



TAMILNADU INFORMATION COMMISSION

**No.2, Thiyagaraya Road, Teynampet,
Chennai 600 018. Tel: 24357580**

DATE OF ORDER – 03.02.2015

PRESENT

**Thiru S.F. AKBAR, B.Sc. B.L.,
STATE INFORMATION COMMISSIONER**

Case No. 14570/Enquiry/F/2014

Thiru S.V.Ramaswamy,
No.22/1, Ormes Road,
Kilpauk, Chennai-600 010.

.. APPELLANT

The Public Information Officer/Executive Engineer,
TANGEDCO Limited, Madurai Electricity Distribution
Circle/North/Metro, Madurai-7.

.. PUBLIC AUTHORITY

ORDER

The appellant Thiru S.V.Ramaswamy is present. The Public Information Officer has not turned up for today's enquiry despite service of summons as per law. He has not assisted this Commission in examining the issues that arise for consideration in this case. He could not be heard on the submissions made by the appellant in the enquiry. This is recorded.

2. A perusal of the petition dated 03.02.2014 filed under Section 6(1) of the R.T.I. Act, 2005, reveals that the appellant has sought for certain information in four items with regard to "Aruna Alloy Steels Private Limited, S.F.No.3/1A, Account

No.HT.114, S.F.No.3/1B, Sevugan Chettiar of Aruna Machine Tools under lease by S.V.Arunachalam, at Ulaganeri Village, Madurai District". The Public Information Officer who is the Executive Engineer, has declined to furnish information as the information sought for by the appellant relate to a third party and the third party has objected to the furnishing of information. Not being satisfied with the reply, the appellant has preferred a First Appeal dated 28.02.2014 under Section 19(1) of the RTI Act, 2005 followed by this Second Appeal under Section 19(3) of the RTI Act, 2005 before this Commission on 10.04.2014 and the said appeal has been taken up for today's (03.02.2015) enquiry.

3. The appellant and two of his brothers by name Tvl. Arunachalam and Pethaperumal along with their father Sevugan Chettiar formed a partnership firm and they were carrying on business under the name and style of "Aruna Machine Tools". There was a family arrangement and "Aruna Machine Tools" was given to Arunachalam on account of dissolution of the partnership subject to certain terms and conditions. Thus, Arunachalam became the sole proprietor of the Aruna Machine Tools. While so, Arunchalam converted "Aruna Machine Tools" as "Aruna Alloy Steels Private Limited". Aruna Alloy Steels Private Limited business is being carried on by Arunachalam in two buildings – one building belong to Arunachalam and another that of his father, in which the appellant would also be entitled since the father is no more. The case of the appellant is that electric energy is being taken from the service connection belonging to his father, now in the occupation of Arunachalam as lessee and as such he seeks certain information in four items in his petition dated 03.02.2014 filed under Section 6(1) of the RTI Act. The PIO would not send any reply at all and on an appeal being preferred to the Superintending Engineer who is the First Appellate Authority, the First Appellate Authority would not dispose of the petition in the manner provided by law and he would only call upon the PIO to dispose of the case. The PIO in his turn would send a reply saying that the information asked for the petitioner would come within the ambit of Section 8(1)(j) of the RTI Act and on that basis refused information.

4. The necessary facts involved in this case have been set out supra and the factual matrix of the case would only show that the petitioner would also be entitled to certain right in the property which is the subject matter of lease in favour of Arunachalam, in which he is carrying on the business under the name and style of "Aruna Alloy Steels Private Limited". If it is so, the petitioner being entitled to share in the property as claimed by him, the information which he is asking for could not be denied relying on Section 8(1) (j) of the RTI Act. The matter, of course, touches the interest of Arunachalam who is a third party to this proceeding. The provision of Section 11 of the RTI Act needs to be recalled and the procedure contemplated by Section 11 of the RTI Act has also to be followed and there is an obvious omission on the part of the Public Authority in following the entire procedure contemplated by Section 11 of the RTI ACT.

5. A close consideration of the material available on record would show that the PIO has declined to furnish the information which relate to a Third Party and the Third Party has objected to the furnishing of information. The Public Information Officer having recorded the objections of the third party would observe that in view of the submission of the third party and on perusing the connected records there shall be no disclosure of information. Though there is reference indirectly to the provisions of the RTI Act, which deals with the third party information, the Public Information Officer would not appear to have objectively considered as to whether the objections of the third party were tenable or not. Needless to point out that the Public Information Officer while exercising his powers under section-11 of the RTI Act, sits in the arm-chair of a Quasi Judicial Authority and it would be incumbent on him to consider the objections of the third party in the light of the relevant provisions of the RTI Act and come to a conclusion whether to furnish the information or refuse it. The mere objection on the part of the third party would not be a ground for straight away negating the request of the appellant.

6. Section-11 of the RTI Act contemplates that the Public Information Officer shall within 5 days from the receipt of the request for information, give a written notice

to such third party of the request and invite the third party to make a statement in writing or orally, regarding whether information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about the disclosure of information. Thus it is evident that the Public Information Officer after obtaining the objections, if any, from the third party, shall consider those objections and arrive at his own independent and objective conclusion as to whether such objections are tenable or not and should he think that the objections are untenable, proceed to furnish the information. But before so doing he shall intimate his decision to furnish the information to the third party so as to enable the third party to prefer an appeal against such decision under section 11(4) of the RTI Act, 2005. The decision to furnish or not to furnish the information to the appellant is left to the decision of the Public Information Officer, who shall have regard to those objections and decide the matter in issue. In the facts of this case, the Public Information Officer has not followed the procedure contemplated under Section-11 of the RTI Act.

6. In the considered view of this Commission, the matter deserves to be sent back to the Public Authority for disposal according to the provisions of the RTI Act. The Public Information Officer is instructed to apply the provisions of Section 8(1) (j) and the procedure prescribed under Section-11 of the RTI Act. The matter shall be disposed of in two weeks from the date of receipt of this order.

7. For today's enquiry, the PIO has not turned up. This would only show the indifference on the part of the PIO and he is liable to explain his failure to attend for today's enquiry. For all these reasons, the following orders are passed:-

I) The Public Information Officer who is the Executive Engineer, North, Madurai Electricity Distribution Circle/Metro, Madurai-7 is directed to dispose of the section 6(1) Petition within a period of two weeks from the date of receipt of this order in the light of the discussion supra and report compliance to this Commission within three weeks.

II) This Commission is impelled in the facts and circumstances of the case to call upon the PIO to explain as to why the penal provisions of the RTI

Act viz. Section 20(1) and Section 20(2) should not be invoked against him. As such, the Public Information Officer who is the Executive Engineer, North, Madurai Electricity Distribution Circle/Metro, Madurai-7 is called upon to explain as to why a maximum penalty of Rs.25,000/- should not be imposed on him for his casual attitude resulting in failure in complying with the provisions of the RTI Act. He is also called upon to explain as to why disciplinary action should not be initiated under Section 20(2) of the RTI Act for having failed to attend the enquiry today despite service of summons within fifteen days from the date of receipt of this order. The appeal is ordered in the above terms.

**Sd/- (S.F.AKBAR)
STATE INFORMATION COMMISSIONER**

-/By Order of the Commission/-

ASSISTANT REGISTRAR

Case No. 14570/Enquiry/F/2014

To

PUBLIC AUTHORITY:

The Public Information Officer/Executive Engineer,
TANGEDCO Limited,
Madurai Electricity Distribution Circle/North/Metro,
Madurai-7.

APPELLANT:

Thiru S.V.Ramaswamy,
No.22/1, Ormes Road,
Kilpauk, Chennai-600 010.
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