



RIGHT TO INFORMATION ACT-2005

## TAMIL NADU INFORMATION COMMISSION

Kamadhenu Super Market First Floor, Old No.278, New No.373, Anna Salai,  
Teynampet, Chennai – 600018.

Case No.34266, 34268 & 28039/Enquiry/2007

Date of Hearing: 15<sup>th</sup> April 2008 at CHENNAI

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

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

**Thiru R. Rathinasamy, I.A.S., (Retd.)**  
State Information Commissioner

Petitioner **Thiru A. Sethu, 237/202-A, Periyar Paathai,**  
**Choolaimedu, Chennai – 600 094.**

Public Authority

1. The Public Information Officer, Office of the Commissioner of Police, Chennai – 600 008.
2. The Public Information Officer, Public (Special A) Department, Chennai – 600 009.
3. The Public Information Officer, Collectorate, Kancheepuram.
4. The Deputy Commissioner of Police, Adyar, Chennai – 600 020.
5. The Inspector of Police, J9 Thuraipakkam Police Station, Chennai – 600 096.

\*\*\*\*

The petitioner was present and the public authority was represented by Thiru Jagadeesan, Personal Assistant (General) to Collector, Kancheepuram and Thiru J. Bhaskaran, Head Constable of J9 Thuraipakkam Police Station.

This is a bizarre case of public authorities stone-walling and the refusal to supply information regarding alleged land-grab which is reported to have taken place in the Kancheepuram District in Thuraipakkam Police Station limits. The petitioner has repeatedly urged that information is being denied to him

motivatedly, and the refusal and the wrong information supplied to him is a deliberate effort to conceal, obfuscate and avoid giving information to facilitate the escape of those involved in a criminal case. This has been posted for enquiry twice already, and heard by two different Commissioners on 26-3-2008 and 27-2-2008, and on both the occasions, clear directions were given to supply information and the case was re-posted today (15<sup>th</sup> April 2008) as the public authority was not present during the earlier occasions. And since the case is filed again on a clear complaint of motivated violation of the Act, it is posted before the Full Commission today (15<sup>th</sup> April 2008).

At today's (15<sup>th</sup> April 2008) enquiry, of the five public authorities who were summoned to appear before the Commission, only one, (viz.) the Public Information Officer / Personal Assistant (General) to Collector, Kancheepuram had turned up. The Public Information Officer of the Commissioner of Police, Chennai, the Public Information Officer of the Public (Special A) Department, and the Deputy Commissioner of Police, Adyar, Chennai, have absented themselves without any notice and the fifth respondent, (viz.) the Inspector of Police, J9 Thuraiyakkam Police Station, had sent a Head constable stating that he has to appear before the High Court, Chennai, regarding a case in Criminal O.P.No.76442 of 2008 and as such he is unable to attend the enquiry.

(1) With regard to the queries asked of the Collector, Kancheepuram, no reply was given to the petitioner within time. The first reply which has been sent to the original query on 6-9-2007 is an interim reply stating that the information regarding the first four queries will be collected from the subordinate offices of the Collector, and the replies to other queries will have to be sought from other Public Information Officers of the other departments. This is a clear violation of the Act, which expects the Public Information Officer who received the query to himself direct the authority having the answer to supply the answer within 30 days and merely intimate the petitioner of this transfer within five days of receipt of the original petition. This has not been done. The public authority, who was present for the enquiry, states that it has taken place during his predecessor's

time and his office staff member, who was also present and who has been there earlier pleaded ignorance of the provisions of the Act. The petitioner points out that as early as in 2007, he preferred an appeal to the Collector, and the Collector has correctly followed the procedure informing him that particulars regarding some queries have been redirected to other public authorities directing them to send him the reply, marking a copy to him and informing the other public authorities to ensure that replies are sent. Hence it is clear that the Collectorate was aware of the correct procedure and the petitioner's plea that their non-supply of information in this case is a deliberate effort to delay, divert and avoid giving information and for fabrication of documents gains support. "

Even without going into the motive, the violation of the Act is clear and it has to be viewed very seriously in this case. The Public Information Officer present at the enquiry had no explanation to offer as to why the maximum penalty as prescribed under the Act which is leviable in this case should not be levied. Firstly, it is seen from the subsequent development in this case that the Collectorate's claim that they have sent a reply on 15-11-2007 is found unsupported with any evidence. But the petitioner's complaint that on 29-11-2007, he had complained in his appeal petition that he has not received the reported enclosure to the letter and the replies to his queries are not supported by the copies asked for, is found in the Collectorate file. As such the only proof of supply of information to the petitioner is what took place in front of the Commission during the enquiry on 26-3-2008. As such the Collectorate has been in arrears till 26-3-2008, and since the maximum period prescribed under the Act has been exceeded by well over 100 days, the full penalty of Rs.25,000/- becomes leviable. The Collector, Kancheepuram, is directed to obtain the explanation of the officers who held charge during the period, apportion the penalty between them, recover the same and pay it into Government treasury and report the fact to the Commission.

(2) The Collector, Kancheepuram, is also directed to frame charges against the persons concerned who have held charge during the period for the

blatant violation of the Act, for the acts of omission and commission as revealed in the explanation to be sought from them.

(3) The Collector, Kancheepuram, is also directed to ensure that clear and specific replies are supplied to the petitioner without error, his acknowledgment obtained and filed before the Commission **before the end of May 2008.**

(B) Regarding the replies sent by the Police Department, a case was made on the complaint of the petitioner that the replies are incorrect. The reply states to the query about the inaction on a particular complaint which has been made that none of the events as alleged in the complaints reported to have been made had taken place. The petitioner filed evidences before the Commission of envelopes unopened and returned to him as 'refused' from the Police Station and as such it is clear that the police have not examined the case; nor has it any authority under any law to refuse the letter sent by Registered Post. Further the petitioner has also filed before the Commission, a copy of the High Court order where the High Court has ordered the registration of the case and the First Information Report, and to complete the investigation within six months and from what has been filed before the Commission, it is clear that even the High Court Order has been totally ignored. It is also seen that a statement has been made that nothing has been recovered from his agricultural land and placed in the police station, while the petitioner has filed both the affidavit of the Executive Engineer, Public Works Department filed before the Hon'ble High Court wherein it is very clearly stated that materials recovered from the site have been deposited in the Police Station and the First Information Report was registered in the Police Station, as well as the judgment of the Hon'ble High Court wherein it is stated clearly that the High Court has taken note of the fact that the encroachments have been removed. Obviously, the replies given to this query is also totally wrong.

Looking into the circumstances of the case it is clear that the petitioner has a lot of evidences supporting his contention that deliberately wrong and misleading replies have been given to him to hide a major land-grab

operation. It is not the role of the Commission to go into the facts behind the petition and the Commission comes to the conclusion that the information has not been given and what has been given is incorrect and misleading. So the petitioner's contention in this regard is upheld by the Commission. The relevant Police Officers were given an opportunity to appear before the Commission today (15<sup>th</sup> April 2008) and file their defence, which they have forfeited. The Commission therefore comes to the conclusion that there is no case for it to believe that the maximum penalty prescribed under the Act should not be levied upon them.

The Director General of Police, Chennai, is therefore directed:

- (1) Call for the explanation of the Police Officers who failed to make their appearance today before the Commission and who failed to file any reason for the discrepancy in giving the wrong answer.
- (2) Frame such charges as may be called for against them in this regard and file before the Commission **in three months** the result of the disciplinary action taken.
- (3) Apportion **the penalty of Rs.25,000/-** which is leviable in this case from the Police Officers who were on duty at that time after calling for their explanation in this regard and remit the same into Government treasury **within one month of the receipt of this order** and report it to the Commission.
- (4) File before the Commission the acknowledgment copy of the replies correctly given to all the queries raised by the petitioner **before 30<sup>th</sup> May 2008**.

(C) The Chief Secretary to Government, Chennai, is directed to call for the explanation of the Public Information Officer, Public (Special A) Department, Chennai, for failure to appear before the Commission, frame charges against the officers concerned under Tamil Nadu Government Servants' Conduct (CCA) Rules, and file before the Commission the result of the disciplinary action taken **within three months** of the date of this order. He should also obtain and send

the explanation of the Public Information Officer for not specifically replying to the RTI petition in time and sending a vague reply and why the penalties as per the Act should not be imposed on him **within one month of the date of this order.**

(D) The Chief Secretary to Government, Chennai, is directed by the Commission to ensure that request for information sent by Registered Post to authorities is not refused to be received and to ensure that such refusal be taken as a very serious dereliction of duty under Tamil Nadu Government Servants' Conduct (DA) Rules. Instructions issued in this regard should be filed before the Commission before the end of this month.

STATE INFORMATION COMMISSION

Orders approved on 5<sup>th</sup> May 2008  
Under Orders of the Commission

  
(T.R. DANDAPANI)  
REGISTRAR

To  
The Chief Secretary to Government,  
Public (Special-A) Department,  
Secretariat,  
Chennai – 600 009.

The Collector,  
Kancheepuram District,  
Kancheepuram.

The Director General of Police,  
Mylapore,  
Chennai – 600 004.

The Public Information Officer,  
Commissioner of Police Office,  
Egmore, Chennai – 600 008.

The Public Information Officer, Public  
(Special A) Department,  
Secretariat, Chennai – 600 009.



**The Public Information Officer,  
Collectorate,  
Kancheepuram.**

**The Deputy Commissioner of Police,  
Adyar, Chennai – 600 020.**

**The Inspector of Police,  
J9 Thuraipakkam Police Station,  
Chennai – 600 096.**

✓ **Thiru A. Sethu,  
237/202-A, Periyar Paathai,  
Choolaimedu,  
Chennai – 600 094.**