



**STATE INFORMATION COMMISSION, KERALA  
PUNNEN ROAD, THIRUVANANTHAPURAM 695 039**

**Tel: 0471 2335199, Fax: 0471 2330920**

**Email: sic@infokerala.org.in**

**Proceedings of the State Information Commission, Kerala in Complaint  
Petition No. CP 465/2007//SIC  
(No.4158/SIC-Gen2/06)**

Smt. Reema Narendran,  
Journalist,  
The New Indian Express,  
Unnithan Lane,  
Sasthamangalam.P.O.,  
Thiruvananthapuram - 695 010.

Complainant

Vs

1. The Public Information Officer,  
Centre for Earth Science Studies,  
Thiruvananthapuram.
2. The Public Information Officer,  
Kerala State Council for Science, Technology  
and Environment,  
Thiruvananthapuram.
3. The Appellate Authority,  
Centre for Earth Science Studies,  
Thiruvananthapuram

Respondents

**ORDER**

This complaint filed by Smt. Reema Narendran was received by the Commission on 16.6.2007 and was admitted as CP 465/07/SIC.

2. The gist of the case is as follows:

The complainant had filed an application before the 1st respondent asking for certain information under the RTI Act 2005. The request was received by the 1st Respondent on 27.4.2007 . The request was not authenticated by signature. The first respondent accepted the request and replied on 30.5.07 giving part of the information asked for. Part of the request viz .request for a copy of the Ph.D certificate of the CESS Director was transferred to the Kerala State Council for Science, Technology and Environment on 30.5.2007. The 2nd respondent denied the request for a copy of the Ph.D certificate of the CESS Director on the ground that the CESS Director had objected to the disclosure of the information on the ground that it was a 3rd party information. The complainant was required to provide sufficient justification to establish any public interest in seeking the information. This petition before the Information Commission is filed complaining that part of the request submitted before the first respondent was transferred to the 2nd respondent after a delayed period of 25 days and that the information was purposely denied.

3. The Commission called for reports of the 1st and 2nd respondents. Accordingly, the respondents have filed detailed reports before the Commission. According to the 2nd respondent, the Director, CESS has raised the contention that the subject of his qualification is a 3rd party information and that he was at liberty to refuse access to the information. The first respondent has reported the circumstances in which the transfer of part of the request to the second respondent was delayed. The Director CESS has already written to the complainant on 2.7.07, it is submitted.

4. The Commission had a detailed and meticulous examination of the complaint and the reports submitted by the first and second respondents and made the following observations:-

- (i) Section 6 (3) of the RTI Act provides that where the subject matter of an application or part thereof is closely connected with another public authority, or where the information requested is held by another Public Authority, the public authority shall transfer that part of the request to the other public authority within 5 days of receipt of the request. Here, the first respondent has transferred part of the request to the 2nd respondent after 25 days of receipt of the request, which is not in conformity with Section 6 (3) of the RTI Act.
  - (ii) The request was not authenticated by signature. However it was accepted by the 1st respondent.
  - (ii) The request for a copy of Ph.D. certificate of the CESS Director was denied on the ground that the information requested was a 3rd party information. The Commission observed that if Ph.D is a prescribed or mandatory qualification for holding the post of CESS Director or the Ph.D. qualification of the incumbent was given consideration for appointment as the CESS Director, the Ph.D qualification of the CESS Director can not be deemed as a personal information of a 3rd party and the citizen has the right to obtain a copy of the certificate under the RTI Act.
7. In the light of the above observation, the Commission hereby order as follows:

- (i) The first respondent has not transferred part of the request to the 2nd respondent within the prescribed time limit of 5 days. However, in the light of the explanation furnished by the 1st respondent and also that the request was not authenticated by signature, the Commission doesn't intend to initiate penal action against the first respondent. The first respondent is warned against repetition of such failures in future.

- (ii) The 2nd respondent shall provide a copy of the Ph.D. certificate of the CESS Director to the complainant, if Ph.D. is a prescribed or mandatory qualification for holding the post of Director of CESS or Ph.D. of the incumbent was given consideration for appointment to the post of Director, CESS.
- (iii) The 2nd respondent shall comply with the above directions of the Commission and report compliance within 10 days.

Dated this the 3rd day of December, 2007.

**Authenticated Copy**

**Secretary**

**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**