



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

**No. AP 269/2007/SIC
(No.2854/SIC-Gen1/2007)**

Tony Thomas,
Kizhakkekara,
Irumpakachola.P.O.,
Kanjirapuzha,
Palakkad.

} Appellant

Vs

1. Public Information Officer,
O/o the Chief Conservator of Forests
(Vigilance),
Thiruvananthapuram.
2. Chief Conservator of Forests (Vigilance)
& Appellate Authority,
Thiruvananthapuram.
3. T. Pradeep Kumar,
Asstt. Forest Conservator,
O/o the Chief Conservator of Forests
(Vigilance),
Thiruvananthapuram.

} Respondents

ORDER

The appeal petition filed by Tony Thomas under the RTI Act 2005 was received by the Commission on 3.5.2007 and was admitted as AP No.269/07/SIC.

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

The appellant had made a request dated 16.1.2007 before the 1st respondent asking for certain information under the Right to Information Act 2005. The information sought for was copy of the final Vigilance enquiry report of the Chief Conservator of Forest (Vigilance) on the Sandal raid at Palakkad. The request was rejected by the State Public Information Officer under section 8 (1) (h) of the RTI Act on the ground that a forest offence was booked and disclosure of the enquiry report would impede the process of further investigation. Aggrieved by the decision of the 1st respondent, the appellant filed the 1st appeal under the RTI Act 2005 before the 2nd respondent on 29.1.2007. The first appeal was rejected by the 2nd respondent, up-holding the decision of the first respondent. This appeal before the State Information Commission is filed under section 19 (3) of the RTI Act, challenging the decision of the 2nd respondent rejecting the 1st appeal.

3. A copy of the appeal petition was forwarded to the 2nd respondent with instructions to file a detailed report to the Commission. Accordingly, the second respondent has filed a detailed report dated 8.6.2007, before the Commission. It is reported by the 2nd respondent that the information requested by the appellant relates to a forest case registered as OR 09/2005 and the inquiry is still not completed. It has also been reported that the Government vide G O (MS) No.4/07/F&WLD dated 6.2.07 has decided to transfer the inquiry to the CBI. According to the 2nd respondent, disclosure of the information sought by the appellant would impede the process of investigation in a very important case registered under the forest Act.

4. After a careful examination of the report of the 2nd respondent, the Commission decided to hear the parties. Accordingly, notices were sent to the Public Information Officer and appellant to appear before the Commission for a hearing on 6.11.2007. Accordingly the third respondent who was the Public Information Officer at the time of making the request appeared before the Commission. The appellant did not turn up. The third respondent explained in detail the circumstances under which the request of the appellant was turned

down. The third respondent has filed a detailed affidavit before the Commission dated 12.11.2007.

5. The Commission had a detailed and meticulous examination of the appeal petition, the report of the 2nd respondent and the oral and written submissions of the first respondent . The Commission observed that the information requested by the appellant namely, final Vigilance enquiry report of the Chief Conservator of Forest (Vigilance) on the Sandalwood raid at Palakkad is a document which is of very much importance for the further enquiry to be conducted in the case registered under the forest Act. The Commission observed that disclosure of the Vigilance inquiry report at this stage would impede further investigation.

6. In the light of the above observation, the Commission hereby order that the information requested by the appellant cannot be disclosed at this stage.

The appeal is dismissed.

Dated this the14th day of December 2007.

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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.