



Before The State Information Commission, Kerala
Punnen Road, Thiruvananthapuram-695 039.

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Present:·

1. Palat Mohandas, Chief Information Commissioner
2. P.N.Vijaya Kumar, State Information Commissioner

AP.No.383/2007/SIC
File No.4624/SIC-Gen1/2007

Shri.C.Mohanachandran,
Executive Member,
Kerala Pradesh Congress Committee,
Sudha Bhavan,
Murukkumpuzha.P.O.

Appellant

Vs

Public Information Officer and,
Deputy Supdt.of Police,
Attingal.

Appellate Authority and
Supdt. of Police (Admn),
Trivandrum Rural,
Thiruvananthapuram.

Respondents

ORDER

This is a second appeal preferred u/s.19(3) of the RTI Act. The appeal was preferred on 4.7.2007 by one Shri.C.Mohanachandran, Executive Member, Kerala Pradesh Congress Committee, Sudha Bhavan, Murukkumpuzha.P.O.

The particulars leading to the filing of the second appeal could be briefly detailed as follows:-

On the 8th day of March, 2007 the requester/appellant had preferred a request u/s.6 of the RTI Act (Ext A1) before the Circle Inspector of Police, Attingal. The information requested was "ആറ്റിങ്ങൽ പോലീസ് സർക്കിൾ സ്റ്റേഷന്റെ പരിധിയിലുള്ള പോലീസ് സ്റ്റേഷനുകളിൽ നിലവിലുള്ള വാറണ്ടുപ്രതികളുടെ അഡ്രസ്സ്, വാറണ്ടുകളുടെ പകർപ്പുകൾ എന്നിവ". Because the Circle Inspector was not the designated Public Information Officer during the relevant period, the request was forwarded to the Deputy Superintendent of Police, Attingal. The Dy. Superintendent of Police, Attingal, thereafter, had issued a letter informing the requester that there were 69 arrest warrants pending within the jurisdiction of Attingal Circle Inspector but refused all other details for want of sanction from the concerned Courts. This letter was marked as Ext A2. The appellant, thereafter, preferred an appeal before the ADGP, Police Headquarters, Vazhuthacaud, which was subsequently forwarded to the Superintendent of Police (Admn), Trivandrum Rural and the SPIO from Police Headquarters had instructed the PIO of the Office of the Superintendent of Police to furnish the information, if permissible by law. This communication was marked as Ext A3. Detailed remarks were called for.

Today when this case was taken up for hearing, both the appellant and the Public Information Officer, ie., Shri.P.Ashok Kumar, Deputy Superintendent of Police, Attingal and Shri.M.Madhu, Dy. Superintendent of Police, office of the Superintendent of Police, Trivandrum Rural were present. Mr.M.Sugathan, IPS, the Appellate Authority (Superintendent of Police, Trivandrum Rural) sought leave of absence due to VIP duty and the said preoccupation was excused by the Commission. Detailed reports were filed and both sides were heard in detail.

The question that arises for consideration is whether the information sought by the requester/appellant could be disseminated or not?

Before actually commencing a discussion on the merits of the case, it was brought to the notice of the Commission that at the time of filing Ext A1 request, the Circle Inspectors of Police, in the State of Kerala were not designated as Public Information Officers. For an effective implementation of the statute, all independent establishments like the Office of the Circle Inspector and Station House Offices were brought under the RTI Act by designating the Circle Inspectors as the Public Information Officers only on 8.8.2007. Therefore, the original request Ext A1 was not directly entertained by the C.I of Police, Attingal. But on guidance from the PIO of the Superintendent of Police, Trivandrum Rural, the Deputy Superintendent of Police (Attingal), the Public Information Officer for the subdivision had furnished a reply to the requester as at Ext A2. Having received no information on his request dated 8.3.2007, he preferred the first appeal before the Appellate Authority viz., the Additional Director General of Police, PHQ, on 8.5.2007. A detailed report was sought by the Appellate Authority and it was provided to the Public Information Officer, Police Head Quarters on 14.6.2007

by the Dy.Suptd. of Police and Public Information Officer, Office of the Police Superintendent (Rural), Trivandrum. The appeal was seen finally disposed off and communication thereto sent to the appellant on 19.6.2007. The appellant had preferred his second appeal before the State Information Commission on 28.6.2007.

In the remarks a detailed study of the case was conducted by the Appellate Authority and there was an elaborate report on the issue justifying the denial of the information. The information was denied on two grounds. The first one was u/s.8(1)(h) of the RTI Act and the second one was that the matters were pending before concerned courts. A close and meticulous study of the request shows that it was a very brief request for an information and it contained only two aspects. The name and addresses of persons against whom arrest warrants were pending and the copies of such arrest warrants. The requester did not distinguish between a Bailable Warrant or a Non-Bailable Warrant or any other warrants contemplated under sections 82 and 83 of the Criminal Procedure Code. So in the ordinary parlance, arrest warrant meant Non-Bailable Warrants. The objection raised by both the respondents was that furnishing of the details of the offenders against whom warrants were pending would impede the process of investigation or apprehension or prosecution of offenders and Section 8(1)(h) of the Act was quoted. This interpretation was totally wrong. Information regarding the person or accused against whom warrants were pending would only help the process of apprehension and prosecution. It was unnecessary to go into the details under which a criminal court was compelled to resort to a coercive step like issuing a Non-Bailable Warrant. Every Judicial Act like issuance of a warrant was done in public in the open court. There was not even an iota of secrecy in it. A warrant will be executable right from the moment when it was issued under the seal and signature of a Court till it was executed or recalled. Furnishing of information against whom warrants were pending would help the process of good governance and administration of justice speedier and easier. Therefore Section 8(1)(h) was misapplied for with-holding the information.

Another aspect of objection that was raised in the written affidavit was that the details of arrest warrants could not be disseminated without the previous sanction of the concerned Courts. This was also a misinterpretation of the Act. Section 8(1) (b) is the relevant provision relating to Courts of Law in the RTI Act. Every document or information is accessible by a person if the same is not expressly prohibited by a Court of Law. In other words, non-access to information is only to those items of information which are expressly prohibited by a Court. So long as there is no prohibition every judicial record is accessible because by and large a judicial act is supposed to be made in the open court. Therefore, to sum up, the objections raised by the Appellate Authority and the Public Information Officer are not sustainable.

On a further close scrutiny, it could be seen that the requester was demanding for copies of arrest warrant. This request could not be entertained because a warrant of arrest issued by a court under the Code of Criminal

Procedure is in writing signed by the Presiding Officer of such Court bearing the seal of the Court (Section 70 CRPC). Such a document cannot be copied down for the purpose of furnishing information. But the details such as the name and address of the persons against whom warrants are pending could be disseminated. Therefore, the Commission finds that the request is partly allowable. The appeal is allowed in part. The respondents shall provide details of the persons against whom arrest warrants are pending as on the date of application, free of cost within 15 days of receipt of copy of this order

Dated this, the 27th day of December, 2007.

Sd/-

Palat Mohandas,
Chief Information Commissioner

Sd/-

P.N.Vijaya Kumar,
State Information Commissioner

Authenticated copy



Secretary to Commission

