The State Information Commission, Kerala

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Present:

P.N. Vijayakumar, State Information Commissioner

CP.No. 130/2007/SIC

Smt. V.Santhanavally Suresh Bhavan Nedumpaikulam Kundara Post Kollam District –691 501	Requester

Vs

The Public Information Officer Kerala State Electricity Board Pathanapuram	Respondent

ORDER

This complaint is taken on file as CP.No.130/07/SIC . The petitioner is one Smt. V. Santhanavally. The case of the requester is as follows:-

On 26-12-2006 under Section 6 of the Right to Information Act she had made the request before the Public Information Officer of KSEB, Electrical Section, Pathanapuram,. The petition was received on 27-12-2006 by the Assistant Engineer. The information was not furnished in time. Instead after 35

days she received a letter from the Public Information Officer asking her to remit Rs.3336/- as cost. Because there was an expiry of 30 days, she is entitled to get the information free of cost. The complaint and the allegations therein are that the information was intentionally delayed and an exorbitant fee was demanded from her.

The report of the Public Information was called for. The Public Information Officer has reported that Smt. V.Santhanavally is the mother of one Mr. Sureshlal a lineman in KSEB under suspension, and nearly these requests were filed by them by the mother and son requiring all details of the said office. In this particular case alone about 15 questions were asked. It is true that the application was received on 27-12-2006. But on 23-1-2007 the details were collected and demand was made for Rs.3336/- as per the Cost and Fee rules. But the same has not been remitted so far. Hence the information was not furnished. There was no willful delay and details were also furnished.

The personal hearing of the parties was held on 10-4-07. The requester an old lady Smt. V. Santhanavally along with her son Mr. Sureshlal were present. The Public Information Officer Smt. M.P. Santhakumary and the Assistant Executive Engineer, Sub Division were also present. The Public Information Officer was the Senior Superintendent, Electrical Section. Pathanapuram. Both parties had filed written argument notes and documents.

The question now arises for consideration is whether the requester is entitled to get the information free of cost on the expiry of 30 days? Whether there was any delay caused by the Public Information Officer?

From the very outset it is to be noticed that Mr. Suresh lal the former employee who is under suspension of KSEB is assisting his mother Smt.Santhanavally. Smt. Santhanavally had stated that she had sent the request on 26-12-2006 which was acknowledged by the Assistant Engineer, Electrical Section on 27-12-2006. Copy of the request is **Ext A1** and photo copy of the acknowledgement is **Ext A2**. With regard to this submission of the request and receipt of the same on 27-12-2006, there is absolutely no dispute by the Public Information Officer. The Public Information Officer had also admitted in her affidavit that the application was received on 27-12-2006. The Public Information Officer had collected the information and intimated the requester and the intimation was given to the requester by post. It was sent by registered post. **Ext B1** is photo copy of the postal receipt which shows that actually the intimation was sent by registered post on 23-1-2007, that is, well within the time limit. With much laborious task the information was collected and the Public Information Officer has demanded Rs.3336/- as fee for furnishing the information. The photo copy of the calculation sheets is marked as **Ext B2**.

Smt. Santhanavally the requester orally had submitted during the hearing that she is not willing to remit this huge amount, because the fee calculated is irregular and irrational. Further more, she added, because she is going to get the information after the expiry of 30 days, she is not legally bound to remit the amount. There are two subsidiary question whether there was any delay in giving the information and whether there was any irregularity in the calculation of amount?

Ext B1 would show that on 23-1-2007 by registered post the intimation was sent to Smt. Santhanavally. Normally this would have been received within 3 days. Even if the same is received within 3 days there will not be expiry of time limit, because the intimation need be furnished within 30 days. Of course the information will have to be furnished within 30 days. But the intimation to remit the amount should reach the requester before 30 days. **Ext B3,** Acknowledgement Card which the Public Information Officer produced before the Commission shows that it was received on 1-2-2007. That is the postal department has delayed the matter for about 8 days. It is well established principle of law that the delay caused in the transit and due to the Postal Department is not deemed as delay caused by the Public Information Officer. How this delay was caused is a matter further to be explored. Had Santhanavally produced the postal cover? we could have understood the fact whether any delay was caused by the Postal Authorities? Whether there was any attempt to evade receipt of the cover within the prescribed time? In the

absence of the postal cover what we will have to presume is that the intimation was given in time so as to enable the requester to remit the fee.

Ext B2 is the detailed calculation of the fee demanded by the Public Information Officer. There cannot be any irregularity in the calculation. If at all, there is some dispute with regard to the calculation of the fee demanded, this matter is to be taken before the Appellate Authority and not to be decided by the Commission. Section 7 (3) makes it mandatory to intimate regarding the particulars of fee and the calculation thereof. If there is any dispute with regard to this calculation, A review or an appeal shall lie. But Smt. Santhanavally had deposed that she had no intention to remit the fee. Therefore this complaint will have to be dismissed. There is no willful delay caused by the Public Information Officer and no irregularity caused in calculating the amount as per **Ext B3.** There is no merit and hence the case is dismissed.

Dated this the 10th day of April 2007.

Sd/-
P.N. Vijayakumar
State Information Commissioner