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AP.No.239/2007/SIC
File No.1760/SIC-Gen-1/2007

Shri.Latheesh Bharathan,
"Deepa", Thavakkara,
Kannur-670 001.



Appellant

Public Information Officer,
Police Housing &
Construction Corporation,
Palayam, Thiruvananthapuram.

Appellate Authority and,
Managing Director,
Police Housing & Construction
Corporation,
Palayam, Thiruvananthapuram.

Vs



Respondents

ORDER

AP 239/2007/SIC is a second appeal entertained u/s.19(3) of the RTI Act. The requester/appellant is Mr.Latheesh Bharathan, President, Kannur District General Engineering and Construction Co-operative Society. The respondents are the Public Information Officer of the Kerala Police Housing and Construction Corporation and Managing Director, Appellate Authority of Kerala Police Housing Construction Corporation, Trivandurm.

The grounds alleged for furnishing the second appeal are catalogued as 11 separate and distinguished cause of actions. They are in its briefest possible expression are as follows:-

The requester/appellant was aggrieved by the information given by the respondent nos. 1 & 2 on many of the questions. The information furnished are incomplete, false and inconsistent with the facts in the records itself. The respondents had knowingly and intentionally given untrue information. The

estimates and work executed by the Executive Engineer was detrimental to his interest. And there are certain other allegations of falsification of accounts, incomplete maintenance of accounts and his legal entitlement for obtaining correct information.

For the sake of obtaining a concrete idea regarding the appeal and the subject matter, the Commission has to refer to the original documents in its chronological order and evaluate the procedures adopted by the departmental authorities at various stages of disposal of this matter.

On the 26th of August 2006, Shri.Latheesh Bharathan had preferred a request before the Public Information Officer of the Kerala Police Housing and Construction Corporation for certain information. The request, in original, was marked as Ext A1. It was a conglomeration of 25 questions regarding certain construction works that were undertaken in connection with the repairs and maintenance of barracks and other allied buildings for the KAP IVth Battalion at Mangattuparamba over a period of three years. It seems that on the same day, the requester had again furnished another questionnaire with 10 major questions and a good number of subsidiary questions for each main question u/s.6 of the RTI Act. The second request under RTI Act on the same subject was marked as Ext A1(a) for the convenience of easy reference. The concerned Public Information Officer had answered the questions elaborately with adequate explanations and documents. On 28.9.2006, these particulars were submitted and the same was marked as Ext A2 and it contained nearly 7 pages and the accompanying enclosures. Mr.Latheesh Bharathan was not satisfied with this information and therefore, had preferred a first appeal before the Appellate Authority *i.e*, the Managing Director of the Kerala Police Housing & Construction Corporation. It seemed that the first appeals were preferred twice on 28.9.2006 and 23.1.2007. Both these appeal memorandums are marked as Ext A3 & A3(a). The Appellate Authority had a very detailed hearing of the matter and allowed the whole set of documents, copies and further clarifications. Even then the requester/appellant was not satisfied. He was in the nature of making repeated requests, clarifications, raising timely and untimely objections and not less than 13 letters were addressed to the Appellate Authority as well as the Public Information Officer. As had already mentioned, aggrieved by all these factors, the requester/appellant had approached the State Information Commission.

Both the appellant Shri.Latheesh Bharathan and the PIO of the Police Housing and Construction Corporation were summoned. They were heard in detail and were allowed to prefer their own statements.

The questions that arise for consideration are (i) whether there was any delay in furnishing the information? (ii) and whether the PIO and the Appellate Authority had furnished any false or incomplete information?

Even though the appellant had raised nearly 11 grounds for preferring the second appeal and several other reasons in the detailed statement

preferred by him he had not raised an objection to the effect that the information was delayed badly. Ext A1 and A1(a) were requests dated 26.8.2006. There were compelling reasons to make a remark about this questionnaire placed u/s.6(1) of the RTI Act before the PIO. Information, of course, is defined u/s.2(f) of the RTI Act and it is "any material in any form". The word used "any material" and "in any form" requires further clarification. Information is an item of information. And the statute contemplates reference to single item of information because the words used are singular as "any form and any material". But Mr.Latheesh Bharathan, the appellant was asking questions with regard to a bunch of materials without a reasonable restriction. It should have been proper or more advisable to prefer limited number of questions. Though he wanted enormous amount of information which related to construction works of hundreds of items of bills, final bills, estimates and so on and so forth. However, the PIO had taken the pain of furnishing all the information on 28.9.2006 ie., just on the expiry of 30 days. So therefore, the appellant has got no complaint regarding delay even though the information sought required enormous amount of exercise. Therefore, the first question is answered negatively that there was no delay.

The allegations repeatedly leveled against the respondents were that the information furnished was inconsistent with each other. To some extent it was false and incorrect. He was relying upon the work estimate, work bills and final bills etc., of the Executive Engineers and also of Officers that had executed the work. Repeatedly he was trying to establish that there was falsification of accounts, misleading information etc. The detailed statement preferred by Mr.Latheesh Bharathan was marked as Ext A4.

The PIO had also given a statement. It was stated by the PIO that Mr.Latheesh Bharathan was the President of a Co-operative Society which had executed the work of repairs and maintenance of barracks, construction of new toilets and garage for KAP IVth Battalion. It was a series of construction works taken up from 2002 and completed by the end of 2005. All the information requested by him were furnished. The Appellate Authority had also granted an opportunity of personal hearing to the requester/appellant and supplemented the information furnished by the PIO by providing further details. Mr.Latheesh Bharathan was in the habit of making additional demands by way of separate letters and requests and not less than 9 letters were thus listed out by the respondent. It was also submitted that Mr.Latheesh Bharathan had preferred an O.P. before the Hon.High Court and also a complaint before the Hon.Lakayuktha. He was using the Forum of State Information Commission to gather some sort of information that would in some way or other help him during the course of other litigations.

From the recodes available and Ext A5 statement preferred by the PIO, it could be seen that there was no with-holding of information. The PIO had expressed his willingness to provide all files for further perusal and scrutiny. Mr.Latheesh Bharathan was trying to make out circumstances which prevented preparation of a final bill, the amount of which according to him was nearly Rs.4,28,000/-. The purview of the RTI Act is *per se* to furnish information. Of

course, the appellant has a right to establish that the information furnished to him is false, incorrect and/or incomplete but he has to prove it by means of documentary evidence tendering counter evidence to the effect. Not even an iota of evidence is adduced by the appellant Mr.Latheesh Bharathan to prove that the information so furnished was irregular, incomplete or inconsistent. If it was a contract, work executed on a contract and arrears of payment by the respondents etc., he has to sort out such issues and seek remedy and solutions, if any required, in appropriate Fora. The mandate of the RTI Act is to provide information. Information correct to the core and it is for the appellant to establish that what he had received was incorrect and incomplete.

So there is no merit in the appeal and the same is dismissed.

Dated this the 29th day of December, 2007.

Authenticated copy

Secretary to Commission

