of the then State of Assam as a Union territory on 21st January 1972 under the provision of the North-Eastern Areas (Re-organization) Act, 1971. It became the 23rd State of the Union in February 1987. It is bounded on the North by Cachar District of Assam and Manipur, on the East and the South by Chin and Arakan Hills of Burma (Myanmar) and on the west by Chittagong Hill Tracts of Bangladesh and the State of Tripura. Briefly, its boundary with Assam, Tripura and Manipur extends 123,66 and 95 kms respectively. Mizoram is geographically situated between 22.20' and 24.27' degrees (N) latitude and 92.20' and 94.29' degrees (E) longitude. The tropic of cancer runs through the State. It covers an area of 8,143 sq. miles i.e. 21,087 sq. kms and has mostly a hilly steep terrain. The average height of the hills and ranges is about 900 meters, the boundary with Burma (Myanmar) extends 404 kms and with Bangladesh 318 kms. Thus, it occupies an area of great strategic importance, having a total boundary length of 722 kms with Bangladesh and Myanmar. ¹The State of Mizoram is comprises of eight districts such as Aizawl, Lunglei, Champhai, Mamit, Kolasib, Serchhip, Saiha and Lawngtlai.

Mizoram is one of the north eastern states of India, and rich in the aspect of nature and culture like its sister states. Dense forests, lush green hills and lots of bamboo were found. Mizoram is the third State in India with the lowest population density. The density has increased in last 10 years. As per details from census 2011, Mizoram has population of 10.91 Lakh, an increase from figure 8.89 Lakh in 2001 census. Total population of Mizoram as per 2011 census is 1,091,014 of which male and female are 552,339 and 538,675 respectively. The total population growth in this decade was 22.78 percent while in previous decade it was 29.18. The population of Mizoram form 0.09 percent of India in 2011. Out of total population of Mizoram, 51.51 percent people live in urban regions, and around 48.49 percent live in the villages of rural areas.

Literacy rate in Mizoram has seen upward trend and is 91.58 percent as per 2011 population census which becomes the third highest literacy rate in India next to Kerala and Lakshadweep. The male literacy stands at 93.72 percent while female literacy is at 89.40 percent. Density of Mizoram is 52 per sq km which is lower than national average 382 per sq km. The sex ratio in Mizoram is 975 *i.e* for each 1000 male, which is below national average of 940 as per census 2011. ²

Agriculture is the mainstay of the people of Mizoram. More than 70 percent of the total population is engaged in Agriculture. The old age practices of Jhum cultivation is carried out annually by a large number of people living in rural areas. The climate condition in the state with well distributed rainfall of 1900mm to 3000mm spread over eight to ten months in the year and location in tropic and temperature zone with various

soil types have contributed to the occurrence of a wide spectrum of rich and varied flora and fauna. These natural features and resources also offer opportunities for growing a variety of horticultural crops. The agro-climatic condition of Mizoram is conducive to agricultural and horticultural crops. As such, a strong and effective food processing sector should play a significant supportive role. The total production of fruits, vegetables, and spices will be increasing year by year as the number of farmers are weaning away from jhum cultivation and are taking up diversification towards cash-crops.³

In the political realm, there are two major parties such as Mizo National Front (MNF) which is the regional parties, and Indian National Congress (INC) which is the national parties in Mizoram that dominate the political scenario of the state. Mizoram has witnessed 5 ministries within the period of 24 years (1987-2012). Due to lack of infrastructure and communication, the progress of development is slow as compare to other States of India, but at the same time, the progress in education and literacy is very significant in Mizoram.

Meaning and Concept of Information

The original root of the word 'information' is the Latin word *informare*, which means to fashion, shape, or create, to give form to. Information is an idea that has been given form, such as the spoken or written word. It is a means of representing an image or thought so that it can be communicated from one mind to another rather than worrying about all the information afloat in the world.⁴ Information means any material in any form relating to the administration, operations or decisions of a public authority. It adds something new to

our awareness and removes the vagueness of our ideas. Information is indispensable for the functioning of a true democracy. People have to be kept informed about current affairs and broad issues – political, social and economic. Free exchange of ideas and free debate are essentially desirable for the government of a free country. In this age of information, its value as a critical factor in socio-cultural, economic and political development is being increasingly felt.⁵

According to Right to Information Act, 2005, information means any material in any form, including records, documents, memos, e-mail, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.⁶

Information is the ultimate ammunition in democracies. It is the currency that every citizen requires to participate in the life and governance of society. The greater the access of the citizen to information, the greater would be the responsiveness of government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of powerlessness and alienation. Without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Government information is a national resource. Neither the particular government of the day nor public officials create information for their own benefit. This information is generated for purposes related to the legitimate discharge of their duties of office, and for the service of the public for whose benefit the institutions of government

exist, and who ultimately fund the institutions of government and the salaries of officials. It follows that government and officials are trustees of this information for the people.⁷ It is important as a tool for countering corruption, reducing abuse of discretion, protecting civil liberties, helping the poor to lead a better life, helping people to participate in national development.

In recent years, there has been a global trend towards the recognition and enactment of Right to Information (RTI) by various countries. The inter- governmental organizations, civil society and many sections of the people have contributed for this in a big way. RTI has been widely recognized as a fundamental Human Right. It not only upholds the inherent dignity of all human beings, but also forms the crucial underpinning of participatory democracy, ensuring accountability and good governance.⁸ The origin of the Right to Information can be traced from international experience to movement of India which was discussed below:

International Experience

The legislative embodiment of the right to information has a long been recognized as underpinning all other human rights. Article 19 of the Universal Declaration of Human Rights of the United Nations (UN), signed on 10 December 1948, states unequivocally:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interferences and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

Thus the right to freedom of opinion and expression – from which flows the right to information- and the right to seek and receive information are unambiguous elements of a historic international law to which India is a signatory. The UN Declaration gives human rights precedence over the power of the State. While the State is permitted to regulate rights, it is prohibited from violating them. However, even before the UN Declaration was signed, there was already a movement for more transparency under way in Europe, notably the Scandinavian countries, which culminated in information access legislation that have a set a benchmark for others that followed, including India. The history of the right to information is incomplete without a brief account of what these first information laws provide.

Sweden

Sweden has the oldest legislation relating to public access to official documents, dating back to 1776. The right is, in fact, provided in the Constitution itself. The principle that disclosure of information is the norm unless it is withheld by specific legal provision underlies Sweden's open access regime. Documents that are to be exempted from disclosure are defined in the Secrecy Act. Sweden's open access regime has some remarkable characteristics that show the great successes made in promoting transparency and accountability in government functioning. In Sweden, citizens can access documents held by any public authority, they do not have to provide a reason or show a valid or legal interest in viewing the documents. Requested documents need to be made available immediately on request or as soon as is possible from the date of request. The

Constitution includes in its definition of official documents not only those documents that are prepared by a public authority but also those that are received by it. Even under the Secrecy Act, documents are secret only for a specified period of time and do not include court documents. In Sweden, citizens can access documents held by any public authority, they do not have to provide a reason or show a valid or legal interest in viewing the documents. Requested documents need to be made available immediately on request or as soon as is possible from the date of request. However, one limitation is that public can access only those official documents that are completed and not those are classified as internal working papers. In other words, the public does not have access to internal notes or drafts or tentative working papers.

Finland, Denmark, Norway

Finland passed the Law on the Public Character of Official Documents in 1951. The provision of Finland's law benefitted from the country having been a part of Sweden in the nineteenth century. However, the public does not have a constitutional right to access information. Both Denmark and Norway passed their information access laws in 1970. The laws in these two countries are not open as the Swedish Constitution. One key difference is that while in Sweden citizens are free to inspect Government documents except those restricted by law, in Denmark and Norway, they have to first identify what information they want and then request it. Thus, if citizens do not have access to the information register of a public authority, then they would know whether the document

they want even exists. However, in both Denmark and Norway – as in Sweden – citizens do not have to provide a reason for wanting to access an official document.

In all four Scandinavian countries, citizens who have been denied information can appeal to the court. In Finland and Sweden, the appellate bodies include the ombudsman, the Chancellor of Justice and/or the Supreme Administrative Court, and in Denmark and Norway, these include the ombudsman and the ordinary courts.

United States

The United States Freedom of Information Act, passed in 1966, provided that access to documents was to be the rule rather than the exception. However, due to inherent difficulties in enforcing compliance, this Act was amended in 1974 and the onus of justifying restriction of access to a document was placed entirely on the government. Here too, the citizen does not have to provide reason for requesting information. The American law also provides a specific time period for responding to an information request. It goes one step further than the laws of other countries by allowing limited disclosure or the release of all non-secret information that can be segregated from the exempted information in any secret file. Perhaps the most potent provision in the American law is the power of a judge to examine whether or not the government has classified documents properly. If the judge believes that documents have been restricted erroneously, then a Department's decision to classify information can be overturned. Following the 1974 amendment, citizens only need to reasonably describe the documents they want to see, rather than request specific information. The American law also allows

the public to inspect documents and charges only inspection fees per hour and for photocopies of documents. The Act also provides for disciplinary action to be initiated against officials who have wrongly refused the release of documents or released exempted information. Government agencies and Departments also need to submit an annual report to Congress.

Indian lawmakers and civil society groups would find some of the earlier European and American practices familiar. In particular, the provision, in all these countries, that citizens do not have to provide a reason for accessing documents and the provision for the furnishing of information requests, which is practiced in some of the Scandinavian countries and in the United States, have been adopted. The American law's provisions for initiation of disciplinary action, inspection of documents and photocopy have also been found a place in the Indian legislation in some form or the other.

The Movement in India

In India, the movement to effectuate the right to information occurred in three areas:

- Legal pronouncements
- Civil society/people's movement
- Government action

Constitutional Derivation of the Right to Information Legal Pronouncements

The Supreme Court has, in various judgments, held that the right to information is a part of the fundamental rights to freedom of speech and expression under Article 19 (1) of the

Constitution, since the right cannot be properly exercised if the people did not have the right to information.

The Demand for Right to Information – A People’s Movement

The Indian legislation on the right to information is the result of a popular grassroots struggle for effective governance. Movements to effectuate the right to work and livelihood of villagers discovered that public money meant for development projects was being routinely misappropriated. Workers were also being denied their wages and government records were showing that these people had not worked on the projects. It was this denial of information relating to the basic right to livelihood that resulted in the demand for access to information held by the government. Once government information was verified against work carried out on the ground for evidence of malpractices, a social audit of the expenditure incurred by the village government was conducted. The demand for inspection of local government documents resulted ultimately in the demand for access to information held by the government. Increased awareness amongst the local villagers about their right to know about government functioning forced local Government officials to open themselves up for public scrutiny.

A series of demonstrations and public hearings were held to show how local Governments had manipulated the records that affect wages and livelihoods of villagers. In 1996, a nation-wide network of senior journalists, lawyers, distinguished bureaucrats, academics and Non Government Organization (NGO) activists was formed that vigorously advocated the removal of the *Official Secrets Act, 1923* and the legislation of

a strong right of information Act at the Centre. Starting from the time when States were operating right to information laws in a limited way, and during the period after the RTI Act 2005 was promulgated, there was a conspicuous upsurge in public response. This has manifested itself in terms of increasingly large number of questions for information hitherto kept secret. There was a corresponding movement within public authorities not to withhold information except for good reasons. Thus a two-way movement occurred, i.e., the movement by the people to get information and the increased awareness among public functionaries that disclosure of information should be the norm and not the exception.

Contribution of the State: The following attempts to legislate the right to information were made at the State level:

**The Press Council of India-National Institute of Rural Development, Hyderabad
Draft**

The NCPRI advocated the drafting of model information access legislation for consideration by the government. The Press Council of India (PCI), under the chairmanship of Justice P.B. Sawant presented a draft model law to the government in 1996, which was later revised and came out in the form of the PCI-National Institute of Rural Development (NIRD) draft in 1997.

This draft included a broad definition of what constitutes information (any act and /or record concerning the affairs of a public body; information that cannot be denied to

the Parliament or State Assembly cannot be denied to the citizen) and what constitutes the right to access that information (inspection, taking notes and extracts and receiving certified copies of the documents). The definition of what is a public body is broad, including not just the government but also private bodies. Moreover there were penalties for misinforming or providing wrong information, and provisions for appeal to courts against refusal or failure to provide information. The restriction placed on this right mainly pertained to the denial of information that affects the sovereignty and security of India, friendly relations with other States, public order, incitement of offence etc.

The Shourie Committee Draft Bill

With the model right to information bill having been submitted to it by the NCPRI and the PCI in 1997, the then government formed a Working Group on Right to Information and Promotion of Open and Transparent Government chaired by consumer activist late H.D. Shourie.

Though the Shourie Committee draft law published in 1997 extended the scope of the Act by bringing within its purview the judiciary and legislatures, there were more points going against it than for it. It narrowed the definition of public authorities, excluding the private sector and those NGOs that are not substantially funded or controlled by the government, widened the scope of exemptions and had no penalty provisions for erring officials. However, given the rapid change in governments at that time, this Bill too did not materialize as legislation.

Even efforts for a Central legislation on the right to information continued, several states had already begun enacting their own access to information laws. Activists did not consider these Acts very strong tools for enforcing accountability. Neither were these laws citizen friendly. Most of them neither had proactive disclosure provisions nor strict penalty clauses nor even a wide definition of what constitutes information. In some cases there was a long list of documents and information exempted from the laws.

Freedom of Information Act, 2002

In 2002, the Centre brought out a draft Freedom of Information (FOI) Bill, which was a reworked version of the Shouries Committee Draft Bill. This Bill was referred to the Parliamentary Standing Committee on Home Affairs, which sought suggestions from the Government, civil society groups and individuals and then made its recommendations. However, very few of the recommendations of the Committee were incorporated in the FOI Act, which was passed in 2002. The Act had some minor variations from the Draft FOI Bill.

The Right to Information Act, 2005

Though the FOI Act was passed by Parliament in 2002 and received Presidential assent in January 2003, it was not notified and, as a result, was never enforced. When the UPA came into power in May 2004, the struggle for the right to information received some encouragement in the form of National Common Minimum Programme (NCMP), which promised to make India's information access legislation more progressive, participatory

and meaningful. The National Advisory Council (NAC) was set up to fulfill this, among other things. Recommendations from the NCPRI were also received to strengthen the FOI Act 2002. The Right to Information Bill was tabled in the winter session of Parliament in 2004. It was then referred to the Standing Committee on Personnel, Public Grievances, Law and Justice. The final report of the Standing Committee, which contained further amendments to the RTI Bill, was tabled in the Lok Sabha in March 2005. The RTI Amendment Bill 2005 was passed by both Houses of Parliament in May 2005, and received Presidential assent in 15 June 2005. The Act came into force within 120 days of its enactment which is 12 October 2005.

In an expanding economy, where the treat of the masses being alienated is ever present, it is very important to build bridges between the government and the people, and remove the aura of mystique surrounding the former. In our democracy the people are an integral part of the system of governance, and they must also feel they are part of this system. A transparent and open government increases the faith and trust of the public in its functioning, while at the same time reducing suspicion. This creates space for the free flow of information, which allows citizens to participate in decisions taken in their interest. Public officials and civil society should both take a keen interest in disseminating awareness about the rights of citizens and duties of public officials under this Act. In addition, government officials need to be trained to better implement the Act and usher in good practices such as the electronic management of records. At the same time, members of the public and the media must continue to be active and vigilant in

ensuring that the Act and the rights of citizens are not being violated. The legislation is the result of an international movement of which India is a part. But, if we believe that the introduction of this law and the establishment of institutions, by themselves, can create the right environment for transparency in governance, we should be on guard. There is still a long way to go. However, a solid and irreversible step has been taken.⁹

Review of Literature

The Scholar has undertaken review of the following literature pertaining to the working and organization of Information Commission.

P.K. Saini and R.K. Gupta (2009) in their *Right to Information Act 2005: Implementation and Challenges* carried out a study of Problems and Challenges in the implementation of RTI, process of obtaining the information, involvement of legal action, public accountability and role of professionals in the effectiveness of RTI Act.

U.N.Gupta (2009) in his *The Right to Information Act, 2005* deals with the background development in India through Supreme Court on right to freedom of information, right to know, right to privacy, judicial analysis of administrative powers and rights of the people, among other related areas. The book offers a comprehensive study on the Right to information giving all necessary details.

Sarbjit Sharma and Krishan Gopal (2006) in *Right to Information: Implementing Information Regime* attempts to outline the significance of the right to information and its role in creating a better society. It tries to empower the ordinary citizens by providing

authentic information of the potential of this fundamental human right, which has proved to be indispensable for the functioning of democracy, an effective antidote to corruption and as a critical factor in the socio-cultural, economic and political development. It also looks at significant developments at national and international levels, recognizing the right to information.

N.K. Jain in his book (2007) *Right to Information: Concept , Law, Practice* has described the necessity of Right to Information and position in other countries, The Right to Information Act, 2005, its Rules, Regulation of Fee and Cost are highlighted in the book. It also explain all the powers and function of the Information Commission, he also deals with the working of different State Information Commission in India.

Varsha Khanwalker (2011) in his article *The Right to Information Act in India: Its Connotations and Implementation* has discussed the Right to information Act in India and analysis its various aspects. He has also discussed the drawbacks and difficulties in the executions of the Right to Information Act.

Rajiv S. Dhaka (2009) in his article *Right to Information Act and Good Governance: Operational Problems and Road Ahead* focused on the genesis and evolution of the RTI Act, 2005, he also highlighted some deficiencies and operational problems in the RTI Act, and provides a number of steps for improvement in implementation and operationalisation.

Sapna Chadah (2009) in her article *Implementing Right to Information: A Practical Approach* discussed International scenario and Indian scenario of the Right to Information. She also deals with the Right to Information Act, 2005 and highlight the purpose of the Act, meaning of Information, powers and functions of the Information Commission, problems and their suggestions for improvement are laid down in his article.

All the above mentioned literature did commendable work regarding and examining the working of Information Commission at the Central and State Government, but none of them has dealt with the working and functioning of Mizoram State Information Commission. Therefore, it has been decided to take up the present study with the following objectives.

Objectives of the Study

- (1) To examine the organization and structure of Mizoram State Information Commission
- (2) To examine powers and functions of Mizoram State Information Commission
- (3) To study the office of the State Chief Information Commissioner
- (4) To study the problems and suggest measures for improvement of the Commission

Scope of the Study

The study focus on the working and performance of the Mizoram State Information Commission, it was examine that whether the Mizoram State Information Commission has fulfilled the objectives for which it was established. It also covers the application procedure for requesting information, the time limit to get information, the fees and the ground for rejection.

Every Department of State Government shall designate as many officers as it deems proper, not below the rank of Under Secretary as Public Information Officers and Department Appellate Authority shall be the Secretary to the Government of the concerned department. The Commission has also dealing with and disposing of appeals against the decisions of the Appellate Authorities. The Commission has been empowered to impose penalty on the State Public Information Officer and it can also recommend disciplinary action against such erring State Public Information officer. The decision of the Commission is final and binding on the public authority. The State Government has sanctioned different posts for the smooth functioning of the Commission. The Commission functioned with the services of the Secretary, the Senior Principal Private Secretary (PPS) , the Deputy Secretary, the PPS, the Under Secretary, the Superintendent , the Private Secretary, the Assistant and the Stenographer Grade III were provided by the State Government. In addition, casual workers on daily wage basis were also engaged against the sanctioned posts of Upper Divisional Clerk, Lower Divisional Clerk, Driver, Dispatch Rider and Grade IV. Actions are being taken actively for filling up the post of

Group C and D on regular basis. The Commission received its own budget from the Government of Mizoram every year. The Government of Mizoram amended the Mizoram Right to Information Rules, 2006, now the Mizoram Right to Information Rules, 2010 was used for implementing the Act. The study will cover a period of 7 years i.e. from 2006 to 2012.

Research Questions

The proposed research attempts to answer the following research questions:-

- (1). How is the Mizoram State Information Commission constituted?
- (2).Is the Commission independent from the control of the Government in its works?
- (3). How does the Commission provide information to the people?
- (4).What are the major problems faced by the Commission?

Methodology

This study was based on both Primary and Secondary data collection. Primary data was collected through the use of structured questionnaire and direct interview method. Questionnaire was collected from Department of Environment and Forest, Principal Chief Conservator Office, Aizawl in the month of September 2012. From 100 population, 75 questions was administered, out of which 50 questionnaire was received from the respondents. Direct interview was done from the key functionaries of Mizoram

State Information Commission. Secondary data was collected from published and unpublished documents of the State Government. Books, journals, articles and magazines will also be extensively used for the secondary data of the research study.

Chapterization

The whole study is divided into five Chapters:

Chapter I deals with the introduction which includes the brief profile of Mizoram, meaning and concept of information. It was briefly traces the historical background of Right to Information from international experience and movement of Right to Information in India.

Chapter II traces the evolution of Central Information Commission and also study evolution organizational structure, functions and duties Mizoram State Information Commission.

Chapter III deals with the powers and functions of Mizoram State Information Commission. It also covers the stages of appeal, procedure of second appeal, procedure in deciding appeal, time limits to get information, fees and rate for obtaining information, grounds for rejection, present working of Mizoram State Information Commission and monitoring and reporting.

Chapter IV will briefly study the appointment, tenure, grounds for removal, pay, sumptuary allowances and provident fund, leave, accommodation, medical facilities and

TA/LTC, pensions and post retirement benefits of the Chief Information Commissioner. This chapter also deals the role of Chief Information Commissioner of Mizoram.

Chapter V is the last chapter and it deals with the summary and major findings of the present study, remedial measures for solution of the problem have also been highlighted.

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CHAPTER II

MIZORAM STATE INFORMATION COMMISSION: EVOLUTION AND ORGANIZATION

The Right to Information Act has been seen as the key to strengthening participatory and ushering people centred governance. Access to information can empower the poor and the weaker sections of society to demand and get information about public policies and actions, thereby leading to their welfare. Right to Information opens up government's report to public scrutiny, thereby arming citizens with a vital tool to inform them about what the government does and how effectively, thus making the government more accountable. Transparency in government organization makes them function more objectively thereby enhancing predictability. Information about functioning of government also enables citizens to participate in the governance process effectively. In a fundamental sense, right to information is a basic necessity of good governance. In recognition of the need for transparency in public affairs, the Indian Parliament enacted the Right to Information Act in 2005. It is a path breaking legislation empowering people and promoting transparency.¹

The setting up of Information Commissions at the Central and State levels to ensure the effective implementation of the right to information regime in the country is one of the most important provisions of the Act. Its importance can be judged from the fact that the long title of the Act itself makes a mention about the Commissions. The role

played by the respective Commission is likely to have a significant effect on whether or not the Act is implemented in letter and spirit by the public authorities operating at different levels. Apart from exercising the statutory functions entrusted to them, the Information Commissions are expected to act as friend, philosopher and guide to citizens in the exercise of their right to information, and to public authorities in the discharge of their duties to make information accessible to the people.²

The Central Information Commission is the apex body created under the Right to Information Act 2005 to discharge two important functions to achieved the objective of setting out the practical regime of information enshrined in the preamble for securing access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority. The Commissioner perform these tasks through adjudication of appeals and complaints filed by citizens who are aggrieved by response of a public authority as well as by issuing direction or making recommendation to public authorities regarding adoption of best or improved practices and systemic changes or improvement in larger public interest befitting a responsive government.³

As per the provision of the RTI Act, The Central Government shall, by notification in the official/gazette constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to it under the RTI Act.⁴ Thus, the Central Information Commission was established by Government of India on 11 October 2005 vide Government of India,

Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Notification F. No.1.7.2005- IR. The Central Information consist of one Chief Information commissioner, who is head the Commission, and such number of Central Information Commissioner, as may be deemed necessary, but not exceeding ten. On 26 October 2005, Mr. Wahajat Habibullah became India's first Chief Information Commissioner, Mr. Habibullah, the former Secretary, Ministry of Pachayati Raj, Government of India, was administered the oath of office by President of India A P J Abdul Kalam. Four other Information Commissioners were subsequently appointed such as, Padma Balasubramanian, O P Kejariwal, M M Ansari and Anugraha Narayan Tiwari. The Central Information Commission has its headquarters in New Delhi. As per the Act, other offices may be established in other parts of the country with the approval of the Government of India.⁵

Evolution of Mizoram State Information Commission

Before the annexation of the Lushai Hills by the British rulers, each village had an autonomous indigenous institution for administration of local or village affairs. These institutions were running independently of each other under the autocratic hereditary chiefs. Each Chief had territorial jurisdiction of his own, consisting of one or more villages. In fact, the Chief owned all that was in the village. So he was, at the same time, the supreme administrator, the judge, the protector and guardian of his village. Though he exercised full power and control over the administration of justice, he administered justice according to customary laws. The jurisdiction of a Chief's Court was his village.

For the trial of cases/disputes, he took help of his council of village elders called '*Lal Upa*' in Mizo language. The elders were generally men of the Chief's choice, nominated or selected without considering the opinion of the villagers. They were also dismissed by the Chief. The Chief's Court was more or less a bench system of what we have today and the courtroom was the Chief's house where cases were tried. The Chief was, thus, the only court of justice in the village. His decisions were final. Against his decision, there was no appeal. But unsuccessful litigants found a way of getting their case reheard. The Chief had the power on life and death.

The British rulers reduced the supremacy of the chief after they annexed the Lushai Hills in 1890 and consolidated their administration in the district in 1891. But they could not do away with the chieftainship. Instead, they recognized the Chiefs and the Village Courts but made certain changes in the existing system of administration of justice.⁶ The decision of the Chief Court can appeal to the Superintendent who was heading the district, the chief could not try major cases and has no powers on life and death.

After India attained independence, the Mizos were granted a District Council in April 1952 which abolished the autocratic hereditary Chieftainship, after the abolition of chieftainship, the Chief Court was replaced by the Village Council Courts, the judicial powers was vested to the democratic constituted Village Councils which administer justice according to the customary laws of the Mizos. The District Council Court was the highest Court under the Mizo District Council in Aizawl. Its jurisdiction was over the

entire Mizo Hills, excepting the Pawi-Lakher Regional areas. It had three judicial officers namely President, and two other judicial officers. The District Council Court was a court of appeal in respect of all suits/cases triable by the Subordinate District Council Courts and Additional Subordinate District Council Courts. District Council Court may call for reports and examine the proceedings of Subordinate District Council Court or Additional Subordinate District Council Court or Village Council Court and can enhance, reduce, and cancel any sentence passed by such courts or remand the case for retrial. An appeal against the orders or sentence of the District Council Courts lies to the High Court of Assam within 90 days from the date on which decision was given and revision petition can be filled to the High Court.⁷ The above institutions of Chieftainship, Village Council Court, District Council Court, High Court are the tools for the citizen of Mizoram to complaints and appeals regarding the administration of the government. When the Government of India passed the RTI Act, 2005, it is mandatory for all the States to established State Information Commission including Mizoram to make administration more transparent and fulfilled the objectives of the Act.

Under Section 15(1) of the Right to Information Act, it was stated that, “Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (Name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to it under this Act”. In accordance with this provision, the Mizoram information Commission was established by the Government of Mizoram on 29th June, 2006 vide Government of Mizoram, Information

& Public Relation Department's Notification No.F.13011/11/2005-IPR dt.29.06.2006 and Mizoram Information Commission was officially functioning on 05.07.2006.

Mr. Robert Hrangdawla, IAS (Rtd) was the State Chief Information Commissioner from 5.7.2006 to 1.2.2011 and Mr. K.Laltlanthanga, IB (P) S (Rtd) was the State Information Commissioner from 5.7.2006 to 30.6.2011. On the selection and recommendation of a Selection Committee consisting of the Chief Minister, the Leader of Opposition in the State Assembly and the Cabinet Minister in-charge of Information and Public Relations Department, Mr. Laldingliana, Indian Foreign Service (Rtd) was appointed by the Governor of Mizoram as the new Mizoram State Chief Information Commissioner, which was notified vide Government of Mizoram, Information and Public Relations Department's Notification No.F.13011/7/2011-IPR/PT dt. 5th August, 2011. Mr. Laldingliana was sworn in by the Governor of Mizoram, M.M.Lakhera on 8th August 2011. On 21st May 2012, Mr. L. Hrangnawma I.P.S (Rtd) former IGP of Mizoram was sworn in by the Governor Shri Vakkom B Purushothaman as the State Information Commissioner (SIC).

In order to carry the provisions of the Right to Information Act, 2005, the Mizoram Right to Information Rules, 2006 was made by the State Government vide Notification No. F.13011/4/2005 – IPR dated 21.6.2006. However, the rules were found defective in certain ways and the Mizoram State Information Commission submitted proposal for amendment to the Rules. In effect, the State Government has notified the

‘Mizoram Right to Information Rules, 2010’ vide No. F.13011/4/2008 – IPR dated 20.9.2010 which was published in the Mizoram Gazette on 24.11.2010.⁸

Organizational set up

Mizoram State Information Commission is composed of one Chief Information Commissioner and one Information Commissioner. The State Government provides officers and employees for the Commission to ensure efficient performance of the functions under the Right to Information Act. The State Government assists the Commission by lending the services of Secretary, Senior Principal Private Secretary, Principal Private Secretary, Deputy Secretary, Under Secretary, Superintendent, Stenographer Grade-I, Stenographer Grade-II, and Assistant to help the Commission in its function.

The posts of the officers and staffs shall be filled up either by direct recruitment, or by deputation of Government servants of equivalent rank from any department of the State Government, Public Sector Undertakings, and Government of India or by outsourcing. Provided that the outsourcing shall be restricted to posts of Group ‘D’ employees (cleaning, housekeeping, home orderlies and security guards).

The method of recruitment shall be in accordance with the Mizoram Secretariat Service Rules or Service Rules of any other equivalent posts of the State Government. The allowances and facilities of the officers and staffs working in the Mizoram State Information Commission shall be at par with other State Government employees of equivalent rank.

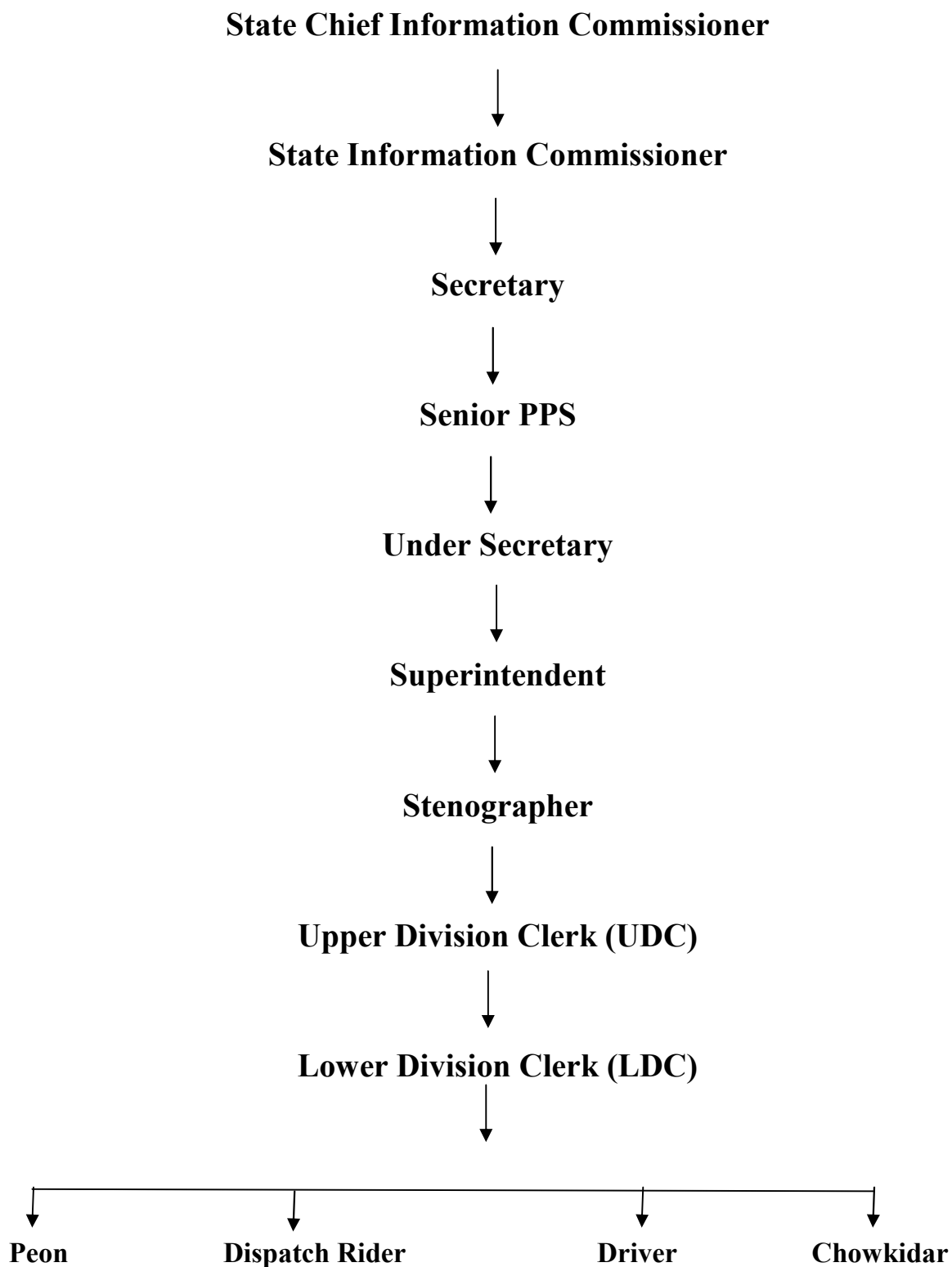
The rules governing conditions of service and disciplinary matters of the State Government employees shall be apply to the employees of the Commission subject to medication as may be notified by the State Government. Casual worker on daily wage basis were also engaged against the sanctioned vacant posts of UDC, LDC, Drivers, Dispatch Rider and Grade IV.⁹

The total number of posts sanctioned for Mizoram State Information Commission is 36, out of 36 sanctioned posts 28 were filled and the remaining 8 were vacant. In addition, the MSIC has hired casual workers. Details of the number of sanctioned post and filled are shown in Table 1. The hierarchy of organizational structure of the MSIC which consists of the Chief Information Commissioner and Information Commissioner, Secretary, Senior PPS, Under Secretary, Superintendant and other staffs.

TABLE 1**No. of sanctioned posts and filled of MSIC**

Sl.No	Designation of the posts	No. of sanctioned posts	No. of posts filled
1.	Chief Information Commissioner	1	1
2	Information Commissioner	2	1
3	Secretary	1	1
4	Senior PPS	1	1
5	Deputy Secretary	1	-
6	Under Secretary	1	1
7	Principal Private Secretary	2	-
8	Superintendent	1	1
9	Stenographer Grade I	1	1
10	Assistants	3	-
11	Stenographer Grade II	1	-
12	U.D.C	3	3
13	L.D.C	3	3
14	Driver	4	4
15	Dispatch Rider	1	1
16	Grade – IV/Peon/Chowkidar	10	10
	Total	36	28

Source: *Annual Reports of MSIC, 2010-2011*

CHART 1**Organizational set up of MSIC as on 12.12.2012**

Functions and duties of Officers and staff of MSIC

State Chief Information Commissioner (SCIC)

The general superintendence, direction and management of affairs of the State Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under the RTI Act.

State Information Commissioner (SIC)

The State Information Commissioner is to assist the SCIC in matters of the General Management of the Commission.

Secretary

The Secretary is to assist the Chief Information Commissioner in various works and as directed by the Chief Information Commissioner, and act as controlling officer for officers and staff in the Mizoram State Information Commission office. It is the duty of the Secretary to co – ordinate with various Government departments for matters related to the Information Commission and the Right to Information Act, 2005.

Senior PPS

It is the responsibility of the Senior PPS to provide Secretarial Assistance, and other work assigned in routine course by the Hon'ble State Information Commission.

Under Secretary

The duty of Under Secretary is to monitoring and maintenance of Accounts Records and Audit report. Monitoring and follow up of the Minutes of the Commission Meeting, monitoring harassment and grievances matters related to RTI. All matters relating to professional and Income Tax. Updating website is also the duties of the Under Secretary and any other work assigned by the Mizoram State Information Commission.

Superintendent

The function of Superintendent is complying the orders of Secretary for general superintendence and management of affairs the Commission, security and housekeeping of the Commission, preparation of budget. He or she will be accountable to the Secretary through Under Secretary. Scrutiny and putting up cases follow up on decisions and instructions with respect to Right to Information Act. Scrutiny of other allotted subject with reference to office administration, financial matters etc which may allotted from time to time.

Stenographer

Taking dictation and transcription of the same, typing of essential and confidential documents, fixing up appointment and screening the calls, opening of files and maintaining the current files, sending of the routine reminders, screening of telephone calls and visitors, and any other work assigned by his or her superior officers in the Commission.

UDC and LDC

Typing work in the Commission are done by LDC and UDC, they are also responsible for diary and dispatch, maintenance of files, registration of papers and maintenance of circulars and registers, record management and clerical work, and any other matters task assigned by his or her superior in the Commission.

Driver, Despatch Rider, Grade IV/Peon/chowkidar

Driver is responsible to drive the staff cars, the dispatcher will hand over the communications to be sent by post to the peon, and the other IV Grade has a duty of any work assigned by his or her superior.¹⁰

Accomodation

The State Government has allotted some space in the All India Service Officers Residential Complex, New Capital Complex, Khatla, Aizawl for temporary office accommodation. The Commission has established its office in this complex.

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CHAPTER III

POWERS AND FUNCTIONS OF THE MIZORAM STATE INFORMATION COMMISSION

Any citizen of India has a right to seek information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority. A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided information is already stored in a computer or any other device from which the information may be transferred to diskettes etc. The RTI Act gives the right to information only to the citizens of India.¹

The powers and functions of the State Information Commission, appeal and penalties under the Right to Information Act, 2005 are point out as under:

(A) Enquiries under Section 18 of the Act

- 1) Subject to the provision of this Act, it shall be the duty of the State Information Commission to receive and inquire into a complaint from any person-
 - (a) Who has been unable to submit a request to a State Public Information Officer either by reason that no such officer has been appointed under this Act, or because that State Assistant Public Information Officer has refused

to accept his or her application for information or appeal under this Act for forwarding the same to the State Public Information Officer or senior officer specified in sub-section (1)n of the section 19 or the State Information Commission, as the case may be;

- (b) Who has been refused access to any information requested under this Act;
 - (c) Who has not been given a response to a request for information within the time limit specified under this Act;
 - (d) Who has been required to pay an amount of fee which he or she considers unreasonable;
 - (e) Who believes that he or she has been given incomplete, misleading or false information under this Act; and
 - (f) In respect of any other matter relating to requesting or obtaining access to records under this Act.
- 2) Where the State Information Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- 3) The State Information Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1980, in respect of the following matters, namely:-
- (a) Requiring the discovery and inspection of the documents;
 - (b) Receiving evidence on affidavit;
 - (c) Requisitioning any public record or copies thereof from any court or office;

(d) Issuing summons for examination of the witnesses or documents; and

(e) Any other matter which may be prescribed.

- 4) Notwithstanding anything inconsistent contained in any other Act of the State Legislature, the State Information Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

(B) Appeals under Section 19 of the Act

- 1) Any person who does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7 or is aggrieved by a decision of the state Public Information Officer may, within thirty days from the expiry of such period or from the receipt of such a decision, prefer an appeal to such officer who is senior in rank to the State Public Information Officer in each public authority. Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filling the appeal in time.
- 2) Where an appeal is preferred against an order made by a State Public Information Officer under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- 3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was

actually received with the State Information Commission. Provided that the State Information Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filling the appeal in time.

- 4) If the decision of the State Public Information Officer against which an appeal is preferred relates to information of a third party, the State Information Commission shall give a reasonable opportunity of being heard to that third party.
- 5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the State Public information Officer who denied the request.
- 6) Appeal under sub-section (1) or sub-section (2) shall be disposed within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
- 7) The decision of the State Information Commission shall be binding.
- 8) In its decision, the State Information Commission has the power to require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-
 - (a) by providing access to information, if so requested in a particular form;
 - by appointing to a State Public Information officer, as the cases may be;
 - (c) by publishing certain information or categories of information;
 - (d) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

- (e) by enhancing the provision of training on the right to information for its officials;
 - (f) by providing it with an annual report in compliance with clause (b) of sub-section (1) of the section 4;
 - (g) require the public authority to compensate the complainant for any loss or other detriment suffered;
 - (h) Impose any of the penalties provided under this Act;
 - (i) Reject the application.
- 9) The State Information Commission shall give notice of its decisions, including any right of appeal to the complainant and the public authority.
- 10) State Information Commission shall decide the appeal in accordance with such procedure as may be prescribed.

Penalties under Section of the Act

- (1) Where the State Information Commission, at the time of deciding any complaint or appeal, is of the opinion that the State Public Information Officer, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is

received or information is furnished. However, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the State Public Information Officer, shall be given is imposed on him:

Provided further that the burden of providing that he acted reasonably and diligently shall be on the State Public information Officer.

- (2) Where the State Information Commission, at the time of deciding any complaint or appeal, is of the pinion that the State Public Information Officer has, without any reasonable cause and persistently, failed to receive an information or has not furnished information specified under sub-section (1) of Section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the State Public Information Officer under the service rules applicable to him.²

The following intelligence and security organizations established by the State Government of Mizoram vide Notification No.F.13011/6/2005-IPR dt.27.03.2007 shall not applicable for requesting information which are mention below:

1. State CID Special Branch and District Special Branch including Narcotic Cell.
2. State Police at all levels dealing with security of vital installation including Airport security and protected persons, procurement and disposal of

- sophisticated security equipments for maintenance of security and intelligence operations, disclosure of which may lead to breach of security.
3. State Police formation at all levels dealing with result of examination of exhibits in Forensic Science Laboratory which may jeopardize investigations of prosecutions.
 4. State Police Intelligence and security Organizations for formations at all levels dealing with deployment and movement of Mizoram Police personnel's including armed and unarmed.
 5. State Police Intelligence and Security and Security Organizations or formations at all levels dealing with matters relating to special operations for maintenance of internal security, Law and Order.
 6. State Police Intelligence and Security and Security organizations or formations dealing with subjects concerning negotiations/settlements of militants, insurgents, extremist and anti-social elements and all matters relating to cover and overt operation against them.

However, the information pertaining to allegations of corruption and human rights violations shall not be excluded. Such information shall be provided only after the approval of the State Information Commission and shall be provided within 45 days from the receipt of the request for information.³

All the public authorities have designated their State Public Information Officers (SPIO) and State Assistant Public Information Officer (SAPIO). The SPIO shall deal

with requests from persons seeking information and render reasonable to the persons seeking such information.⁴

Stages of Appeal: There are two stages of appeals which are mention below:

First Appeal

If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may preferred an appeal to the first appellate authority who is an officer senior in rank to the SPIO. Such an appeal should be filled within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the SPIO is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

Second Appeal

If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the State Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Procedure of Second Appeal

An appeal to the State Information Commission shall contain the following information, namely:

- (1) Name and address of the applicants.
- (2) Name and address of the State Public Information Officer.
- (3) Number, date and details of the order against which the second state appeal is filled.
- (4) Brief facts leading to the second stage appeal.
- (5) Grounds for appeal.
- (6) Verification by the appellant.
- (7) Any information which the Commission may deem necessary for deciding the appeal.⁶

Documents to Accompany Appeal

Every appeal made to the Mizoram State Information Commission shall be accompanied by the following documents, namely:

- (1) Self-attested true copy of the orders or documents against which the appeal is being preferred.
- (2) Copies of documents relied upon by the appellant and referred to in the appeal.⁷

Procedure in Deciding Appeal

For deciding the appeal, the Commission may –

- (1) Hear oral or written evidence on oath or an affidavit from concerned or interest person;
- (2) Peruse or inspect documents, public records or copies thereof;
- (3) Enquire or get an inquiry conducted through authorized officer further details or facts;
- (4) Hear State Public Information Officers, state Assistant Public Information Officer or such Senior Officer who decided against whom the complaint is made, as the case may be;
- (5) Hear third party ; and
- (6) Receive evidence on affidavits form State Public Information Officer, State Assistant Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.⁸

Service of Notice

Notice to be issued by the Mizoram State Information Commission may be served in any of the following modes, namely:

- (1) Service by the party itself;
- (2) By hand delivery (dasti) through Process Server;
- (3) By registered post with acknowledgement due; or
- (4) Through Head of Office or Department.

Personal presence of the Appellant or Complainant

- (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before the date.
- (2) The appellant or the complainant, as the case may be, may at his discretion at the time of hearing of the appeal or complaint by the Mizoram State Information Commission be present in person or through his duly authorized representative or may opt not to be present.
- (3) Where the Mizoram State Information Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, was prevented from attending the hearing of the Mizoram State Information Commission, then, the Commission may accord the appellant or the complainant, as the case may be, further opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.
- (4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his points.⁹

Order of the Appellate Authority: Order of the Appellate Authority shall be pronounced in opened court and be in writing duly authenticated by the Appellate Authority for this purpose.¹⁰

Time Limit to get Information

- (1) 30 days from the date of application.
- (2) 48 hours for information concerning the life and liberty of a person.
- (3) 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
- (4) If the interests of a third party are involved then time limit will be 40 days (maximum period + time given to the party to make representation).
- (5) Failure to provide information within the specified period is a deemed refusal.¹¹

Fee for Providing Information: The fees or amount to be charged for providing information are displayed below:

TABLE 2

Application Fee and Mode of Deposit

Sl.No	Application fee	Rate to be charged	Mode of Deposit
1	Application for seeking information	Rupees ten (Rs.10) per application	Treasury Challan/Cash/Indian Postal order (IPO)/ or Demand Draft of Bankers Cheque payable to the SPIO of the office of the Public Authority
2	Application fee for 1 st appeal	Not applicable	Not applicable
3	Application fee for 2 nd appeal	Not applicable	Not applicable

Source: www.mic.mizoram.gov.in

TABLE 3**Rates and Fees and Other Charges for Obtaining Information and Documents**

Sl. No	Details of information required	Price in Rupees
1.	Information provided in A-4 or A-3 size paper created or copied.	Rs. 1/- per page
2.	Larger size paper created or copied	Actual charge or cost price
3.	Sample or model	Actual cost or price
4.	Inspection of records	No fee for the first hour and a fee of Rs. 5/- for each subsequent hour
5	Information provided in soft copy	Rs. 30/- per CD
6	Information provided in printed form	Price fixed for such publication
7	Information provided a photocopy for extracts from the publication	Rs. 1/- per page

Source: *mic.mizoram.gov.in*

Fee not Chargeable

No fee shall be charged on the following cases:

- (1) Persons who are of below Poverty Line (BPL) as may be determined by the State Government of Mizoram for provisions of information related to welfare of BPL.
- (2) Where the State Public Information Office fails to comply with the time limit specified under sub-section (1) of Section 7 of the Right to Information Act, or where the application is deemed to have been refused on the information being given, the same shall be given free of cost.

(3) Where an information is such which should have been published or disseminated widely as required by Section 4 of the Right to Information Act, but has not been published nor disseminated, no fee for such information shall be charged.¹²

Grounds for Rejection of Applications

- (1) Notwithstanding anything contained in the Right to Information 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;
 - (b) Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of Court;
 - (c) Information, the disclosure of which would cause a breach of privileged of Parliament or the State Legislature;
 - (d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority satisfied that larger public interest warrants the disclosure of such information;
 - (e) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

- (f) Information received in confidence from foreign Government;
- (g) Information, the disclosure of which would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) Information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over.

Provided further that those matters which comes under the exemptions specified in this section shall not be disclosed;

- (j) Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information;

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1) of Section 8, a public authority may allow access to information, if public interest in disclosure outweighs the harm of the protected interests.

(3) Subject to the provisions of clauses (a),(c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section;

Provided where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Right to Information Act.¹³

The Mizoram State Information Commission shall ordinarily sit in the State Capital i.e. Aizawl or at such other places as may be directed by general or special order by the Commission for the disposal of a particular case or cases.

Present working of Mizoram State Information Commission

The Mizoram State Information Commission has been receiving and enquiring into the complaints received from the complainants relating to access to information under the control of public authorities and deciding them on merit keeping in view the provisions of the Right to Information Act, 2005. The State Information Commission can receive and

inquire a complaint from any person who has been unable to submit a request to a State Public Information Officer, either by reason that no such officer has been appointed under the RTI Act, or refused to accept his or her application.

During 2006 to 2007, 476 applications were received by 71 public authorities from the public, the Commission received four appeals were preferred before the Departmental Appellate Authorities, who disposed all the four appeals during these years. Out of four appeals decided by them, three were allowed and one was rejected. No application for second appeal was received during the first year of implementation of the Right to Information Act.¹⁴

During 2007 to 2008, 371 applications were received by 33 public authorities from the public. During these years, 9 complaints and 5 second appeals were received and decided by the Mizoram State Information Commission. The small number of the second and first appeals and that of the complaints would indicate that the applicants were generally satisfied with the response of the Public Information Officers of various public authorities in the State. In a number of cases, the complaints lodged with the Mizoram State Information Commission pertained to delay in receiving the replies from the Public Information officers which could be attributed to lack of awareness on part of the Public Information Officers about the provision of the Right to Information Act, 2005 and the Rules made there under. During the year, penalty was imposed to 3 State Public Information Officers, total of which comes to Rs.68,000/-.¹⁵

During 2008 to 2009, 177 applications were received by 37 public authorities and 30 public authorities have not received any application. The fact that more public authorities have been involved in the quest for information would indicate that gradual awareness has been implanted to the minds of the general public and public authorities as well. During the year, 15 complaints and 5 second appeals were received and decided by Mizoram State Information Commission.¹⁶

During 2009 to 2010, 695 applications were received by 90 public authorities from the public, Mizoram State Information Commission received 13 complaints and 3 second appeals as per record maintained by it. A penalty amounting Rs. 25,000/- was imposed on one State Public Information Officer which was complied with. However, no disciplinary action was recommended against defaulting Public Information officer.¹⁷

During 2010 to 2011, as many as 115 public authorities submitted the reports pertaining to their authorities out of which 84 public authorities received 736 applications from the public. The Mizoram State Information Commission received 12 complaints and 8 second appeals during the period. During these period, no penalty was imposed on, or nor was there any disciplinary action recommended against, any erring State Public Information Officer.¹⁸ The MSIC received 6 complaints and 1 appeal, and no penalty was imposed to the SPIO till November, 2012 (interview with Under Secretary of MSIC in 1st November 2012).

TABLE 4**No. of Complaints, Appeals and Penalty Imposed**

Year	Complaints	Appeals	Penalty imposed
2006-2007	-	-	-
2007-2008	9	5	3
2008-2009	15	5	-
2009-2010	13	3	1
2010-2011	12	8	-
2011-2012 (Till November 2012)	6	1	-

The Mizoram State Commission observed that a number of citizens approached the Commission to get hold of application form for seeking information as if there is a prescribed form of application. The Commission would like to reiterate that there is no prescribed format of application for seeking information. The application can be made on plain paper, either in English, Hindi or the official language of the area in which the application is made.

During the year 2006 to 2012, a budgetary provision allotted to the Mizoram State Information Commission by the Government of Mizoram to meet its various expenditures are as tabulated below:-

TABLE 5**Details of Receipts and Expenditure of MSIC**

(Rupees in lakhs)

Sl.No	Year	Budget	Expenditure
1	2006-2007	83.00	75,01,288
2	2007-2008	81.50	82.05
3	2008-2009	101.65	101.13
4	2009-2010	129.29	101.13
5	2010-2011	152.40	132.40
6	2011-2012	1071.05	Yet to be published

Source: *Annual Report of MSIC, 2006-2011*

The Mizoram State Information Commission was allotted a meager sum of Rs. 6.00 lakhs under the head 'Advertisement and Publicity'. The Mizoram State Information Commission circulated a number of copies of pamphlets bearing RTI slogans which were displayed all over Aizawl City, copies of calendar with RTI slogans was published and widely disseminated. A handbook 'RTI Mipuite Tan' containing every aspect on the provisions of RTI Act and Rules, both in the local language and in English was published by the Commission.

As per the provision of the Government of India, RTI Week should observe every year in each State. In Mizoram, the first RTI Week was inaugurated in 5th October to 12th

October 2012 which was jointly organized by Mizoram State Information Commission and Directorate of Information & Public Relations. The RTI Week was observed in each of the District of Mizoram, the Chief Information Commissioner, Information Commissioner and other staff of Mizoram State Information Commission assisted the inaugural functions in each district. During the RTI Week, RTI Leaflets and RTI Banners containing the functions and importance of RTI Act and provide simple guidelines for the citizen to get information. A guidelines for Departmental Appellate Authorities (DAAs), State Public Information Officers (SPIO), State Assistant Public Information Officers (SAPIOs) and Information Seekers, 'RTI Booklets' was also published by Mizoram State Information Commission on the occasion of the RTI Week and a number of copies was circulated, the expenditure is manage by the Department of Personnel & Training, Government of India.¹⁹ In order to examine the MSIC awareness was effective or not, questionnaire was prepared which was distributed in the office of the Principal Chief Conservator of Forest, Department of Environment and Forest, Aizawl as shown in table 6,7,8,9 and 10 respectively.

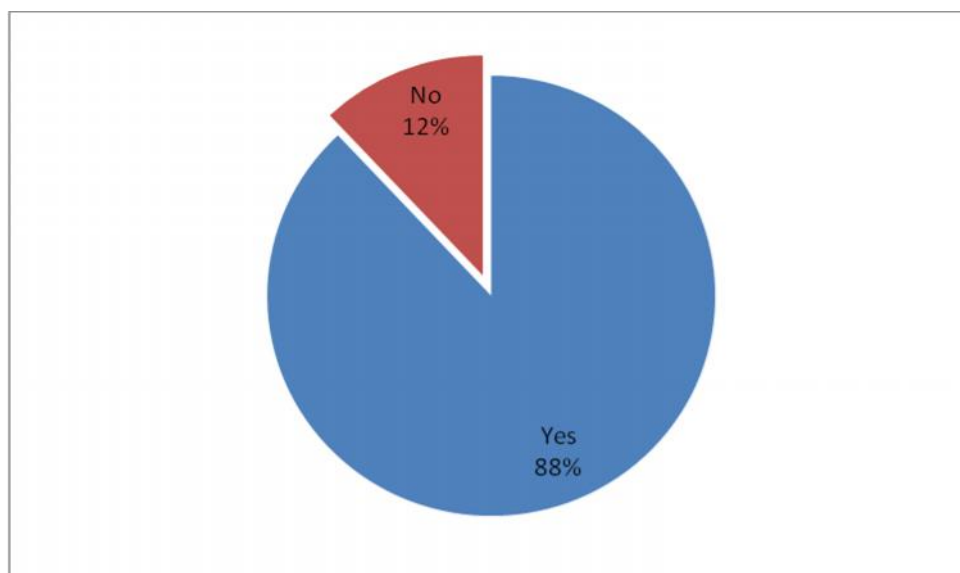
1. Are you aware of Right to Information Act, 2005?

TABLE 6

Level of awareness of RTI Act, 2005

Member Response	N=50	Percentage
Yes	44	88
No	6	12
Total	50	100

CHART 2



Section 26 of the Act states that the appropriate Government may develop and organized educational programmes to advance the understanding of the public, especially disadvantaged communities, regarding how to exercise the rights contemplated under the Act. However, as per the questionnaire, it was revealed that out of 50 respondents, 88 percent of the respondents were aware of the RTI Act, and only 12 respondents were unconscious of the RTI Act.

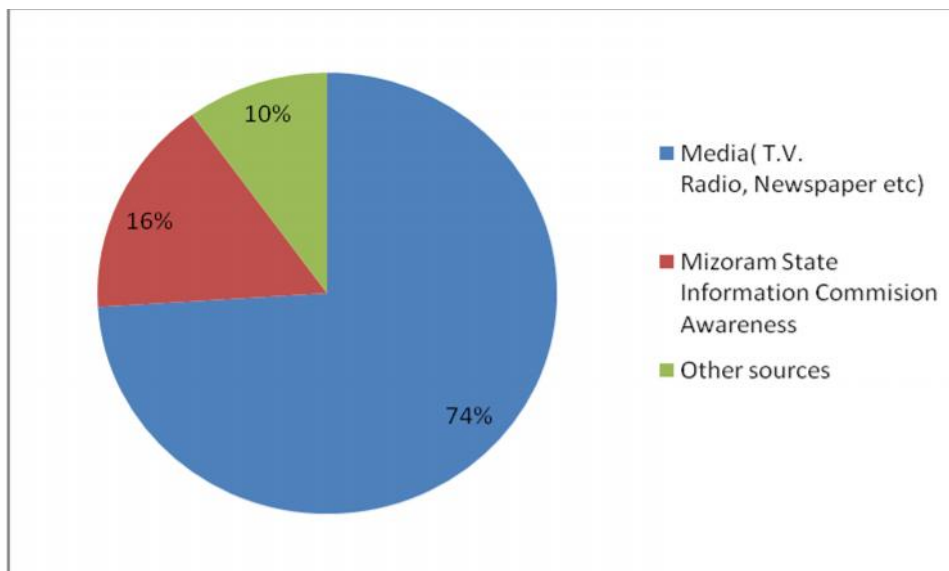
2. If yes, where do you come to know of it?

TABLE 7

Sources of Information of RTI Act

Member Response	N=50	Percentage
Media(T.V. Radio, Newspaper etc)	37	74
Mizoram State Information Commission Awareness	8	16
Other sources	5	10
Total	50	100

CHART 3



The above table and charts represents that the sources of information of the RTI Act, out of 50 respondents, 74 percent of the respondents was from the media, 16 percent from Mizoram State Information Commission awareness campaign, and 10 percent from other sources.

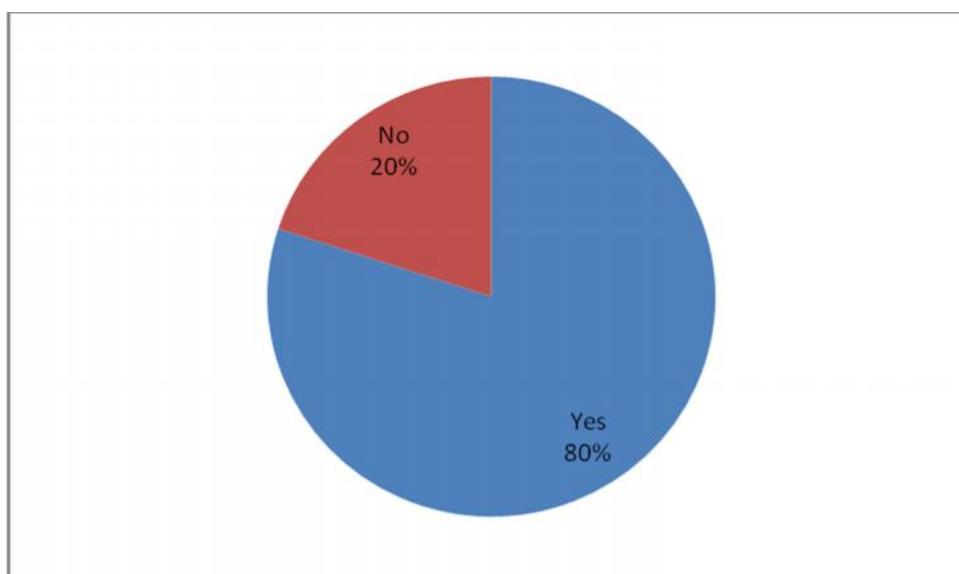
3. Do you know that the Mizoram State Information Commission occasionally organized RTI Awareness Campaign and RTI Week?

TABLE 8

Level of RTI awareness Campaign and RTI Week

Member Response	N=50	Percentage
Yes	40	80
No	10	20
Total	50	100

CHART 4



The level of consciousness of the RTI awareness campaign and RTI week organized by Mizoram State Information Commission from 50 respondents, 80 percent were well aware, and 20 percent from the respondent never knew about the campaign and week organized by the MSIC.

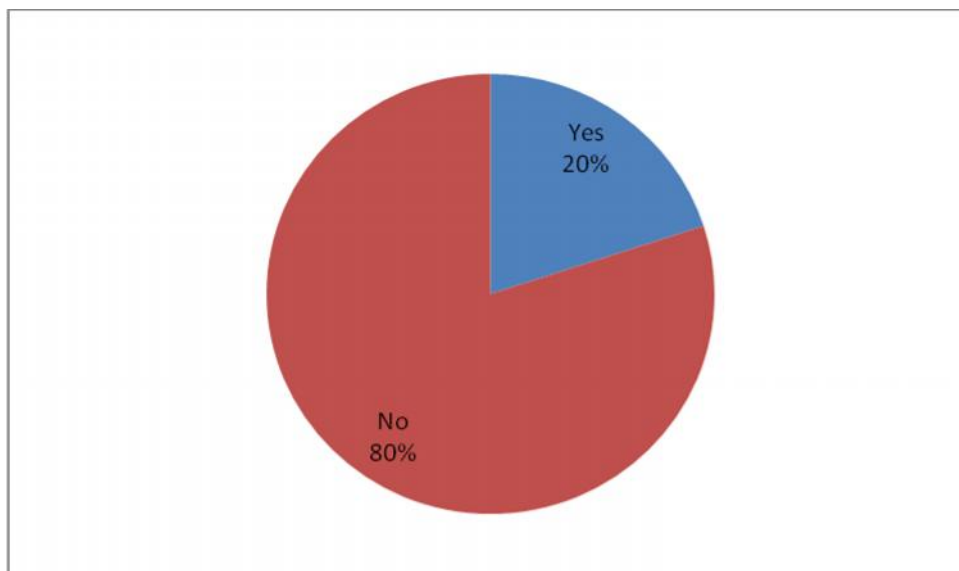
4. Have you attended such awareness campaign?

TABLE 9

Level of attending Awareness Campaign

Member Response	N=50	Percentage
Yes	10	20
No	40	80
Total	50	100

CHART 5



Out of 50 respondent 80 percent never attending the RTI Week and campaign organized by Mizoram State Information Commission, and 20 percent only had attended in such campaign.

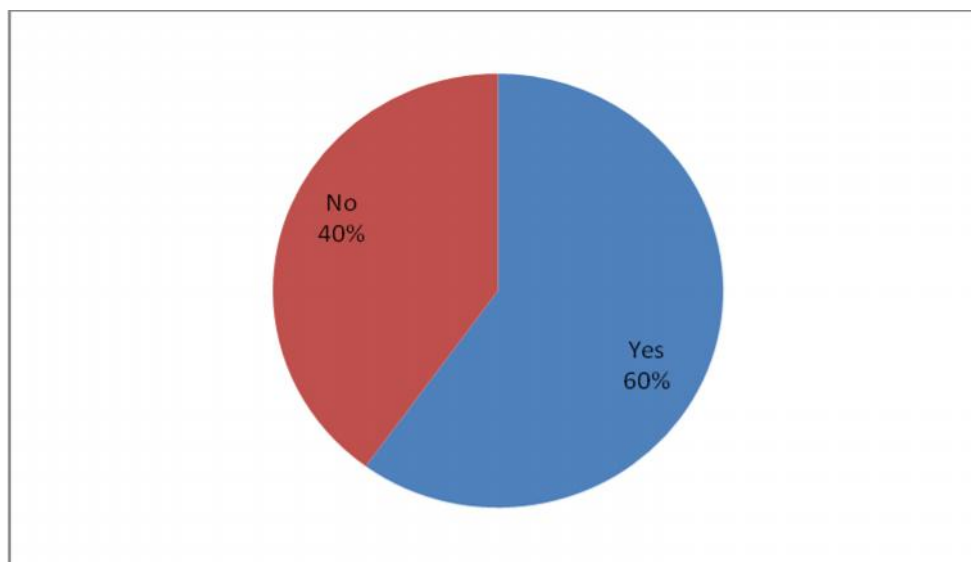
5. If yes, do you find it useful?

TABLE 10

Knowledge Level of RTI Act

Member Response	N=50	Percentage
Yes	30	60
No	20	40
Total	50	100

CHART 6



Out of 50 respondents, 60 percent of the respondents answer that the awareness campaign organized by Mizoram State Information Commission was useful for receiving the information regarding the RTI Act, 40 percent of the respondent think that it was not useful.

Monitoring and Reporting

The Mizoram State Information Commission prepared a report on the implementation of the provisions of the Right to Information Act, 2005 during the end of the year and forwards a copy thereof to the appropriate Government. Each Department of Mizoram shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Mizoram State Information Commission, as the case may be, as is required to prepare the report, the State Government should submit the report before the State Legislature. Each report shall state in respect of the year to which the report relates:-

1. The number of request made to each public authority;
2. The number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provision of the RTI Act under which the decision were made and the number of times such provisions were invoked;
3. The number of appeals referred to the State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
4. Particulars of any disciplinary action taken against any officer in respect of the administration.
5. The amount of charges collected by each public authority.
6. Any facts which indicate an effort by the public authorities to administer and implement the spirit and intention.

7. Recommendation for reforms including recommendations in respect of the particular public authorities for the development, improvement, modernization, reform or amendment or any other matter relevant for operationalising the right to access information.²⁰

Appropriate Government to Prepare Programmes

- (1) The State Government shall prepare programmes to implement the Right to Information Act in matters of availability of financial and other resources –
 - (a) Develop and organize educational programmes to advice the understanding of the public, in particular of disadvantaged communities s to how to exercise the rights contemplated under the Right to Information Act;
 - (b) Encourage public authorities to participate in the development and organization of programmes referred to in the clause (a) and to undertake such programmes themselves;
 - (c) Promote timely and effective dissemination of accurate information by public authorities about their activities; and
 - (d) Train the State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by public authorities themselves.
- (2) The State Government shall, if necessary, update and publish the guidelines containing such information, in an easily comprehensible form and manner at

regular intervals which shall, in particular and without prejudice to the generality include-

- (a) The object of the Act;
- (b) The postal and street address, the phone and fax number, if available, electronic mail address of the State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5 of the RTI Act;
- (c) The manner and the form in which request for access to an information shall be made to a State Public Information Officer as the case may be;
- (d) The assistance available from and the duties of the State Public Information Officer, as the case may be, of a public authority under the RTI Act;
- (e) The assistance available from the State Information Commission, as the case may be;
- (f) All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by the RTI Act including the manner of filling an appeal to the Commission;
- (g) The provisions providing for the voluntary disclosure of categories of records in accordance with section 4 of the RTI Act;
- (h) The notices regarding fees to be paid in relation to requests for access to an information; and
- (i) Any additional regulations or circulars made or issued in relation to obtaining access to information in accordance with the RTI Act.²¹

Power to make Rules by the State Government

The State Government may, by notification in the Official Gazette, make rules to carry out the provision of the RTI Act. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;

- (1) The cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4 of the RTI Act;
- (2) The fee payable under sub-section (1) of section 6 of the RTI Act;
- (3) The fee payable under sub-sections (1) and (5) of section 7 of the RTI Act;
- (4) The salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16 of the RTI Act;
- (5) The procedure to be adopted by the State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
- (6) Any other matter which is required to be, or may be, prescribed.²²

The State Government shall have the power to issue guidelines not inconsistent with the provisions of the Act and for the smooth implementation of the provisions of the Right to Information Act.²³ The State Government, in consultation with or on recommendation of the Commission may add to, delete from or alter or amend the Rules. Such alteration or amendment of the Rules shall be approved by the State Cabinet and shall be laid before the State Legislature.²⁴

References

1. www.righttoinformation.gov.in, *Guide for the Information Seeker*, pp. 2 to 3.
2. Section 18 to 20 of the *RTI Act*, 2005.
3. *ibid.*, Section 24(4).
4. *ibid.*, Section 5.
5. www.righttoinformation.gov.in, *Guide for the Information Seeker*, pp. 6 to 7.
6. www.righttoinformation.gov.in, *Guide for the Information Seeker*, pp. 7.
7. *Mizoram RTI Rules, 2010, Rule 7(2)*.
8. *ibid.*, 7(3).
9. *ibid.*, 7(4)&(5).
10. *ibid.*, 7(6).
11. www.mic.mizoram.gov.in.
12. *Mizoram RTI Rules, 2010, Rule 6*.
13. Section 8 of the *RTI Act*, 2005.
14. *First Annual Report of Mizoram State Information Commission*.
15. *Second Annual Report of Mizoram State Information Commission*.
16. *Third Annual Report of Mizoram State Information Commission*.
17. *Fourth Annual Report of Mizoram State Information Commission*.
18. *Fifth Annual Report of Mizoram State Information Commission*.
19. *Guidelines for Information Seekers/Applicants by Mizoram State Information Commission, 2012*.
20. Section 25 of the *RTI Act*.
21. *ibid.*, Section 26.
22. *ibid.*, Section 27.
23. *The Mizoram RTI Rules, 2006, Rule 12*.
24. *ibid.*, Rule 19.

CHAPTER IV

STATE CHIEF INFORMATION COMMISSIONER

The Right to Information Act, 2005 has creating independent and autonomous Information Commissions that operate separately for Central Government establishment and State Government establishments, in keeping with the federal structure of the Constitution. The State Information Commission shall consist of the State Chief Information Commissioner and Other State Information Commissioners, not exceeding ten, as may deemed necessary. From 2006 to 2012, Mizoram State Information Commissioner has two Chief Information Commissioner and one State Information Commissioner who took in charge as Chief Information Commissioner due to the post of SCIC was not filled. Details of the Chief Information Commissioner are shown in Table

TABLE 11

Details of the State Chief Information Commissioner of MSIC

Sl.No	Name	Designation	Period	Status at the time of appointment
1	L. Hrangnawna	SCIC	05.07.2006-11.02.2010	IAS (Rtd)
2	K. Laltlanthanga	SIC - SCIC In charge	16.03.2010-30.06.2011	IB (P) S (Rtd)
3	M. Laldingliana	SCIC	08.08.2011-till date	IFS (Rtd)

Appointment

The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of

- (i) The Chief Minister, who shall be the Chairperson of the Committee;
- (ii) The Leader of the Opposition in the Legislative Assembly; and
- (iii) A Cabinet Minister to be nominated by the Chief Minister.

The State Chief Information Commissioner and the State Information Commissioners shall be person's eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or member of the Legislature of any State or Union Territory, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.¹

Tenure

The State Chief Information Commissioner shall hold office for a term of 5 (five) years or till he attains the age of 65 years. The Chief Information Commissioner shall not be eligible for reappointment.² The Information Commissioner shall be eligible for appointment as the Chief Information Commissioner in the manner specified in sub section (3) of Section 12 of the Act. Where the Information Commissioner is appointed

as Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and Chief Information Commissioner.³

Grounds for Removal

The Governor can removed the Chief information Commissioner and Information Commissioner from their office on the ground of proved misbehavior or incapacity after the approval of the Supreme Court, on a reference made to it by the Governor after an inquiry. The Governor can also by order remove from office the Chief Information Commissioner and Information Commissioner as the case may be –

- (i) Is adjudged an insolvent; or
- (ii) Has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (iii) Engages during his term of office in any paid employment outside the duties of his office; or
- (iv) Is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (v) Has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.⁴

Pay

The salaries and allowances payable to and other terms of conditions of service of the State Chief Information Commissioner shall be the same as that of an Election Commissioner, and the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government.⁵ Accordingly, the Government of Mizoram, in rule 8 of the Mizoram Right to Information Rules, 2006 fixed the scale of pay of Rs.30, 000/- revised to Rs. 90000/- for the State Chief Information Commissioner and, Rs.26, 000/- revised to Rs. 80000/- for the State Information Commissioner,⁶ (Revision of pay vide Notification No. A. 26019/1/09-FIN (PRU) Dt. 2nd September, 2010). If he is in receipt of a pension (other than a disability or wound pension) from Government of India or from State Government, his salary as Chief Information Commissioner or Information Commissioner shall be reduced by the amount of that pension including commuted portion of pension. If he is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act of a Government company owned or controlled by the Central Government or State Government, his salary in respect of the service as Chief Information Commissioner or Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits. (As per Section 3 of the CEC and Other ECs (conditions of service Act, 1991 & Section 12 (2) of the Supreme Court Judges (salaries and conditions of service) Act, 1958).

Sumptuary Allowance

A monthly sumptuary allowances as admissible to the Chief Election Commissioner shall be admissible to the Chief Information Commissioner and Information Commissioner. Accordingly they are entitled to Rs. 7500/- (Rupees seven thousand five hundred only) per month. (As per Section 8 of the CEC and other ECs (conditions of service) Act, 1958)

Provident Fund

The Chief Information Commissioner and Information Commissioner shall be entitled to subscribe to the General Provident Fund (Central Services). (As per Section 7 of the CEC and other ECs (conditions of service) Act, 1991)

Leave

A person who, immediately before the date of assuming office as the Chief Information Commissioner or an Information Commissioner, was in service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date. Any other person who is appointed as Chief Information Commissioner or an Information Commissioner may be granted leave in accordance with such rules as are applicable to a member of the Indian Administrative Service. The power to grant or refuse leave to the

Chief Information Commissioner or an Information Commissioner and to revoke or curtail leave granted to him shall vest in the President of the India.

The Chief Information Commissioner or an Information Commissioner on demitting office except by resignation shall be entitled to claim encashment of earned leave in respect of the earned leave at their credit subject to a maximum period prescribed for enhancement of such leave under the All India Service (Leave) Rules, 1955 as amended from time to time. In case they demit office by resignation, they are entitled to encashment of leave at their credit on the date of cessation of service to the extent of half of such leave at their credit subject to half of the maximum period stated above.

Provided that the encashment of earned leave, if any, already availed before joining the Commission and the period of earned leave being encashed in the Commission together shall in no case exceed the maximum period as stipulated under the All India Service (Leave) Rules, 1955. (As per Section 5 of the CEC and other ECs (conditions of service Act, 1991 & Section 4A of the Supreme Court Judges (salaries and conditions of service) Act, 1958)

Accommodation

The Chief Information Commissioner and Information Commissioner shall be entitled without payment of rent to the use of an official residence in accordance with the rules prescribed for Chief Election Commissioner/Election Commissioners. They are entitled to free furnishing including electrical appliances in their official residence, the value of

which does not exceed Rs. 2 lakhs. They are also entitled without payment of rent to the use of furnished residence throughout the term of their office and for a period of one month immediately thereafter and no charge shall fall on them personally in respect of the maintenance of such residence. For this purpose, residence includes the staff quarters and other buildings apartment thereto and the garden there of and maintenance in relation to a residence include the payment of local rates and taxes and electricity and water. Where, for any reason, the Chief Information Commissioner or Information Commissioner does not avail himself of the use of an official residence he may be paid every month and allowance equivalent to an amount of 30% of his pay plus dearness pay as HRA in lieu of rent-free official residence. In such case the residence of the Chief Information Commissioner/Information Commissioner will be treated as official residence and all other facilities described above will be provided. (As per Section 8 of the CEC and other ECs (conditions of service) Act, 1991 & Rule 4 of the Supreme Court Judges Rules, 1959)

Medical Facilities

The Chief Information Commissioner and the Information Commissioner and the dependent members of his or her families shall be entitled to such facilities for medical treatment and for accommodation in hospitals as prescribed for the Chief Election Commissioner from time to time. In the term of Section 8 of the Chief Election Commissioner and Other Election Commissioner (conditions of service) Act, 1991, they are entitled medical facilities and such other conditions of service as are for the time

being applicable to adjudge of the Supreme Court under Chapter IV of the Supreme Court Judges (conditions of service) Act, 1958 and the Rules made there under. Accordingly, as per Rule 5 of the Supreme Court Judges Rule, 1959, in respect of facilities for medical treatment and accommodation in hospitals, the provisions of the All India Services (Medical Attendance) Rules 1954 shall apply as they apply to a member of Indian Administrative Service.

Provided that the expenses shall be reimbursed on prescription of Government doctors / hospitals or Recognized Private Practitioners / Private Hospitals to the Chief Information Commissioner. Every retired Chief Information Commissioner shall be entitled for himself and his family to the same facilities as respects medical treatment and on the same conditions as a retired officer of the State Civil Service Class – I and his family are entitled under any rules or orders of the State Government for the time being in force. The Chief Information Commissioner shall be entitled to a staff car and 200 litres fuel per month or the actual consumption of fuel whichever is less. (As per Section 8 of the CEC and other ECs (conditions of service Act, 1991 & Section 23 A of the Supreme Court Judges (salaries and conditions of service) Act, 1958)

Travelling Allowances/Long Term Care

The Chief Information Commissioner and Information Commissioners shall be entitled to Travelling Allowances and Long Term Care as applicable to the Chief Election Commissioner and Election Commissioner who are entitled to TA (Tour) and TA (Transfer/Retirement) as per the provisions contained in the Supreme Court Judges (TA)

Rules, 1959. In terms of Rule 5(f) *ibid* when a judge travels on duty he is entitled to a daily allowances at the rate of Rs.600/- for the entire period of absence from head quarters provided that daily allowance so admissible shall be regulated as follows:

1. Full daily allowances for each completed day, that is reckoned from mid-night to mid-night
2. For absence from headquarters for less than twenty-four hours the daily allowance shall be at the following rates, namely
 - i) If the absence from headquarters does not exceed 6 hours, 30% of the full daily allowances;
 - ii) If the absence from head quarters exceeds 6 hours, but does not exceed 12 hours, 50% of the full daily allowance;
 - iii) If the absence from the head quarters exceeds 12 hours full daily allowance provided also that –

When a judge is required to performed outside his normal duties in localities away from his head quarters, he may subject to such conditions as the President may in each case determine, be granted daily allowance not exceeding Rs.600/- per day for all types of localities and Rs.1000/- and transport charges not exceeding Rs.50/- per day in respect of specially expensive localities like Mumbai, Kolkata, Chennai, Delhi, Hyderabad, Ahmedabad and Bangalore or any other locality so declared hereafter by

the President and shall also be entitled to accommodation at the same rates as for Government servants.

As admissible to Supreme Court Judges, Chief Information Commissioner are also entitled to LTC for self, spouse and dependent members for visiting any place in India including home town during leave thrice a year in accordance with rules applicable in this behalf to a member of the Indian Administrative Service holding the rank of Secretary to Government of India. (As per Section 8 of the CEC and other ECs (conditions of service Act, 1991 & Rules 6A of the Supreme Court Judges (TA) Rules, 1959)

Pension

In terms of section 6(2) of the CEC and Other ECs (Condition of service) Act, 1991, the CEC and ECs are entitled to a pension which is equal to the pension payable to the judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court judges (Conditions of Service) Act, 1958 as amended from time to time. These provisions are also applicable to the Chief Information Commissioner in terms of section 13(5) of the RTI Act, 2005.

The provisions of Part III apply to a judge who has held any pensionable post under the union or a state (but is not a member of Indian Civil Service) and who has not elected to receive the pension payable under Part I *ibid*.

The pension payable to such a judge shall be

(a) The pension to which he is entitled under the ordinary rules of his service if he had not been appointed a judge, his service as a judge in India being treated as service therein for the purpose of calculating pension.

(b) A special additional pension of Rs.7800 per annum in respect of each completed year of service for pension as a judge in India. Provided that the pension under (a) and additional pension under clause (b) together shall in no case exceed Rs. 270000 per annum. Commutation of pensions, family pension and gratuity as are admissible to the judge of the Supreme Court are also admissible to CIC/IC.

(As per Section 6 of the CEC and other ECs (conditions of service Act, 1991 & Part III of the Schedule to the Supreme Court Judges (salaries and conditions of service) Act, 1958)

Post Retirement Benefits

As in the case of Supreme Court Judges/Election Commissioners, the CIC/ICs are also entitled during their lifetime a payment of Rs. 4000 (Four thousand only) per month for defraying the services of an orderly. They are also entitled to a residential telephone free of cost and the number of free calls to the extent of 1500 per month (over and above the number of free telephone calls per month allowed by the telephone Companies).

Administrative and other Residuary Matters

Administrative matters relating to terms and conditions of service of the Chief Information Commissioner and Information Commissioners with respect to which no express provision has been made shall be as applicable to the Chief Election

Commissioner and Election Commissioners respectively. (As per Section 13(5) of the RTI Act, 2005)⁷

Role of the Chief Information Commissioner

The State Information Commission is to functions autonomously without being subjected to directions by any other authority under this Act, that is, there is no subordination of State Information Commissions to Central Information Commission. The Commission also has autonomy in matters of creation of post and recruitment of the personnel. The Chief Information Commissioner has been delegated a full financial powers in respect of the establishment of Mizoram State Information Commission in pursuance of Rule 3 (1)(a) of Delegation of Financial Power Rules, 1978 read with Para 5 of the State of Mizoram Adaptation of Laws and Order (No.2) of 1978 vide Notification No. G17012/1/2000-F.Est, dated 11.10.2006 issued by Finance Department of the Government of Mizoram.⁸

The general superintendence, direction and management of the affairs of the State Information Commission vest in the State Chief Information Commissioners who is assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission.⁹ As the head of Mizoram State Information Commission, the Chief Information Commissioner plays an important role for the smooth functioning of the Commission.

Every decision or order of the Mizoram State information Commission shall be signed and dated by the Chief Information Commissioner who have heard the appeal or the complaint or have decided the matter. A decision or an order once pronounced by the Commission shall be final. An appellant or a complainant or, a respondent may, however make an application to the Chief Information Commissioner for special leave to appeal or review of a decision or order of the case and mention the grounds for such a request.

The Central Information Commission organized the National Convention on Right to Information from 2006 to commemorate the implementation of the RTI Act, 2005. In this Convention, all the State Chief Information Commissioner and Information commissioners, the Civil Society Organizations, NGOs, RTI Activists, CPIO, Appellate Authorities of the select Ministries and Department of the Government of India were expected to attend. The Chief Information Commissioner of Mizoram is also responsible for attending the Conventions to participate as the panelists to answer the questions relating to the working of Mizoram State Information Commission and implementation of RTI Act from the floor of the audience. In 2012, the National Convention of RTI was held in 14 to 15 October, they discuss relating to laying down a way forward for legal and pragmatic solutions regarding some of the areas of major concern in the implementation of the RTI Act including individual's privacy and the need for their disclosure.¹⁰

Every public authority shall designate as many as the State Public Information Officer in all administrative units or office to provide necessary information to persons requesting for the information under the RTI Act.¹¹ The SPIO is responsible to submit the

annual report to the MSIC. Without the presence of the Chief Information Commissioner, the SPIO may neglect their work and duties assigned under the RTI Act, so to coordinate and control the SPIO is one of the main roles of the Chief Information Commissioner. If the applicant or complainant was not provide the information within the time limit by the SPIO or the SPIO refuse to provide information, the Chief Information Commissioner can summon and give order to the SPIO to provide the required information ask by citizen.

It is the duty of State Information Commission to provide awareness and organized campaign for the citizen to know more about the efficiency and importance of the RTI Act. The Mizoram State Information Commission also engages awareness campaign in different districts and villages of Mizoram under the supervision and guidance of the Chief Information Commissioner. The Chief Information Commissioner should motivate his subordinate staff for maintaining efficiency and effective administration of the MSIC.

Reference

1. Section 15 of the *RTI Act, 2005*
2. *ibid.*, Section 13 (1), (2)
3. *ibid.*, Section 16
4. *ibid.*, Section 17
5. *ibid.*, Section 16 (4)
6. *The Mizoram RTI Rules, 2005, Rule 8*
7. www.cic.gov.in, *Terms and Conditions of service of Chief IC and ICs*
8. *First Annual Report, 2006-2007, Mizoram State Information Commission.*
9. Section 12 (3) sub (iv) of the *RTI Act, 2005*
10. *ibid.*, Section 5

CHAPTER V

CONCLUSION

The Right to Information Act was passed in 2005 and received assent of President on 15th June, 2005. The Bill was passed after around 150 amendments were introduced in the original draft. The Right to Information Act, 2005 replaces relatively weak and ineffective legislation Freedom of Information Act, 2002 passed during the NDA regime. The legislation confers on all citizens a right to seek information and correspondingly makes it the duty of the public authorities to disseminate information for better governance and accountability. The law has widest possible reach covering Central and State governments, Panchayati Raj Institutions, local bodies and recipients of government grants but would not apply to the intelligence and security organizations except if the information relates to the allegations of corruption. RTI is the instrument to prevent misuse of public power and funds. The RTI Act extends to the whole of India except the state of Jammu and Kashmir. The Act gives every citizen of India a Right to Information.¹

The State Information Commission has been constituted for setting out of the practical regime of the right to information for citizen as provided by the Right to Information Act, 2005. The State Information Commission is an autonomous body and not under any Government Department. The reasons for establishing State Information Commission is include the goals of promoting the right to access as well as hearing appeals against violations of the right. The creation of the State Information Commission

can serve to protect the right of access to information by reducing the potential bottlenecks in the application of the Act and the appeals process that can, overtime, reduce confidence in the right of access to information. The State Information Commission is responsible for hearing appeals against in failures to respect the right to information, whether it is a formal refusal, administrative silence or other issues that have arisen during the filling and processing of a request. The State Information Commission is to gather information about the functioning of the right, statistics on the number of requests filled, the number of decisions. The State Information Commission is also responsible to guide the citizen about the right functions, how they can apply for information, what kind of procedures and how to appeal if their rights are denied. The State Information Commission is an autonomous body and not under any Government Department.

Mizoram State Information Commission was established by the Government of Mizoram on 29th June, 2006 vide Government of Mizoram, Information & Public Relation Department's Notification No.F.13011/11/2005-IPR dt.29.06.2006 and Mizoram Information Commission was officially functioning on 05.07.2006. The Mizoram Right to Information Rules, 2006 was made by the State Government vide Notification No. F.13011/4/2005 – IPR dated 21.6.2006. However, the rules were found defective in certain ways and the Mizoram State Information Commission submitted proposal for amendment to the Rules. In effect, the State Government has notified the 'Mizoram Right to Information Rules, 2010' vide No. F.13011/4/2008 – IPR dated 20.9.2010 which was published in the Mizoram Gazette on 24.11.2010.

The State Government has sanctioned different posts for the smooth functioning of the Commission. The Commission functioned with the services of the Secretary, the Senior Principal Private Secretary (PPS) , the Deputy Secretary, the PPS, the Under Secretary, the Superintendent , the Private Secretary, the Assistant and the Stenographer Grade III were provided by the State Government. In addition, casual workers on daily wage basis were also engaged against the sanctioned posts of Upper Divisional Clerk, Lower Divisional Clerk, Driver, Dispatch Rider and Grade IV. Actions are being taken actively for filling up the post of Group C and D on regular basis. At present there are 26 staff in the Commission, the officers and other staff except the Chief Information Commissioner, Information Commissioner and casual workers are filled up by deputation of Government servants of equivalent rank from any department of the State Government.

The Mizoram State Information Commission derives its functions from Chapter V of the Right to Information Act, 2005. The Commission can receive the second appeals from the citizen, if a person are unable to submit a request to a State Public Information Officer or refused to accept his or her application for information, has been refused access to any information requested, has not been given a response to a request for information or access to information within the time limit, believe that he or she has been given incomplete, misleading or false information and any other matter relating to requesting of obtaining access to records under the Right to Information Act. It is the duty of the Commission to receive complaints and appeals to the citizen.

The Mizoram State Information Commission has been receiving and enquiring into the complaints received from the complainants relating to access to information under the control of public authorities and deciding them on merit keeping in view the provisions of the Right to Information Act, 2005. The State Information Commission can receive and inquire a complaint from any person who has been unable to submit a request to a State Public Information Officer, either by reason that no such officer has been appointed under the RTI Act, or refused to accept his or her application. During 2006-2011, the Commission received 49 complaints and 21 appeals as per records maintained by it. The small number of second and first appeals and that of complaints would indicate that the applicants were generally satisfied with the response of the Public Information Officers of various public authorities in the State. During 2006 – 2012, as many as 115 public authorities submitted the reports pertaining to their authorities out of which 84 public authorities received 3505 applications from the public. It was observed that these complaints and appeals had been lodged with the Commission due to the ignorance of the Act and the Rules by the public authorities, especially the designated officials. The Commission expressed its sincere desire that every public authority should make concerted efforts to study the Act carefully and understand its provisions correctly for effective implementation of the Act. The Commission can imposed and disciplinary action recommended against any erring State Public Information officer.

As per the provision of the Government of India, RTI Week should observe every year in each State. In Mizoram, the first RTI Week was inaugurated in 5th October to 12th

October 2012 which was jointly organized by Mizoram State Information Commission and Directorate of Information & Public Relations. The RTI Week was observed in each of the District of Mizoram, the Chief Information Commissioner, Information Commissioner and other staff of Mizoram State Information Commission assisted the inaugural functions in each district. During the RTI Week, RTI Leaflets and RTI Banners containing the functions and importance of RTI Act and provide simple guidelines for the citizen to get information. In order to examine the MSIC awareness was effective or not, questionnaire was prepared which was distributed to particular Department of Environment and Forest, Principal Chief Conservator of Forest, Aizawl. The major findings of the research includes that most of the respondents are well aware of the RTI Act, RTI Campaign and RTI Week organized by the MSIC, but most of them never attend such Campaign, from 50 respondents, only 16 percent of them received information from the MSIC Campaign. Thus, it shows that, the present form of RTI awareness Campaign is not sufficiently enough for introducing RTI Act to the people, it is suggested that more dissemination of awareness Campaign is needed in the local areas and more advertisement in media will be significant.

Mizoram State Information is an autonomous body, no court shall entertain any suit, application or other proceeding in application or other proceeding in respect of any order made under the Right to Information Act and no such order shall be called in question otherwise than by way of an appeal under the Act. The decision of the Commission is final and binding on the public authority.

The Commission received its own budget every year which is sanctioned by the State government. Each Department of government of Mizoram shall collect and provide information to Mizoram State Information Commission, and the Commission prepare a report and keeping of records for the purposes. The report should submit before the State Legislature after the end of each year and lay before the State Legislature.

The State government shall have to issue guidelines not inconsistent with the provisions of the Right to Information Act and rules for the smooth implementation of the provision of the Act. The State government, either in consultation with or on recommendation of the Commission may add to, or delete from or alter or amend the Rules. Such alteration or amendment of the Rules shall be laid before the State Legislature.

The State government has allotted some space in the All India Service Officer's Residential Complex, New Capital Complex, Khatla, Aizawl for temporary office accommodation. The Commission requested the State government for arranging a permanent office accommodation, but till today, Mizoram State Information Commission do not have permanent office of their own which cause the problems in its working. They do not have a separate court room for hearing and decide the appeals and complaints from the public. The Commission has not set up a library or a reading room, some other State Information Commission in India has well equipped library, it is suggested that the MSIC should have a library to broaden the knowledge and update information among the officers, staff and visitors.

Nowhere across the country have eminent women been appointed as Chief Information Commissioners. The State Chief Information Commissioner of Tripura is the lone woman officiating as the State Chief Information Commissioner. Similarly, no eminent citizen with experience and expertise in the fields of management, science and technology, mass media, journalism and social service has been appointed as Chief Information Commissioner anywhere in India. 90% of the serving Chief Information Commissioners are retired civil servants. The field of expertise: 'administration and governance' mentioned in the two RTI laws has become synonymous with the term 'civil services'.² Likewise, the former Chief Information Commissioner of Mizoram was a retired IAS and the present is IFS retired civil servants.

The State Information Commission exercises adjudicatory powers of a nature no different than a judicial tribunal and is also vested with the powers of a civil court. The Supreme Court judgment in 16 September, 2012 stated that the State Chief Information Commissioner shall only be a person who is or has been a Chief Justice of High Court, and Information Commissioner should be manned by persons having legal expertise and with adequate experience in the field.³ The Chief Information Commissioner and Information Commissioner of Mizoram do not have a legal background. So, to perform the judicial functions, speedy justice, and predictability of decisions of the Commission, it is suggested that the Government of Mizoram should follow the Supreme Court judgment regarding the appointment of the Chief Information Commissioner and Information Commissioner.

Dissemination of information through websites is one of the measures stipulated that the SPIO seek assistance of any other officer as he considers it necessary for the proper discharge of his duties. The Mizoram State Information Commission is responsible for providing proactively disclose information about their organization, functioning and decisions on appeals and complaints through websites. Mizoram State Information Commission have displayed some information but it was a handful pages as compared to other State, the Mizoram State Information Commission was the only body which do not have a dedicated website in the States of India. Thus, technical administrator to maintain the website is needed for displaying information about its working.

Annual reports must be tabled by government before the respective state legislatures. However, there is no provision in the RTI laws requiring the legislatures to examine the state of implementation of the RTI laws in their jurisdiction. There is no report of public domain about any discussion based on an Information Commission's Annual Report in the State Legislature till date. The entire exercise of reporting becomes a waste of time and resources if these bodies do not use the reports to assess the expansion and deepening of the regime of transparency established by the RTI Act. Mizoram State Information Commission was not uploaded their sixth annual reports on their website till date. The Information Commission must fulfill their statutory obligations and compile and publish their annual reports in a comprehensive and timely manner. The state legislature must find the time to debate the contents of annual report

and scrutinize the actions of the government, public authorities and respective Information Commission in implementing the RTI Act.

The RTI Act does not provide the requirement of disclosure Information Commission decisions on second appeals, complaints, and decision on their website. A State Information Commission of Andhra Pradesh, Bihar, Goa, Gujarat, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, West Bengal and Jammu and Kashmir voluntarily displayed decisions on their website. However the Rules leave it to the discretion of the Commission whether or not to display its decisions. Mizoram State Information has not uploaded any of their decision, it is recommended that the Information Commission must upload all decisions and orders on their website not only for other Information Commissions but also for researchers who would like to study the trends and performance of the Information Commission.

Cause lists contain basic information about when a hearing has been scheduled by an Information Commission. Nothing in the RTI laws or the Rules framed under Mizoram State Information Commission requires Information Commissions to prepare and display cause lists. Some Information Commission displays the cause list in their website in order to make their working more transparent to the public. If an appellant or respondent does not get a notice of the hearing in hard copy, he or she may ascertain the date of hearing by regularly checking the Information Commission's website. This will ensure neither party may miss a hearing date merely due to non – receipt of notice.⁴ Thus, it is recommend that Mizoram State Information Commission must upload cause lists on

their websites in the interests of improving transparency, it will help parties know when their case is likely to come up and provide the public an understanding of what is happening at the Commission.

The State Information Commission is important for implementing citizens right to access information under the government departments and other public undertakings, failing which, penalties shall be incurred to the public authority who failed the requested information. The Commission makes administrative activities as transparent and openness. A problem of mismanagement and maladministration can be checked or evaluated by the citizens through the Commission. The Mizoram State Information Commission also achieved a great progress in its work, but much more remains to be desired for implementing the provision of the Right to Information Act.

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APPENDIX
MIZORAM STATE INFORMATION COMMISSION:
ORGANIZATION AND WORKING

Lalchatuanthangi
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QUESTIONNAIRE

(This data given by the respondent will be used for research purpose only)

1. Are you aware of Right to Information Act, 2005?

YES NO

2. If yes, where do you come to know of it?

a) Media (T.V., Radio, Newspaper etc)

b) Mizoram State Information Commission Awareness

c) Other sources

3. Do you know that the Mizoram State Information Commission occasionally organized RTI Awareness Campaign and RTI Week?

YES

NO

4. Have you attended such awareness campaign?

YES

NO

5. If yes, do you find it useful?

YES

NO

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