



**The State Information Commission, Kerala**  
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**AP.No.154/2007/SIC**  
File No.1112/SIC-Gen-2/2007

Shri.K.M.I.Mather,  
Mas Building,  
Mather Square, 2/15/2007,  
Town Railway Station Road,  
Cochin-682 018.

Appellant

**Vs**

Public Information Officer,  
K.S.E.B,  
Vydyuthi Bhavanam, Pattom,  
Thiruvananthapuram-695 004.

Respondent

## **ORDER**

The appellant in this case is one Shri.K.M.I.Mather. He had preferred the second appeal u/s.19(3) of the RTI Act before the State Information Commission, after having lost his case before the State Public Information Officer, Kerala State Electricity Board, Vydyuthibhavanam, Pattom and the Appellate Authority, Chief Engineer(APTS), Vydyuthibhavanam, Pattom. The details of the case of the appellant could be briefly detailed as follows:-

Eight applications u/s.6 of RTI Act were submitted by Shri.K.M.I.Mather to the Public Information Officer. These requests are separately marked as Exts A1 (a) to Ext A1(h). The request was for copy of entire set of files, note files and background files with hundred percent file notings leading to Board Order No.1962/2001. All the other separate requests were also related to files and file notings in the same transactions. It was averred in the appeal memorandum by the appellant that the appellant was the owner of the premises bearing Cochin Corporation No.40/1653 and has got seven electricity consumer connections (numbers) in the said premises. It was also averred that on 8.6.2000, the Anti Power Theft Squad had made a surprise inspection in the premises of the applicant and registered certain cases for power theft and

unauthorized use of electricity. Ever so many litigations were pending between the KSEB and the appellant and this had necessitated for the required information. Among the request already marked as Ext A1(a) to (h), A1(b) relates to files and file notings of one Surabhi Movies, Chalakudi (third party) and Ext A1(c) relates to one Southern India Marine Products, another third party. The appellant was given few portions of the information requested on payment of an amount of Rs.68/- and that was well within the time limit. The demand notice to pay the amount as cost of the information furnished (34 pages) was marked as Ext A2. So partial information was furnished on 23.9.2006 *ie.*, within the prescribed time limit of the RTI Act. Eight items of information were rejected under Sections 8(1) (a) and 8(1)(d) of the RTI Act. This was challenged by the appellant and that was the substance of the case.

The original order rejecting the request was not produced by the appellant. The copy of the first appeal and also the copy of the orders of the Appellate Authority were not produced. Both the appellant and respondent had agreed in the appeal memorandum as well as in the written statement that the first appeal was preferred before the Appellate Authority on 3.11.2006 and the same was dismissed by the Appellate Authority on 24.11.2006. ( Para 7 & 8 of the appeal memorandum and averment in the last paragraph of the written statement). The contentions of the respondent were as follows:-

Three items of information like connected load details, inspection report of Anti Power Theft Squad *etc.*, running about 24 pages were furnished. Board Orders and notifications of about 10 pages were also furnished. Orders of the Board, another set running about 6 pages were also furnished. The other information was 8 in number. It could not be furnished because this information would prejudicially affect the scientific or economic interest of the State and would also fall within the general exceptions of Section 8(1) (d) commercial confidence which would harm the competitive position of the third party. It was also contented that two items of information requested relates to third party information as the Commission had already noticed as Ext A1(b) and A1 (c).

***The questions that arise for consideration are whether the appellant is entitled for the information claimed vide Ext A1 (a) to A1(h)? (8 items), if not, whether with-holding of information was well within the parameters of the general exceptions mentioned in the RTI Act?***

**Issue Nos.1 &2:** It is to be recalled that contents of the files, entire file notings and such other details were demanded by the appellant consequent on the surprise inspection of Anti Power Theft Squad (APTS) in the campus of the appellant, Mas Building. Certain information was already furnished *vide* Ext A2. Now, the other details were with-held for two reasons, one, the dissemination of the information would affect the strategic, scientific and economic interest of the State. The Second, defense was that the disclosure of the information would harm the competitive position of the third party and these are information retainable as a class of commercial confidence. In other

words, Section 8(1) (a) and 8(1) (d) of the RTI Act were quoted to deny the information to the appellant. On a scrutiny of the requests eight in number except two items marked as Ext A1 (b) and A1(c), all other items were file notings available with the respondent. There was no commercial confidence because it pertains to the institution of the appellant. There was no strategic importance because the appellant was being prosecuted under the APTS. Even other wise, the appellant was entitled for the mahassers, investigation reports and other files pertaining to his consumer numbers. So the Commission feels that except for the provision of section 8(1) (g) in the RTI Act could be invoked, if applicable, to deny the aforesaid information. Information as contained in Ext A1 (b) and A1(c) as requested by the appellant related to third party information, one was with regard to an institution Surabhi Movies Chalakudy and another was with regard to Southern India Marine Products. The third party information, of course, was a privileged document and the PIO was not at liberty to disseminate this information without the consent of the third party concerned. To be very short and precise, the Commission feels that all the information except the third party information could be furnished to the appellant on proper realization of fee and cost and the third party information need not be furnished in the interest of justice.

The appeal is allowed to the extent that the appellant is entitled for all information except third party information from the respondent on payment of cost. The respondent shall furnish the said information within 10 days of receipt of copy of this order. The appeal is allowed accordingly.

Dated this, the 19th day of September, 2007.