



**Before the State Information Commission, Kerala
Thiruvananthapuram-695 039.**

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Proceedings of the State Information Commission, Kerala, in
Appeal Petition No.125/2007/SIC

No.1129/SIC-Gen2/2007.

Date:11.07.2007

Biju Ramachandran
Padmavilas
Perumbazhuthoor
Neyyattinkara

Appellant

Vs

1. P.C. Sivankutty
Public Information Officer &
Deputy Commissioner
Commercial Taxes Department
Thiruvananthapuram.
2. K. Parameswarankutty Nair
Commercial Tax Officer
Neyyattinkara.
3. Sri S. Sridharan
Commercial Tax Officer
Commercial Tax Checkpost
Manjeswaram.

Respondents

ORDER

The appellant Sri. Biju Ramachandran, Padmavilas, Perumbazhuthoor, Neyyattinkara had filed a second appeal to the State Information Commission on 20.02.2007. The circumstances leading to second appeal can be summarized as follows:-

The appellant applied for some information on 17.11.2006 to the Commercial Tax Office, Neyyattinkara. He asked for copies of all documents connected with his late father's business. Since he did not get any reply, he filed his first appeal before the Commissioner, Commercial Taxes Department. On the orders of the Commissioner, some documents were given on 07.02.2007.

The appellant found that some pages were missing from the documents furnished. Hence he filed second appeal.

The Commission asked for the detailed report on 26.04.2007 and the report was submitted on 08.05.2007.

The Commission carefully examined the report. The Commission found that there was much delay in furnishing the information requested. So the Commission decided to summon the concerned PIO to explain why Sn 20 should not be imposed on him.

The hearing was held on 06.06.2007 Sri. K. Parameswarankutty Nair, Commercial Tax Officer, Neyyattinkara was present. He was heard in detail. He submitted that the PIO at that time was the Deputy Commissioner Sri. P.C. Sivankutty. But he furnished the information to the Appellant only to implement the orders of the Commission. He filed an affidavit to that effect.

In the affidavit he stated that on 06.01.2007 he was given a copy of the original petition dated 17.11.2006. On receipt of the copy of the petition he approached Sri S. Sridharan, another Commercial Tax Officer and discussed with him about the petition. Sri. Sridharan said that he was not aware of the petition. But he handed over the assessment files "to me on 26.01.2007". Meanwhile the Commissioner Commercial Taxes asked the Commercial Tax Officer, Neyyattinkara to furnish the information requested by Sri. Biju Ramachandran immediately. This letter was also received by Sri. Sridharan and "handed over to me on 30.01.2007". And in compliance with the direction of the Commissioner, the information was furnished on 07.02.2007.

Based on the facts revealed in the affidavit of Sri. K. Parameswarankutty Nair, the Commission decided to take more evidence from Sri P.C. Sivankutty, Deputy Commissioner and from Sri. S. Sridharan, the then Commercial Tax Officer, Neyyattinkara. The hearing was held at 3 p.m. on 15.06.2007. Sri. P.C. Sivankutty, Sri. K. Parameswarankutty Nair and Sri. S. Sridharan were present. They all were heard in detail. Sri. Parameswarankutty Nair and Sri. Sridharan went on blaming each other. Therefore the Commission directed Sri. P.C. Sivankutty to submit a detailed report fixing the responsibilities for the lapses that have occurred in this case.

Sri. P.C. Sivankutty submitted his report on 25.06.2007. In the report Sri. P.C. Sivankutty made the following statements:-

1. The original application of 17.11.2006 was received in the office on 18.11.2006 ie. on the next day but it was not registered in the Distribution Register or nor in the Register for registered articles.
2. The applicant contacted Sri. Parameswarankutty Nair after a few days, who fold him that efforts are being made to fetch the file. But nothing happened till 06.01.2007 when the officer managed get the records. But the original application was missing. The officer asked the applicant to file a photocopy application and on getting it he furnished the information.
3. Sri. K. Parameswarankutty Nair failed to furnish the information with in the time-frame.
4. Sri. K. Parameswarankutty Nair took the misleading stand that he came to know about the application only on 06.01.2007.
5. The lapses of Sri. K. Parameswarankutty Nair are serious in nature. He did not make any attempt to trace out the file

despite coming to know of the application. He did not also call for the application.

6. Sri. S. Sridharan, Principal Sales Tax Officer, Neyyattinkara and Sri. K. Parameswarankutty Nair, CTO “are equally responsible for the above lapses.”

The report, in short, contradicts the earliest stand taken by Sri. K. Parameswarankutty Nair. Though the report cites Sri. S. Sridharan as equally responsible, it is not properly explained.

Because of these contradictions the Commission decided to summon all the three of them once again to explain why Sn20 should not be imposed on them.

The Commission decided to take more evidence from Sri P.C. Sivankutty, Deputy Commissioner and from Sri. S. Sridharan, the then Principal Sales Tax Officer, Neyyattinkara. The hearing was held at 10.45 p.m. on 11.07.2007. Sri. P.C. Sivankutty and Sri. S. Sridharan were present. Sri. K. Parameswarankutty Nair was absent and he did not intimate the reason for his absence.

Sri. P.C. Sivankutty and Sri. S. Sridharan were heard in detail.

Sri. P.C. Sivankutty submitted that he had verified the relevant documents of the Postal authorities and the postal documents clearly show that the original application, sent by registered post, was received in the Office of he CTO, Neyyattinkara on 18.11.2006 itself. Sri S. Sridharan was the Head of office at that time. And he was duty-bound to register all registered tapals in the R.P. Register. But that had not happened. That is the reason why the original application went missing.

Mr. S. Sridharan made the following submission:- He remembers having seen the application. But on which date he cannot remember. He is in the habit of taking out tapals concerning him only

from the bundle of tapals. Since the subject matter of the request does not come under him, he did not take possession of it.

To the queries of the Commission, Sri P.C. Sivankutty added the following: There was a clear-cut method of handling the RTI requests in the CTO, Neyyattinkara. The officers there used to collect such applications and used to pass them on to him as the PIO. And as the PIO, he used to collect information from this office and used to furnish the same to the applicants. The Neyyattinkara office had handled many such applications even before 18.11.2006, the day of receipt of the application in question.

Consequent to this submission of Sri. P.C. Sivankutty, Sri. S. Sridharan said that he wanted to raise a few more points and he sought some more time to do. And the Commission granted him time till 5 p.m. on 18.07.2007.

And S. Sridharan filed a detailed statement later in which he asked for more time to explain what exactly had happened. He also maintained that he was not SPIO at that time. Nor he can be deemed as SPIO.

The Commission carefully examined all the materials produced before it by different parties. The information requested was provided although belatedly. But the way the application was handled by the Public Authority was far from satisfactory. There was no proper way of receiving tapals and their distribution. Even a request under the RTI Act was handled in a casual manner. The two CTOs blame each other endlessly. But the report submitted by the Deputy Commissioner admits the improper documentation and proves the culpability of the two CTOs. So the then CTOs, ie. K. Parameswarankutty Nair and S. Sridharan may be subjected to disciplinary action as envisaged under Sn 20(2) of the RTI Act.

The anomaly in the designation of the APIO, PIO & Appellate Authority has since been corrected by the Commissioner,

Commercial Taxes. There is no necessity of any further action about this case. And the appeal is dismissed.

Dated this the 25th day of July, 2007.