



**Before the State Information Commission, Kerala
Thiruvananthapuram-695 039.**

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Proceedings of the State Information Commission, Kerala, in
Appeal Petition No.161/2006/SIC

No.3425/SIC-Gen/2006.

Date:13.04.2007

PRESENTS

Sri. Palat Mohandas, Chief Information Commissioner,
Sri. V.V. Giri, State Information Commissioner,
Sri. P.Faziluddin, State Information Commissioner,
Sri. P.N. Vijayakumar, State Information Commissioner

K.P. Vijayakumari
C.2L, Millennium Apartment
Jagathy, Thycaud,
Thiruvananthapuram- 695014

} Appellant

Vs

1. S.D. Prins
PRO & State Public Information Officer
University of Kerala
Thiruvananthapuram.
2. Registrar &
Appellate Authority
University of Kerala
Thiruvananthapuram.
3. Shri. V.K. Vaidyan
Professor & H.O.D
Department of Physics
University of Kerala.
Thiruvananthapuram - 695 581.

} Respondent

ORDER

The appellant in this case is a Lecturer in Department of Physics
University of Kerala, Kariyavattom, Thiruvananthapuram - 695 581. A
Petition dated on 13.10.2006 submitted by the appellant has been

considered and admitted as an Appeal petition U/s 19(3) and action pursued after allotting Appeal No.161/2006/SIC. A brief history of the case is as follows.

The appellant on 20.07.2006 had submitted an application U/s 6(1) of the Act before the PIO of Kerala University, the first respondent in this case, requesting permission to peruse the original documents on the purchase of Lab items in the Department of Physics, University of Kerala, and the original minutes of the Department Council meeting. As she did not get permission, she filed the first appeal before the Appellate Authority the second respondent, on 25th August 2006. Subsequently, having not satisfied with the replies of 31.08.2006 and of 16.09.2006 received from the Public Information Officer in response to her first appeal, the appellant filed this second appeal before the Commission on 13.10.2006.

The second respondent was directed to furnish a report on the second appeal, as per Commission's letter dtd. 03.11.2006. The report dtd. 18.11.2006 was furnished by the second respondent on 20.11.2006, for consideration of the Commission. Considering the report the Commission observed that:

- (i) the application U/s 6(1) dtd. 20.07.2006 submitted by the appellant has not been disposed of in time.
- (ii) permission, requested by the appellant, to verify the Lab equipments, was denied, on the grounds that the equipments were not "information" as defined in Sn. 2 of

the Act and also on the ground that such information would be used as an opportunity for espionage .

Commission summoned and heard the appellant and the SPIO of the University on 17.01.2007. The SPIO had submitted that he was not in possession of the information sought for by the appellant. The H.O.D, of the Physics Department was the custodian of the information and hence his assistance was sought on 21.07.2006 for the dissemination of the information and, for the disposal of the application submitted by the appellant. Timely assistance and co-operation from the H.O.D was not received for the disposal of the case. The reply was received from H.O.D only on 30.08.2006, the Public Information Officer added.

Considering the submission made by the State Public Information Officer, the Commission directed the Public Information Officer to permit the appellant to inspect the laboratory equipments. Commission also gave an opportunity to Shri V. K. Vaidyan, Prof. & H.O.D of Physics University of Kerala on 29.03.2007 to explain in person as to why penal action U/s 20 could not be taken against him by treating him as a deemed Public Information Officer U/s 5(5) of the RTI Act. Shri. V.K. Vaidyen submitted that he has given opportunity to the appellant to verify the laboratory equipments in the presence of an Assistant Registrar of the University, as directed by the Commission. According to him, verification of equipments purchased for certain projects under nano technology under taken by the University will adversely affect the successful completion of the projects.

After hearing Sri. V.K. Vaidhyan the 3rd respondent the Commission arrive at the following conclusions.

- i) Original request from the appellant received on 20.07.2006 by the State Public Information Officer of Kerala University, was promptly transmitted to Sri. V.K. Vaidhyan for supplying information for the appellant. Therefore Sri. V.K. Vaidhyan has to be deemed as Public Information Officer under Sn5(5) of the Act from 21.07.2007. The response from Sri. V.K. Vaidhyan reached the Public Information Officer on 30.08.06 which was transmitted to the appellant requester on 31.08.2006. Thus he had taken a total 39 days in responding to the request. There was a delay of 9 days which was caused by the 3rd respondent deemed as Public Information Officer, and he was responsible for this.
- ii) The Commission has specially sought information relating to the documents destroyed in fire. Here again, the 3rd respondent is responsible for furnishing the information and he was hard put to provide any convincing reply to the queries with reference to fire incident in the department of Physics. Commission is not fully convinced on the action taken by the department of Physics in estimating the loss.

Commission, accordingly, proceed to order the following:

- i) Sri. V.K. Vaidyan, Prof & Head of Department of Physics University of Kerala as the deemed Public Information Officer has caused delay of 9 days in supplying information to the State Public Information Officer for furnishing the same to the requester-appellant. So he is liable to pay the penalty of Rs.2250/- (Rupees Two thousand Two hundred and fifty only) worked out at the

rate of Rs.250/- each day of delay as per Sn 20(1) of the RTI Act 2005. He shall remit the amount of Rs.2250 in head of account “0070-60-800-36 Receipts under Right to Information Act, 2005” within 30 days of receipt of the copy of this order.

- ii) University of Kerala shall cause to conduct a thorough enquiry into the fire incident that took place in 2005 in the Department of Physics, Karyavattom, assess the damages and take appropriate follow up action as it deems fit. The University of Kerala shall provide the information, as part of the information to be provided to the requester-appellant with in a period of 30 days and communicate same to the Commission.

Pronounced this, 13th day of April 2007.

(Sd/-)
Palat Mohandas
Chief Information Commissioner

(Sd/-)
V.V.Giry,
State Information Commissioner

(Sd/-)
P.Faziluddin,
State Information Commissioner

(Sd/-)
P.N. Vijayakumar
State Information Commissioner