



RIGHT TO INFORMATION ACT-2005

TAMIL NADU INFORMATION COMMISSION

Kamadhenu Co-operative Super Market Building First Floor,
New No.378, Anna Salai, Teynampet, Chennai – 600018. Phone: 2431 2841

Case No,30759/Enquiry/2008

Date of Enquiry: 24th September 2009 at CHENNAI

**Present: Thiru S. RAMAKRISHNAN, I.A.S.,(Retd.),
State Chief Information Commissioner**

**Thiru G. RAMAKRISHNAN, I.A.S.,(Retd.),
State Information Commissioner**

**Petitioner: Thiru V. Madhav, Flat 31, Block IV, Maan
Sarovar Raja Apartments, 11-A, Arcot Road,
Porur, Chennai – 600 118.**

**Public Authority: The Public Information Officer, Personnel and
Admn.Reforms Dept., Chennai – 600 009.**

Both the parties were present.

The petitioner asked for file to be inspected from the Personnel and Administrative Reforms Department on 18-4-2008. He was given a reply on 6-5-2008 permitting him to inspect the file on 20-5-2008. Since he could not go on that date, he asked for another date. He was given the date as 7-7-2008 and since time was not adequate on that date, he was again given time on 17-7-2008. Some of the files were not given to him for inspection because the files were still under action and they were open files. The petitioner protested that there is no exclusion for that under the Act and appealed on 22-7-2008. Finding that the same point was reiterated by the Appellate Authority, he appealed to the Commission on 15-9-2008, received in the Commission on 16-9-2008 resulting in today's enquiry.

The public authority present had no explanation to offer under what section of the Act the open files can be refused access to. In the letter sent to him rejecting the access to that, they have cited Section 8(1)(h) and the decision

of Central Information Commission, where they had not provided access in case where prosecution are still on was also cited (viz.) Shri Ramesh Bhandoola Vs. L&DO. MoUD in appeal WB/A/2006/00271 & 281 dated 29-5-2006

Under the Right to Information Act, only what has been specifically excluded under Sections 8, 9 or 11 can be denied access to., And except for Cabinet papers under Section 8(1)(i) no other case pendency has been given as valid reason for non-supply of information. Section 8(1)(h) is a section which is meant to protect prosecution of cases by police and mainly intended to prevent premature disclosure of action contemplated by police to secure the accused and investigate the case. In the Shri Ramesh Bhandoola Vs. L&DO. MoUD in appeal WB/A/2006/00271 & 281 dated 29-5-2006 case which has been cited also, the wording is about prosecution in progress. At any rate, Central Information Commission decisions are not binding on the State Information Commissions.

Therefore the Commission rules that the information asked for must be made available to the petitioner now free of cost under Section 7(6) of the Act **within two weeks of this order at a mutually convenient time.**

STATE INFORMATION COMMISSION

Orders approved on 16th October 2009
Under orders of the Commission

(S. MOHANA DHAS)
ASSISTANT REGISTRAR

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Personnel and Administrative
Reforms Department,
Secretariat, Chennai – 600 009.

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