



**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 Appeal petition

**No. AP 253/2007/SIC
(No.2030/SIC-Gen1/2007)**

C. Mohanabalan,
31/363A1, Paradise Garden,
Paradise Road,
Vytilla,
Kochi - 682 019.

Appellant

Vs

1. The Public Information Officer,
Kerala State Warehousing Corporation Ltd.,
P.B. No.1727,
Cochi - 682 016.
2. The Appellate Authority,
Kerala State Warehousing Corporation Ltd.,
P.B. No.1727,
Cochi - 682 016.

Respondents

ORDER

The appeal petition dated 27.3.2007 filed by the appellant under section 19 (3) of RTI Act 2005, was received by the Commission on 28.3.2007 and was admitted as AP 253/07/SIC.

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

The appellant had made a request dated 1.12.2006, seeking certain information from the first respondent under the RTI Act 2005. The information sought for was copies of nine documents numbered from 3 (a) to 3 (i) in the request. After collecting the cost of providing the information, the first respondent provided the information requested by the appellant except under 3 (f), 3 (g) and the agenda notes of the board meeting & executive committee meeting requested under 3 (h). The appellant was informed that the documents requested under item No.3 (f) & 3

(g) were not available in the concerned file and that copy of the agenda note could not be disclosed because agenda notes are exempted from disclosure under the RTI Act 2005. The appellant made the first appeal under section 19 (1) of the RTI Act, before the 2nd respondent on 27.1.2007. In the first appeal, it was complained that all pages of the minutes of two meetings of the executive committee requested under 3 (d) and 3 (e) and the documents requested under 3 (f), 3 (g) and 3(h) were not given. The first appeal was disposed of on 26.2.2007 informing that the missing pages of documents requested under 3(d) and 3(e) would be provided. The 2nd respondent also up-held the decision of the first respondent that the documents requested under 3(f) and 3(g) were not available in the concerned file and that the agenda notes requested under 3 (h) was exempted from disclosure under the RTI Act. This appeal under section 19(3) of the RTI Act is filed challenging the above decision of the first appellate authority.

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 20.6.07 before the Commission. It is reported that the documents requested under 3 (f) and 3 (g) of the request were not available in the files of the Corporation. The 2nd respondent has also reported that the agenda notes is an information involving commercial confidence which is exempted from disclosure under section 8 (1) (d) of the RTI Act.

4. After examining the appeal petition and report of the 2nd respondent, the Commission decided to take further evidence from the appellant and the respondents. The appellant and respondents were called for a personal hearing held at Ernakulam on 10.9.2007. The respondents appeared before the Commission on 10.9.2007 while the appellant failed to turn-up. The respondents reiterated that the document sought for under 3 (f) namely; note dated 28.2.2007 of the Managing Director and the document requested as 3 (g) namely; draft notification for assistants were not available in the concerned file. Regarding the disclosure of agenda notes of the board meeting and executive meeting held on 13.11.06, the respondents reiterated that it would come under the exempted category of commercial confidence under section 8 (1) (d) of the RTI Act.

5. In pursuance of the decision made at the time of hearing on 10.9.2007, the first respondent has filed an affidavit dated 15.9.07 stating that the information requested under 3 (f) and 3 (g) of the request were not available in the concerned file. It was affirmed that the affidavit was filed after necessary scrutiny and verification.

6. The Commission had a detailed and meticulous examination of the appeal petition, the report of the 2nd respondent, the affidavit filed by the 1st respondent, the exhibits produced before the Commission and oral submissions at the time of personal hearing. The Commission made the following observations:

- (i) The Commission decided to accept the affidavit filed by the 1st respondent that documents requested under 3 (f) and 3 (g) of the request of the appellant were not available in the records of the corporation.

- (ii) The Commission observed that agenda notes of the board meetings and executive committee meetings are not 'information' exempted from disclosure under section 8(1) (d) of the RTI Act. The respondents were not able to put forward any convincing argument in support of their claim that the contents of the agenda note of the board meeting and executive committee meeting held on 13.11.2006 was a 'Commercial Confidence' to claim exemption from disclosure under section 8(1) (d) of the RTI Act. The Commission observed that the decision of the respondents to deny disclosure of the agenda notes was legally not tenable under section 8(1) (d) of the RTI Act.

7. In view of the above observation, the Commission hereby order as follows:

- (i) The information sought for under serial nos. 3(f) and 3(g) are information not held by the respondents and therefore can not be provided to the appellant.
- (ii) The first respondent shall provide copies of the agenda notes of the board meeting and executive committee meeting held on 13.11.2006 including the annexure, to the appellant within 10 days of receipt of copy of this order. The appellant shall bear the cost of providing the information as per the relevant rules.

The Appeal is disposed of accordingly.

Dated this the 27th day of September 2007.