



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,39170/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, Office of the
Director of Vigilance and Anti-Corruption,
Chennai – 600 028.

Both the parties were present.

The petitioner asked for information on two counts vide his RTI petition dated 4-10-2008 from the Directorate of Vigilance and Anti-Corruption, Chennai. Not getting a reply, he made appeal on 8-11-2008 and sent further reminder on 27-11-2008. Still not getting any reply, he approached the Commission on 11-12-2008 received on 12-12-2008 resulting in today's enquiry.

On 12-12-2008, he was given a letter rejecting his application citing G.O.Ms.No.158, dated 26-8-2008, which had exempted the Directorate of Vigilance and Anti-Corruption on whom he had asked questions from the purview of the Right to Information Act under Section 24 of the said Act.

The petitioner contended that this rejection is unfair since information relating to corruption cannot be denied as proviso to Section 24 of the Act makes it.

The public authority filed a copy of Judgment in W.P.No.4907/2009 of the High Court, in which the Government Order was challenged seeking to quash the same. In the W.P.4907/2009, the High Court had declined to do so stating that there is no ground for the argument advanced before them to hold that the State had not arbitrarily exercised its discretionary powers without due reasoning.

This Commission has held in a number of cases that as far as Right to Information Act is concerned, the guiding principle has been enunciated in the preamble of the Act wherein it clearly states that democracy requires an informed citizenry and transparency of information is vital to its functioning and to contain corruption and to hold Governments and their instrumentalities accountable to the governed and Whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Government and the preservation of confidentiality of sensitive information and whereas it is necessary to harmonise the conflicting interest while preserving the paramountcy of the democratic ideals.

Paramountcy of democratic ideals under this Act is to ensure that there is transparency of operation of the public authority so that there are no place where anything not proper can be hidden. Section 24 of the Act has been put into place to protect the 'intelligence' and 'security' organizations obviously with the clear idea that the functioning of the State could not be hampered by the salacious curiosity of an unconcerned citizen. This has also been hedged by the proviso that information pertaining to allegation of corruption and human rights violation shall not be excluded under this section.

In the present case, information asked for are two-fold. First is about the statistical information on the part of investigations completed and number of cases in which accused have been convicted for the five years 2003-2004 to 2007-2008. The second asks for the list of persons convicted in these

five years including the name of the person, post held, when the act of corruption was done, brief description of the charge and the recommendation given to the Vigilance Commissioner after investigation. Since all this information is basically about corruption and *post-facto* information after conviction, the proviso to Section 24 of the Act would exclude operation of G.O.Ms.No.158, dated 26-8-2008 and 8(1)(h) of the Act would not be attracted as investigation would obviously be completed if conviction has taken place.

The Commission would also hold that if indeed there are organization that dealt with corruption as well as intelligence and security activities together, the portion relating to intelligence and security activities should be severed under Section 10 of the Act and the information relating to corruption must be made available. The argument which have been advanced in the Writ petition referred to above on the respondent side about bringing the person to disrepute, while the issue is still under investigation causing unnecessary embarrassment, would also not operate in this case as once a person is convicted the judicial decision has already been made. Indeed the issue in this case revolves around the proviso to Section 24 and not on the validity of the G.O.Ms.No.158 upheld in the judgment of the Hon'ble High Court

It is also a fact to be noted that the Central Vigilance Commission has been publishing for quite some years now the list of people under investigation in its web-site. Hence in the present case, the Commission would feel that the harmony between the need to protect valid public interest to maintain confidentiality and sensitive investigations and the paramount right to transparency, would tilt in favour of transparency and require that the public authority make available the information to the petitioner **within two weeks of the receipt of this order.**

STATE INFORMATION COMMISSION

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

(S. MOHANA DHAS)
ASSISTANT REGISTRAR

Case No,39170/Enquiry/2008

The Vigilance Commissioner and
Commissioner for Administrative Reforms,
Personnel and Administrative
Reforms Department,
Secretariat, Chennai – 600 009.

Case No,39170/Enquiry/2008

The Public Information Officer,
Directorate of Vigilance and Antio-Corruption,
Chennai – 600 028.

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