



**STATE INFORMATION COMMISSION, KERALA
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Proceedings of the State Information Commission, Kerala in Appeal petition

**No. AP 108/2007/SIC
(No.596/SIC-Gen1/2007)**

Present

Elias John,
Director,
N.T.V.,
Convent Road,
Trivandrum - 695 001.

Appellant

Vs

1. Public Information Officer,
Directorate of Ports,
Thiruvananthapuram.
2. Director of Ports & Appellate Authority,
Directorate of Ports,
Thiruvananthapuram.

Respondents

ORDER

This appeal petition filed under section 19 (3) of RTI Act 2005, was received by the Commission on 25.01.07 and was admitted as AP 108/2007/SIC and further action was taken thereon.

2. The gist of the case is as follows:-

According to the appellant, he had submitted two applications before the first respondent asking for certain information under the RTI Act 2005. As he was not given a reply, he submitted the first appeal before the 2nd respondent. This 2nd appeal under section 19 (3) of the RTI Act is filed complaining that his request

before the 1st respondent and the 1st appeal before the 2nd respondent were not disposed of.

3. A Copy of the second appeal was forwarded to the 2nd respondent with instructions to file a detailed report before the Commission. Accordingly, the 2nd respondent has submitted a detailed report before the Commission, on 13.4.07. The 2nd respondent has reported that the request and appeal referred to in the 2nd appeal filed before the Commission, were not received in the office of the Director of Ports. The Commission issued directions to the 2nd respondent to consider the copies of the requests submitted by the appellant along with the 2nd appeal as requests received by the Public Information Officer and to dispose them of after realizing the fee prescribed under the rules. The 2nd respondent vide letter dated 31.5.07 has reported that the appellant has already been requested to remit the prescribed fee and that the information will be provided on receipt of the fee demanded.

4. The Commission examined in detail, the appeal petition, the report of the 2nd respondent and accompanying documents. In view of the report of the 2nd respondent that the information will be provided on receipt of the fee demanded, the Commission decide that no further action is necessary in the appeal petition.

This order of the Commission is issued on the 24th day of October 2007.

Authenticated Copy

SECRETARY

Palat Mohandas
Chief Information Commissioner

V.V.Giry
Information Commissioner

Authenticated Copy

Secretary to Commission

Authenticated Copy

Secretary to Commission

The Commission considered the appeal petition for the second time in its sitting held on 2.11.2006. The Commission examined the affidavit filed by the Second Respondent and noted the following.

1. The Government have not issued orders dropping further action against Sri. K. Somasundaram in VC No.13/98.
2. The Government has informed Government of India that the case in VC 13/98 was a clear case warranting neither prosecution nor departmental action.
3. The Government is in possession of the advice/views given by the Advocate General and the Director General of Prosecution related to the case against Sri. Sri. K. Somasundaram in VC.13/98.

The Commission had a detailed and meticulous examination of the Appeal Petition, the Statement of Facts and the Affidavit filed by the Second Respondent and also the deposition of the Addl. Chief Secretary to Govt. before the State Information Commission. After considering all aspects relevant to the case, the Commission make the following decisions.

1. As the Government have not issued orders dropping further action against Sri.K. Somasundaram, the request of the appellant for a copy of the order cannot be entertained.
2. As the Government have already informed the Government of India that the case in VC 13/98 was a clear case warranting neither prosecution nor departmental action, the Government cannot claim exemption from disclosure u/s.8(1)(h) of the Act, viz. the disclosure which would impede the process of investigation or apprehension or prosecution of offenders. Hence the appellant has the right to get a copy of the letter No.11076/B1/03/vig dated 10.2.05 issued to the Government of India informing that the case in VC 13/98 was a clear case warranting neither prosecution nor departmental action.
3. The above letter informing the Government of India that the case in VC.13/98 was a clear case warranting neither prosecution nor departmental action was issued on the basis of advice/views of the Advocate General and the Director General of Prosecution respectively. As the Government have already informed the Government of India that there was no case warranting prosecution or departmental action against Sri.K. Somasundaram, the Government cannot claim exemption u/s.8(1)(h) of the Act that disclosing the advice/views based on which the report to Government of India was sent would impede the process of investigation or apprehension or prosecution of offenders. The appellant has the right to get a copy each of the advice/views given by the Advocate General and the Director General of Prosecution.

In the result, the Commission hereby direct the Respondents to issue copies of DO letter No.11076/B1/2003/Vig dated 10.2.2005 sent to Government of India, letter No. SS.82/03/Opn/AG dated 22.1.2004 of the Advocate General and letter No.1271/E/2004/DGP dated 16.4.2004 of the Director General of Prosecution, to the appellant within 10 days of receipt of this order.

The appeal petition is disposed of as above.

Dated the 16th November, 2006.

Palat Mohandas
Chief Information
Commissioner

V.V.Giry
Information
Commissioner

P. Faziluddin
Information
Commissioner

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Secretary to Commission