



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

**No. AP 259/2007/SIC
(No.2708/SIC-Gen1/2007)**

C.V. Vijayan,
Ayyanatu,
Sanathanam Ward,
Alappuzha - 688 001.

} Appellant

Vs

1. Financial Controller & Public Information
Officer,
Kerala Financial Corporation,
Thiruvananthapuram.

2. Managing Director & Appellate Authority,
Kerala Financial Corporation,
Thiruvananthapuram.

} Respondents

ORDER

The 2nd appeal dated 24.4.07 filed under section 19 (3) of the RTI Act by Sri. C.V. Vijayan was received by the Commission on 26.4.07 and was admitted as AP No.259/07/SIC and further action taken thereon.

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

The appellant had made a request before the 1st respondent under section 6 (1) of the RTI Act, asking for the copy of the entire files connected with the complaints filed by the appellant and one Smt. T.S. Sumangala. The request was received by the 1st respondent on 27.2.07. The request of the appellant was disposed of on 17.3.2007 giving the appellant a copy of the letter sent to the Government on 12.10.04. Aggrieved by the action of the Public Information Officer in not giving the copy of the entire file, the appellant filed the 1st appeal before the 2nd respondent under section 19 (1) of the RTI Act on 16.4.07. The

first appeal was disposed of by the appellate authority on 18.4.07. While disposing of the 1st appeal it was ordered that all documents except the letter sent by the appellant and Smt. T.S. Sumangala and the letter sent by the Manager (Personnel) to the appellant will be issued to the appellant. The above documents were denied on the ground that those were the personal information of the appellant exempted from disclosure under section 8(1) (j) of the RTI Act. This appeal under section 19(3) of the RTI Act is filed against the decision of the 1st appellate authority denying certain information under section 8(1) (j) of the RTI Act.

3. A copy of the appeal petition was issued to the 2nd respondent with instructions to file a detailed report to the Commission. Accordingly, the second respondent has filed a detailed report dated 26.6.07 before the Commission.

4. The Commission examined the report of the 2nd respondent and decided to take further evidence in the matter from the Public Information Officer. The first respondent was personally heard by the Commission on 9.10.07.

5. The Commission had a detailed and meticulous examination of the appeal petition, the report of the 2nd respondent and the oral submission of the first respondent at the time of personal hearing. The Commission made the following observations:-

The respondents have denied disclosure of letters sent by the appellant and Smt. T.S. Sumangala and also the letter from the Manager (Personnel) to the appellant. In the report of the 2nd respondent, it is stated that Smt.T.S. Sumangala is the wife of the appellant. The Commission observed that the exemption from disclosure under section 8 (1) (j) is applicable only for the personal information of a person other than the requester. Here, the letter sent by the appellant and by the Manager (Personnel) to the appellant are personal information of the appellant himself, though might seem curious to be provided by the recipient, can not be denied under section 8 (1) (j). If the respondents are of the opinion that the letter sent by Smt. T.S. Sumangala is a third party information, the respondents may follow the procedure under section 11 of the RTI Act.

6. In the light of the above observation, the Commission hereby order as follows:

The first respondent shall provide the appellant with copies of letters sent by the appellant and the letter of the Manager (personal) addressed to the appellant, as requested by the appellant. In the case of letter sent by Smt. T.S. Sumangala, the Public Information Officer shall dispose of the request following the procedure laid down under

section 11 of the RTI Act, if the Public Information Officer is of the opinion that it is a third party information.

This order of the Commission made on the 11th day of October 2007.

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SECRETARY

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SECRETARY

Palat Mohandas
Chief Information Commissioner

V.V.Giry
Information Commissioner

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Secretary to Commission

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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