



The State Information Commission, Kerala
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AP.No.229/2007/SIC
File No.2902/SIC-Gen1/2007

Shri.R.Gopinathan Nair,
J.M.Residency,
Flat No.2C, Mele Thampanoor,
Thiruvananthapuram-695 001.

Appellant

Vs

1. State Public Information Officer
Vigilance & Anti Corruption Bureau,
Thiruvananthapuram.
2. Appellate Authority,
Vigilance & Anti Corruption Bureau,
Thiruvananthapuram.

Respondents

ORDER

This is a second appeal preferred by the requester/appellant Shri.R.Gopinathan Nair. J.M.Residency, Flat No.2C, Mele Thampanoor, Thiruvananthapuram. The gist of the case is as under.

The requester/appellant made a request to the State Public Information Officer of the respondent organisation for obtaining copies of certain documents on 8.12.2006 and he was promptly given a reply on 18.12.2006. *Vide* the communication No.G2-33071/2006 dated 18.12.2006 he was permitted to peruse the file No.E1(VE 13/03/SRT)2780/02 Part II CF on 23.12.2006 at 11A.M in the presence of the Section Superintendent of the office. Accordingly, he perused the file and, besides others he made a request for a copy each of the

communication No.LRD3-30677/98 dated 31.8.2002 occurring at pp 15 to 16 and letter No.LRD3-30677/98 dated 21.5.2002 at pp 5 to 6 in the file, as emanating from the Commissioner of Land Revenue and addressed to the Secretary, Revenue Department, Government of Kerala. He had also remitted a fee of Rs.84/- for the entire set of documents. He was given copies of records, as requested for by him, except for copies of these two letters. According to him, he was eligible to receive the same for which he had remitted the cost also. Since he was not provided with the copies of the two letters, he preferred his first appeal before the Appellate Authority on 7.2.2007 and the same was disposed of intimating him that he might contact the Revenue Department in the Government for obtaining the same. Aggrieved by the decision, he had come up before the Commission with the second appeal there on 3.5.2007.

The Commission obtained detailed report from the respondent Organisation and also heard the requester/appellant and respondents on 13.12.2007. The requester/appellant, Shri.R.Gopinathan Nair, the respondents S/s.M.Sheik Ansarudin Saheb.M, State Public Information Officer & Superintendent of Police, Vigilance & Anti Corruption Bureau and Balasubramaniam.K.S. Appellate Authority & Additional Director General of Police, Vigilance & Anti Corruption Bureau and the Appellate Authority were present.

The requester/appellant maintained his position and made his plea to obtain the copies of the two letters, as he had requested. The appellate authority informed the Commission that the Revenue Department in the Government was the custodian of the information, although the respondent public authority had copies of the letters in the file in their possession. He had also submitted that the requester/appellant was shown the entire file and, information as could have been provided were provided and the cost realised. His submission in main was that the public authority was not the custodian of the information and, therefore, they have difficulty in providing the documents as requested for. The Appellate Authority had also submitted that what they have got were only photo copies of the letters.

After hearing the requester/appellant and respondents and also perusing the records before the Commission, the Commission observed that the documents under discussion were letters from the Land Revenue Commissioner and the Secretary, Revenue Department in the Secretariat. The Commission also conceded that there was some weight in the argument of the respondent/appellant that they were not the custodians of the information and had difficulty in parting with the records that belonged to the Revenue Department. At the same time, the Commission felt that there was no disinclination on the part of the respondents in co-operating with the requester/appellant and providing the information available with them as they had amply indicated in the manner in which the case was handled and, they would

have provided the information yet to be provided, but for the fact that they were not the custodians of the information as they had surmised.

The Commission finally arrived at the conclusion that the records as asked cannot be denied merely on a technical ground that the respondent public authority is not the custodian of the information. They have to be provided in view of the fact that the requester/appellant had already seen them, while perusing the file and the contents of the letters as observed by the Commission could in no way be held back under any of the provisions under Section 8 of the RTI Act. The requester/appellant had already paid the cost and the Commission direct that a copy each of the two letters as asked for should be duly provided to the requester/appellant within 7 days of receipt of this order. The appeal is disposed off accordingly.

Dated this, the 14th day of December, 2007.