



THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

Aizawl Bench

Writ Petition (Civil) No. 40/2026.

1. The Mizoram State Health Care Society,
Represented by the SPIO & Dy. Chief
Executive Officer Aizawl, Mizoram.
2. The Mizoram State Health Care Society,
Represented by the former SPIO & Dy. Chief
Executive Officer Aizawl, Mizoram.
3. The Mizoram State Health Care Society,
Represented by the FAA & Chief Executive
Officer Aizawl, Mizoram.

..... Petitioners.

-Versus-

1. State Information Commission, Mizoram,
Represented by its Secretary, New Capital Complex, Khatla, Aizawl.
2. State Chief Information Commissioner, Mizoram,
New Capital Complex, Khatla, Aizawl.
3. Mr. J. Malsawmzuala Vanchhawng,
R/o VK-71 Galilee Veng, Zemabawk, Aizawl, Mizoram.

..... Respondents.



**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

Advocate for the petitioners	:-	Mr. B. Deb, Mr. S.V. Chhange.
Advocate for the respondent Nos. 1 & 2	:-	Mr. C. Lalramzauva, Mr. S. Lalbuatsaiha.
Advocate for the respondent No. 3	:-	Mr. J.M. Vanchhawng.
Date of Hearing	:-	17.06.2026.
Date on which judgment is reserved	:-	17.06.2026.
Date of pronouncement of judgment	:-	17.08.2026.
Whether the pronouncement is of the operative part of the judgment?	:-	N/A
Whether the full judgment has been pronounced?	:-	Yes

JUDGEMENT & ORDER (CAV)

Heard Mr. B. Deb, learned Senior Counsel cum Advocate General assisted by Mr. S.V. Vanlalhriata, learned Additional Advocate General for the State petitioners. Also heard Mr. C. Lalramzauva, learned Senior Counsel assisted by Mr. S. Lalbuatsaiha, learned counsel for the respondent Nos. 1 & 2 and Mr. J.M. Vanchhawng, respondent No. 3 in person.

2. In this petition, under Article 226 of the Constitution of India, the petitioners, Mizoram State Health Care Society (MSHCS



hereinafter) represented by the State Public Information Officer (SPIO hereinafter) and Deputy Chief Executive Officer Aizawl and 2 others, have challenged the order dated 09.04.2026, passed by the State Chief Information Commissioner (SCIC hereinafter).

3. It is to be noted here that vide impugned order dated 09.04.2026, the SCIC had directed the petitioner No. 1 to provide information sought by the complainant (respondent No. 3), free of cost and not later than 17.04.2026.

Background Facts:-

4. The background facts, leading to filing of the present petition, are adumbrated herein below:-

“On 01.11.2025, the Respondent No. 3 had filed an Right to Information (RTI hereinafter) application seeking some information relating to the agreement signed between the MSHCS and Synod Hospital, Durtlang, Aizawl, along with detail pricing. In the said application it was stated that if the information could not be furnished, informed about the grounds for such refusal by stating the provision of law for such refusal or give a copy of any Notification or Order refusing the same.

Thereafter, the SPIO failed to provide the information within the stipulated period of 30 days. However, after being contacted by the complainant/respondent No. 3 on several occasions, the SPIO had furnished a reply. But, having not been satisfied with the information received from the SPIO, the



complainant/respondent No. 3 attempted to prefer a first appeal, via RTI online, but the said appeal was not registered and thus, the complainant/respondent No. 3 had filed a complaint directly to the Mizoram Information Commission (MIC hereinafter) on 10.03.2026.

Thereafter, the MIC had issued notice of hearing was issued on 23.03.2026 and also issued summon to the respondents to appear before the commission on 09.04.2026, at 02:00 pm and accordingly, hearing was conducted in presence of the complainant and the former SPIO and present SPIO in person. Thereafter, the MIC had passed the impugned order on the same day.

During the course of hearing, the respondent No. 3 had informed the Commission that he waited for the first appeal to register on the RTI Online portal. But, after a long period of time without any registration, the complaint was filed and submitted a complaint directly to the MIC.

Thereafter, the complainant/respondent No. 3 had filed a second appeal, under Section 19 (3) of the RTI Act before the State Information Commission. But, on 02.04.2026, the petitioner No. 1 had submitted a written submission, on behalf of the MSHCS, before the Secretary of MIC, Aizawl.

In the said written submission, the petitioner No. 1 had stated that a Memorandum of Agreement (MoA hereinafter) was signed between the MSHCS and Synod Hospital, Durtlang,



Aizawl, inserting a confidentiality clause in the MoA and also stated that the Clause No. 14 of the MoA states that '*Each party shall maintain confidentiality relating to all matters and issues dealt with by the parties in the course of the business contemplated by and relating to this agreement. Both parties shall not disclose to any third party any information relating to this agreements and documents marked confidential, medical reports, personal information relating to beneficiary, and other unpublished information except unless mutually agreed upon by both the parties in writing, and shall use its best efforts to ensure that its officers, employees, keep secret all information disclosed*'.

Thereafter, the MSHCS had sought permission from the Mizoram Synod, for which the Mizoram Synod duly replied stating that they stand with the non-disclosure of the MoA, vide letter dated 13.02.2026. Thereafter, the petitioner No. 1 had submitted a letter dated 17.04.2026, before the State Chief Information Commissioner, requesting to reconsider the decision of the Chief Information commission. But, the State Chief Information Commissioner without appreciating the information exempted under the Act had passed the impugned order dated 09.04.2026, directing the petitioner No. 1 to provide the information sought by the complainant/respondent No. 3, free of cost, not later than 17.04.2026."

Grounds: -



5. Being aggrieved, the petitioners have preferred the present petition on the following grounds, that:-

- (i) The SCIC has exceeded its jurisdiction by directing disclosure of information that falls squarely under Section 8 of the RTI Act.
- (ii) The impugned order was passed without giving reasonable opportunity of being heard to the third party, under Section 19 (4) of the RTI Act and the objections of the third party are required to be duly considered. Section 19 (4) of the RTI Act provides that if the decision of the Central Public Information Officer (CPIO hereinafter) or SPIO, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party. But, in the present case, the third party was not given any opportunity of being heard.
- (iii) Section 19 (9) of RTI Act provides that the Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the Public authority. But, the impugned order neither gives any right of appeal to the public authority nor to the third party as stipulated in the Act.



- (iv) A MoA was signed between the MSHCS and Synod Hospital, Durtlang, Aizawl, inserting a confidentiality clause in the same and the Clause No. 14 of the said MoA states that *'Each party shall maintain confidentiality relating to all matters and issues dealt with by the parties in the course of the business contemplated by and relating to this agreement. Both parties shall not disclose to any third party any information relating to this agreements and documents marked confidential, medical reports, personal information relating to beneficiary, and other unpublished information except unless mutually agreed upon by both the parties in writing, and shall use its best efforts to ensure that its officers, employees, keep secret all information disclosed'*. Further, the MSHCS had sought permission from the Mizoram Synod, for which the Mizoram Synod had duly replied stating that they stand with the non-disclosure of the MoA and that the impugned order has failed to appreciate the confidentiality clause signed between the parties and that the information sought is personal and its disclosure would cause unwarranted invasion of privacy, with no larger public interest involved.
- (v) The impugned order is arbitrary as the information was not provided due to the confidentiality clause signed between the parties and not due to *mala-fide* intention.

**Stand of the respondents:-**

6. The respondent Nos. 1 & 2 have filed their affidavit-in-opposition, wherein they have taken stands that they being a quasi-judicial body, exercising its adjudicatory function while passing the impugned order, are not supposed to be impleaded as party respondents herein. The SPIO had filed written submission, wherein the SPIO did not claim any of the exemptions under the RTI Act. He only mentioned about the MoA between the MSHCS and Synod Hospital and a confidentiality clause mentioned in the said MoA, wherein it is provided that each party shall maintain confidentiality relating to all matters and issues dealt with by the parties in the course of the business contemplated by and relating to the said agreement except unless mutually agreed upon by both the parties in writing.

6.1. It is also stated that the petitioner No. 1 had sought for the opinion from the Mizoram Synod as to whether a copy of the MoA could not be furnished to the third party, to which the Mizoram Synod had stated that as per Clause No. 14 of the MoA, copy thereof should not be given to any third party, except with the written consent of both parties. Thus, the issue is as to whether the confidentiality clause under Clause No. 14 of the MoA shall be held to prevail over the relevant provisions of the RTI Act, such as Section 8 (1)(d) read with Section 11(1) and Section 22 of the RTI Act. But, what complainant/respondent No. 3 had sought for in the RTI application has nothing to do with the medical reports, personal information relating to beneficiary and other unpublished



information, which according to the petitioners is likely to 'cause unwarranted invasion of privacy of such patients'. It is further stated that in fact, the MoA signed between the petitioner No. 1 and the Synod Hospital cannot be considered as a third party information, under Section 11 of the RTI Act. It is simply a public record or document available in the office of the petitioner No. 1, which reportedly contains *inter-alia* 'negotiated rates' and therefore, the same does not belong only to the Synod Hospital, which cannot be claimed as third-party information.

6.2. Another stand taken by the respondent Nos. 1 & 2 that since the Mizoram Universal Health Care Scheme (MUHCS hereinafter) is intended for the general public and utilizes public fund, it is expected by the respondent No. 1 that the MoA signed between the petitioner No. 1 and the Synod Hospital as well as the operational procedures of the Scheme, be made public and uploaded to their websites, rather than being withheld under the pretext of confidentiality clause. Further, Section 22 of the RTI Act has an overriding effect over any other law or contract, including confidentiality clauses in agreements between public authorities and private parties. It is also stated that vide letter dated 17.04.2026, the petitioners had sought for extension of time for compliance with the order dated 09.04.2026. But, the same was rejected by the respondent No. 1 and the same was communicated to the petitioners, vide letter dated 17.04.2026. Thereafter, another application was filed on 17.04.2026, before the respondent No. 1 requesting for re-consideration of the decision of the MIC dated 09.04.2026. But, there is no provision



under the RTI Act, which gives the Central or State Information Commission the power to review or reconsider its own decision, the petitioner No. 1 was informed about the same.

6.3. It is also stated that the MoA cannot be considered as a third party information exempted under Sections 8 or 11 of the RTI Act and during the proceedings of the case, the petitioners had never invoked any of the said provisions for not disclosing the information sought for by the respondent No. 3. In fact, the MoA signed between the MSHCS and the Synod Hospital is a public record or document available in the office of the MSHCS, which reportedly contains *inter-alia* 'negotiated rates' and therefore, the same does not belong only to the Synod Hospital which can be claimed as third party information.

6.4. It is also stated that as laid down by Hon'ble Supreme Court, 'fiduciary relationship' or 'commercial confidence' exemptions under Section 8(1)(d) and (e) of the RTI Act cannot be used to shield information that serves a larger public interest. Since an MoA outlines the objectives and governance of a body, especially those funded or controlled by the State, it is usually considered as a public document. Further, the primary sources of funding of MSHCS are contributions from serving government employees, pensioners, enrolment fees from the general public, budget allocated by Finance Department, Government of Mizoram and funds received from the Government of India for Golden Card holders and therefore, the functioning of MSHCS involves the use of public resources and it is clear that it is a public activity purported to be done in the interest of



the public and the provisions for exemptions of certain information under Section 8 of the RTI Act can be disclosed, if the commission is satisfied that the larger public interest warrants the disclosure of information.

6.5. It is further stated that in the written submission it was submitted by the petitioner that the MSHCS had sought permission from Mizoram Synod, for which Mizoram Synod had duly replied in writing that they stand with the non-disclosure of the MoA and therefore, even if the MIC had considered it as a third party information, as the stand of the Synod Hospital was already made clear in writing, it would be redundant to hear the Synod Hospital on this point. Also, as there is no provision for appeal, from the order or decision made by the respondent No. 1 under the RTI Act, the order dated 09.04.2026, could not have given any right of appeal to the public authority or the complainant as the case may be and it has clearly been provided under Section 19(7) of the RTI Act that the decision of the Central Information Commission or State information Commission, as the case may be, shall be binding.

6.6. It is also stated that the confidentiality clauses in contracts or non-disclosure agreements cannot be used to blanketly deny information, under the RTI Act. While 'commercial confidence' is a valid exemption, it does not apply to the finalized contract itself or the rates at which work is awarded. Even if information is confidential, it must be disclosed if the 'larger public interest' outweighs the harm to the third party's commercial confidence. If a particular public authority/government department includes a



confidentiality clause in the agreement it signs with any party and if these are allowed to be used to deny providing information requested under the RTI Act, the purpose of the RTI Act would be defeated and the MoA signed between MSHCS and Synod Hospital is neither a personal information nor its disclosure an invasion of privacy of the MSHCS or the Synod Hospital and even if it was considered third-party information, it has to be disclosed in public interest. Under such circumstances, it is contended to dismiss this petition.

7. The respondent No. 3 has also filed an affidavit-in-opposition, wherein he has taken a stand that in the written submission, the SPIO did not claim any exemption under the RTI Act. He only mentioned about the MoA and a confidentiality clause and the issue is whether the confidentiality clause under Clause 14 of the MoA can be held to prevail over the relevant provisions of the RTI Act, such as Section 8(1)(d) read with Section 11(1) and Section 22 of the RTI Act. But, what has been sought for by the complainant/respondent No. 3 in the RTI application has nothing to do with the medical reports, personal information relating to beneficiary and other unpublished information, which according to the petitioners, is likely to 'cause unwarranted invasion of privacy of such patients'.

7.1. It is also stated that the MoA signed between the petitioner No. 1 and the Synod Hospital cannot be considered as a third party information as per Section 11 of the RTI Act and the same is a public record or document available in the office of the petitioner No. 1 and that Section 22 of the RTI Act has a overriding effect over any other



law or contract, including confidentiality clauses in agreements between public authorities and private parties.

7.2. It is further stated that even if the information is confidential, it must be disclosed if the 'larger public interest' outweighs the harm to the third party's commercial confidence and further, even if the information is considered as third party, yet it would not have made any change as the Mizoram Synod Hospital had already made up its mind by giving in writing to the petitioners about the stand and though there is no right to appeal, yet under Section 19(7) of the RTI Act provides that the decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding. Under such circumstances, it is contended to dismiss this petition.

8. The respondent No. 3 has filed one additional affidavit bringing on record his enrollment numbers in the MUHCS and it is also stated that he had also sought information under RTI Act, on 29.04.2026, regarding the MoA along with detail pricing in respect of all other empanelled private hospitals within Mizoram and outside Mizoram. However, the response given to him by the petitioner No. 1 is that the information sought to be given are exempted under Section 8(1)(d) of the RTI Act and that there is no pending case in respect of the similar matter before the court.

9. The petitioner has filed a re-joinder affidavit stating that the respondent Nos. 1 & 2 are not impleaded in personal or adversarial capacity, but challenges the legality, propriety and jurisdictional



correctness of the impugned order passed by them, under the RTI Act and that where the decision-making process of a statutory or quasi-judicial authority is directly under challenge, on the grounds of procedural impropriety, non-application of mind, jurisdictional infirmity and erroneous interpretation of statutory provisions, impleadment of such authority is necessary and legally permissible for effective adjudication of the matter.

9.1. It is also submitted that the objection raised by the respondents is hyper-technical in nature and does not affect the maintainability of the writ petition, under Article 226 of the Constitution of India and that the MoA admittedly contains negotiated financial arrangements, operational modalities and commercially sensitive terms, which *prima-facie* attract protection under Sections 8(1)(e) and 11 of the RTI Act. It is further stated that it is an erroneous assumption that mere availability of the documents in the office of the petitioner No. 1 contemplated the statutory protection available to commercially sensitive and third party information and that the Synod Hospital being a separate and independent legal entity, it would *prima-facie* fall within the ambit of 'third party', under Section 2(n) of the RTI Act and the grievance of the petitioners is confined to the failure of the respondent No. 1 to undertake the statutory adjudicatory exercise mandated under Sections 8, 10 and 11 of the RTI Act, including (i) examination of commercial sensitivity and competitive harm; (ii) consideration of third party objections; (iii) determination of overriding public



interest; and (iv) consideration of severability under Section 10 of the RTI Act.

9.2. It is also stated that mere involvement of public funds does not automatically nullify statutory protections relating to commercial confidence and third-party interests and that the respondents Nos. 1 & 2, erroneously proceeded on the exemption that the petitioners never invoked Sections 8 & 11 of the RTI Act and although in the written submission, it did not specifically reproduce Section 8(1)(d) of the RTI Act verbatim, issues relating to commercial confidence, negotiated contractual terms, confidentiality obligations and third party implications were specifically raised during the course of hearing before the commission.

9.3. It is further stated that the respondent No. 1 had failed to undertake the statutory balancing exercise contemplated under Sections 8, 10 and 11 of the RTI Act and that the information sought for prima-facie attracts protection under Sections 8(1)(d), 8(1)(e), 10 and 11 of the RTI Act on account of commercial confidence, negotiated financial terms, fiduciary obligations and third party implications. Under such circumstances, it is contended to allow this petition by setting aside the impugned order dated 09.04.2026.

Submissions of learned counsel for the state respondent:-

10. Mr. Deb, learned Advocate General for the State petitioners, submits that the impugned order was passed without considering the fact that the petitioner is protected under Section 8(1)(d), 8(1)(e), 10 and 11 of the RTI Act. He further submits that while filing the



complaint, the respondent No. 3 had not invoked the public interest clause, however he invoked the said clause in the first appeal. But, the said appeal had not been registered in the RTI portal.

10.1. Mr. Deb further submits that the information sought for by the respondent No. 3 is a third party information and that the MIC had not even issued any notice to the third party and without giving any opportunity of being heard, the MIC had issued the impugned order and thereby, violated the principle of natural justice.

10.2. Mr. Deb also submits that when there is a commercial agreement between the petitioner and the Mizoram Synod Hospital, the same is protected and taking this Court through the impugned order, Mr. Deb submits that the MIC did not give the right of appeal to the petitioner as provided under Section 19(9) of the RTI Act. Under such circumstances, he has contended to allow this petition.

10.3. In support of his submission, Mr. Deb has referred following two decisions of Hon'ble Supreme Court:-

- (i) **Canara Bank represented by its Deputy General Manager vs. C.S. Shyam and Another**, reported in (2018) 11 SCC 426,
- (ii) **Girish Ramchandra Deshpande vs. Central Information Commissioner and Others**, reported in (2013) 1 SCC 212.

Submission of petitioner in person:-



11. The respondent No. 3, who appears in person, submits that the MIC had rightly passed the impugned order. He submits that merely on the ground that there is confidentiality clause; he was denied the information, which involved larger public interest. He further submits that the RTI is a fundamental right and the same cannot be denied and though the petitioner has invoked the confidentiality clause in the MoA, yet Section 22 of the RTI Act has an overriding effect over all other laws. He also submits that the MoA contains merely the contractual term and in the larger public interest, the same has to be disclosed and that he, being the public, is entitled to know the public money is being spent. He also submits that this petition is devoid of merit and therefore, the same deserves to be dismissed.

Submission of learned counsel for the respondent No.1 and 2:-

12. Per-contra, Mr. Lalramzauva, learned counsel for the respondent Nos. 1 & 2, submits that though the petitioner has invoked the confidentiality clause in the MoA, yet the same was executed between two parties and as such, they are bound by the terms of agreement, but not bound by the law, in view of the provision of Section 22 of the RTI Act. Mr. Lalramzauva further submits that the petitioner has not sought for any information relating to patients and he is only interested in the negotiated rate entered into by the petitioner and the Synod Hospital and that considerable public interest is involved as public money is being spent and this Court has to balance the public interest *vis-à-vis* private interest.



12.1. Mr. Lalramzauva has referred to the following decisions of Hon'ble Supreme Court in support of his submission:-

- (i) **Cellular Operators Association of India and Others vs. Telcom Regulatory Authority of India and Others**, reported in 2016 7 SCC 703, paragraph No. 86;
- (ii) **Reserve Bank of India vs. Jayantilal N. Mishry**, reported in 2016 3 SCC 525, paragraph No. 65 onwards;
- (iii) **Airport Economic Regulatory Authority vs. Delhi International Airport Limited and Others**, reported in 2024 15 SCC 345; and
- (iv) **Central Public Information Officer, Supreme Court of India vs. Subhash Chandra Agarwal**, reported in 2020 5 SCC 481.

Discussion and Analysis :-

13. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the grounds mentioned therein and also gone through the impugned order dated 09.04.2026.

14. In view of the contention made by the parties, and in view of the submissions, so advanced by their engaged counsel, the issues to be addressed by this Court are:-

- (i) Whether the information sought for by the respondent No. 3 is third party information;



- (ii) Whether, impugned order is illegal or arbitrary for being passed without compliance of the provision of Section 11 as well as Section 19(4) of the RTI Act.
- (iii) the petitioner herein is protected under Sections 8(1)(d), 8(1)(e), 10 and 11 of the RTI Act; and
- (iv) Whether, by not providing of any right of appeal in the impugned order, the petitioner herein suffers prejudice?

15. Before directing a discussion into the aforesaid issues, this Court deemed it appropriate to go through the impugned order dated 09.04.2026, operative portion of which is extracted here in below:-

OBSERVATIONS:-

1. (a) In the case of *Jamia Milia Islamia vs Sh Ikramuddin* (WP(C) No. 5677/2011 of Delhi High Court), it was held by the Court that "the act of entering into an agreement with any other person/entity by a public authority would be a public activity, and as it would involve giving or taking of consideration, which would entail involvement of public funds, the agreement would also involve public interest. Every citizen is entitled to know on what terms the Agreement/settlement has been reached by the petitioner public authority with any other entity or individual. " Similarly, a division bench of the Jharkhand High Court in *State of Jharkhand vs. Navin Kumar Singha* (AIR 2008 Jharkhand 19) had held that "If the authorities of Government refuse



to disclose the document, the very purpose of the Act will be frustrated. Moreover, disclosure of information, sought for by the petitioner, cannot and shall not be a trade secret or commercial confidence; rather, disclosure of such information shall be in public interest, inasmuch it will show the transparency in activities of the Government... in our considered opinion a contract entered into by the public authority with a private person cannot be treated as confidential after completion of contract."

(b) In Reserve Bank of India vs. Jayantilal N. Mistry (2015), the Supreme Court emphasized that the "fiduciary relationship" or "commercial confidence" exemptions under Section 8(1)(d) and (e) cannot be used to shield information that serves a larger public interest. Since an MoA outlines the objectives and governance of a body-especially those funded or controlled by the state-it is usually considered a public document. Further, it has been learned that the primary source of funding are contributions from serving government employees, pensioners, enrolment fees from the general public, budget allocated by Finance Department, Govt of Mizoram and Rs. 20 crores received from Government of India for Golden Card holders. Therefore, the functioning of MSHCS does involve the use of public resources.

2. The proviso under Section 8(1)(j) lays down that, "Provided that the information which



cannot be denied to the Parliament or a State Legislature shall not be denied to any person." and as per Section 8(2) of the Act, "Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm of the protected interests." Since the MUHCS (Mizoram Universal Health Care Scheme) is intended for the general public and utilizes public funds, it is expected that the MoA (Memorandum of Agreement) signed between the MSHCS and Synod Hospital, as well as the operational procedures of the scheme, be made public and uploaded to their website, rather than being withheld under the pretext of a confidentiality clause.

3. Under Section 7(1) of the RTI Act, the SPIO is mandated to provide a response as expeditiously as possible, and strictly within thirty days of receiving a request. Pursuant to Section 7(2), failure to communicate a decision within this timeframe constitutes a 'deemed refusal' of the application. The SPIO's current inaction represents a grave statutory violation; such non-responsiveness is viewed as a deliberate denial of information and may invite penalties under Section 20 of the RTI Act, 2005. In this case, a reply was furnished after a lapse of 50 days which is in contravention of the provisions of the Act. The SPIO is hereby cautioned to



ensure that such procedural lapses do not recur in the future.

4. In accordance with the quasi-judicial powers vested in the First Appellate Authority (FAA), it is mandatory to conduct a formal hearing for both the appellant and the respondent for every appeal received. Adhering to Rule 7(5)(a) of the Mizoram RTI Rules, 2010, the FAA must provide a minimum of seven (7) clear days' notice prior to the scheduled hearing date. Furthermore, all decisions must be pronounced in open court and issued as a written, authenticated order. Dr. Lalhriatzuali Ralte, FAA & CEO of the Mizoram State Health Care Society, is hereby directed to strictly comply with these statutory provisions for all future proceedings.
5. Public authorities should give due importance to every Right to Information (RTI) application as it reflects and promotes the principles of transparency and accountability in governance. Each request represents a citizen's legitimate effort to seek information concerning public affairs, and therefore must be handled with seriousness, fairness and within the prescribed time frame. Proper attention to RTI matters not only upholds the integrity of the institution but also strengthens public trust and participation in the democratic process.

DECISION:-

In view of the circumstances, the Commission hereby directs that Dr. K.



Lalnghinglova, SPIO & Chief Finance Officer, Mizoram State Health Care Society shall provide the information sought to the complainant, free of cost, not later than 17.04.2026 (Friday). Compliance report with all the documents provided should also be sent to the Commission for information.

The complaint is disposed of accordingly. Copy of decision to be given, free of cost, to all parties.

Sd./

State Chief Information Commissioner,
Mizoram Information Commission

16. Thus, it appears that while directing the petitioner herein, the MIC had considered a decision of Delhi High Court, in the case of *Jamia Milia Islamia vs. Ikramuddin (W.P.(C) No. 5677/2011)* and another decision of Hon'ble Supreme Court in the case of *Reserve Bank of India vs. Jayantilal N. Mistry*, reported in (2016) 3 SCC 525, and also considered the proviso to Section 8(1)(j) of the RTI Act and thereafter, directed the petitioner to provide information as sought for by the respondent No. 3, free of cost not later than 17.04.2026.

17. Now, coming to the issue No. (i) i.e., whether the Synod Hospital falls within the ambit of third party or not, this Court find that 'third party is defined under Section 2(n) of the RTI Act as under:-



“2(n) ‘third party’ means a person other than the citizen making a request for information and includes a public authority.”

18. In the instant case, the respondent No. 3 had asked for the information relating to the agreement’, signed between the MSHCS and Synod Hospital along with detail pricing. The said agreement was signed by the petitioner herein with Synod Hospital. And in view of the meaning of the word ‘third party’, as defined under Section 2(n) of the RTI Act, this Court is of the view that the information, so asked for by the respondent No. 3, involves a ‘third party’ though the same is not supposed to be supplied by the said ‘third party’.

18.1. The private Hospital i.e. Synod Hospital is a juristic entity, is distinct from the RTI applicant, the citizen. Therefore, it squarely falls within the definition of a ‘third party’. Thus, third party information is information which relates to or has been supplied by any other person, including a public authority, other than the information applicant and has been treated as confidential by such ‘third party’.

18.2. Under the given facts and circumstances Issue No.(i) has to be decided in affirmative, and accordingly, the same stands answered.

19. Moving forward to the Issue No.(ii), this Court finds that indisputably, the MIC (respondent Nos. 1 & 2) had not issued any notice to the said ‘third party’, before directing the petitioner herein, to furnish such information to the respondent No.3.



19.1. Section 11 of the RTI Act provides that when a public authority holds information supplied by or relating to a third party that has to be treated as confidential and the Public Information Officer (PIO hereinafter) must give written notice to the third party, allowing them 10 days time to make representations (oral or written) and consider those before deciding on disclosure.

19.2. It is well settled that the third party has a right to object, but it has no veto power and the PIO makes the final decision based on exemptions (under Section 8 of the RTI Act) and public interest. It is also well settled that a mandatory natural justice principle involves in the same and it is procedural, but, not absolute.

20. It is to be noted here that Hon'ble Supreme Court, in the case of **Subhash Chandra Agarwal, (supra)**, in paragraph No. 38, has dealt with the issue of third party information, wherein it has been held that Section 11 of the RTI Act is both procedural and substantive. When a PIO intends to disclose information, which relates to or has been supplied by a 'third party', the same has been treated as confidential by that third party and the PIO must issue a written notice to the third party and the third party gets an opportunity to make representations within the stipulated time and the PIO must consider those views before deciding to disclose the information. However, third party's objections are important, but, not binding and the final decision rests with the PIO/authority, who must apply exemptions, under Section 8(1)(j) of the RTI Act, for personal information/privacy and larger public interest test and disclosure can still occur if public interest outweighs harm/confidentiality concerns.



20.1. In the aforementioned case, Hon'ble Supreme Court has remitted the matter back to the CPIO to follow the procedure of Section 11 of the RTI Act and to issue notice and to consider objection.

20.2. Hon'ble Supreme Court in the case of **Swadeshi Cotton Mills vs. Union of India**, reported in **1981 AIR 818**, has held that when a decision adversely affects a third party's rights/interests, an opportunity to be heard is required. But, the same is context specific and not absolute for all third party data.

21. Thus, it is well settled that third party information cannot generally be disclosed without following the hearing/notice process, when Section 11 of the RTI Act is triggered (i.e. intent to disclose confidential third party related information) and failure to do so can invalidate the decision.

22. Notably, Section 11 of the RTI Act, 2005 deals with third-party information. It incorporates the principle of natural justice, specifically 'audi alteram partem' i.e. "hear the other side". And this proposition is emphasized in the cases of **Subhash Chandra Agarwal (supra)** also.

23. Further, Section 19(4) of the RTI Act provides that while dealing with second appeal by the State Information Commissioner, the Commissioner has to issue notice before disclosing third party information. And this provision appears to be mandatory provision, which read as under:-



“If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.”

23.1. Thus, it becomes apparent that before an appellate authority, especially the Information Commission, and as a matter of natural justice also the First Appellate Authority, directs disclosure of third-party information, the third party must be given a reasonable opportunity of being heard. And failure to do so can render the order vulnerable to challenge.

24. Admittedly, in the instant case, the State Information Commissioner (respondent Nos. 1 & 2) had not issued any notice to the third party. However, in the affidavit filed by the respondent Nos. 1 & 2, a stand has been taken that since PIO had issued notice to the third party and the third party had denied the consent on account of agreement being confidential, no purpose would have been served even if notice was issued to them.

25. This Court has considered the grounds, so assigned by the respondent Nos. 1 & 2, in their affidavit-in-opposition, but, this Court left unimpressed by such ground, as Section 11 of the RTI Act is mandatory, and before directing the PIO to disclose the information, notice has to be issued to the third party. And as such, the State Information Commissioner is bound to issue notice to the third party.



25.1. Mr. Deb, learned Advocate General for the State petitioners, has rightly pointed this out at the time of hearing and this Court finds substance in the same. And the decisions referred by him also fortified his submission.

26. Thus, having examined the impugned order, dated 09.04.2026, issued by the SCIC, in the light of the principles of natural justice, as affirmed in the case of **Subhash Chandra Agarwal (supra)**, this Court of the considered opinion that Section 19(4) requires that the third party must be given notice and a hearing before disclosure is directed.

26.1. And since Section 19(4) of the RTI Act has not been complied with, the impugned order to the considered opinion of this Court, failed to withstand the legal scrutiny. Accordingly, the Issue No. (ii) stands answered in affirmative.

27. Now, in respect of the Issue No.(iii), this court finds that it is the categorical contention of the learned Advocate General that the petitioner is protected under Section 8(1)(d), 8(1)(e), 10 and 11 of the RTI Act. His another contention is that when information is denied on account of commercial confidence, trade secret or intellectual property disclosure of which would harm the competitive position of a third party, and when information is available to a person in fiduciary relation, the party seeking information has to establish the larger public interest, and in the instant case, while filing the complaint, the respondent No. 3 had not invoked the public interest clause, though however, he invoked the said clause in the



first appeal, that had not been registered in the RTI portal, had failed to establish the same and as such he is not entitled to the benefit of the said clause.

27.1. It appears that the respondent No. 1 and 2 had, in the impugned order, relying upon the case of **Sh Ikramuddin in WP(C) No. 5677/2011** of Delhi High Court and of Jharkhand High Court in **Navin Kumar Singha, AIR 2008 Jharkhand 19**, held that disclosure of information, sought for by the petitioner, cannot and shall not be a trade secret or commercial confidence. Thereafter, relying upon the decision in **Jayantilal N. Mistry (supra)**, it has held that the "fiduciary relationship" or "commercial confidence" exemptions under Section 8(1)(d) and (e) cannot be used to shield information that serves a larger public interest.

27.2. It has also held that since an MoA outlines the objectives and governance of a body-especially those funded or controlled by the state-it is usually considered a public document and that the primary source of funding are contributions from serving government employees, pensioners, enrolment fees from the general public, budget allocated by Finance Department, Govt. of Mizoram and Rs. 20 crores received from Government of India for Golden Card holders, and as such, the functioning of MSHCS does involve the use of public resources.

27.3. Thereafter, it has held that since the MUHCS (Mizoram Universal Health Care Scheme) is intended for the general public and utilizes public funds, it is expected that the MoA (Memorandum of



Agreement) signed between the MSHCS and Synod Hospital, as well as the operational procedures of the scheme, be made public and uploaded to their website, rather than being withheld under the pretext of a confidentiality clause.

27.4. Notably, in the instant case, the MoA was signed between the MSHCS and Synod Hospital. It also appears that the agreement between MSHCS and Synod Hospital involves public funds and a government scheme for treatment of citizens. This creates a strong presumption of public interest in transparency. And that being so, mere commercial sensitivity, as claimed by the petitioner herein, and also the fiduciary relation between the parties, does not automatically bar disclosure. The respondent No.1 and 2, appears to have rightly held that the public-interest override the proviso to Section 11(1) and/or Section 8(1)(d)/(j) herein this case. And it requires no interference of this Court.

27.5. Under the aforesaid discussion and finding, issue No. (iii) is decided in negative.

28. Moving forward to the last issue, this Court finds that in the impugned order no right to appeal is provided, as required under Section 19(9) of the RTI Act. Section 19(9) states as under:-

“The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.”



28.1. Notably, there is no further statutory appeal under the RTI Act against an SIC/CIC order. The phrase “including any right of appeal” refers primarily to the constitutional remedy of judicial review, by way of writ petition under Article 226 of the Constitution before the High Court, and potentially, further to the Supreme Court, under Article 32/136. Section 23 of the Act bars the jurisdiction of ordinary civil courts, but it does not (and cannot) oust the High Courts’ and Supreme Court’s writ jurisdiction. In the case of **Namit Sharma v. Union of India** reported in (2013) 1 SCC 745, Hon’ble Supreme Court has treated the Commissions as quasi-judicial bodies performing adjudicatory functions. It has noted that an order of the Commission is final and binding and can be questioned only before the High Court or Supreme Court, in exercise of powers under Articles 226/32. And as such, it has emphasised adherence to principles of natural justice and proper procedure by these bodies.

28.2. Thus, this is a statutory mandate because of using the word ‘shall’. So, providing notice of the decision *including any right of appeal* is mandatory under Section 19(9). Non adherence of this mandatory provision makes the impugned order vulnerable and the same is liable to be interfered with on this count also. Mr. Deb, learned Advocate General has rightly pointed this out and this court find substance in the same.

28.3. Accordingly, the Issue No. (iv), stands answered in affirmative.



29. Under the given factual and legal matrix, this Court is of the view that the impugned order 09.04.2026, passed by the State Chief Information Commissioner, fails to withstand the legal scrutiny and accordingly, the same stands set aside and quashed.

30. Now the matter stands relegated to the respondent Nos. 1 & 2, to issue notice to the third party, in view of the provision of Section 11(1) of the RTI Act and thereafter, to consider the same, and to pass a fresh order, in accordance with law.

31. In terms of above, this writ petition stands disposed of.

JUDGE

Comparing Assistant