

## STATE INFORMATION COMMISSIONS - FAILURES AND REMEDIES

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The operation of The Right to Information Act in the State of Kerala over the last 4 years is yet to attain the ultimate object of transforming the administration transparent. The resistance to the application seeking information is still strong and the State Information Commission have not succeeded in overcoming the various hurdles placed before the citizens by vibrant orders causing fear in the mind of the State Public Information Officers and or the Appellate Authorities regarding the consequence of withholding information under different pretexts not recognized under the Act.

The success of the State Information Commission is to be assessed not from the angle of supplying information at the fag end of the 30 days time of the disposal of the application. The success of the Commission is in ensuring information from the public authority on mere asking, that being the obligation of every public authority as declared under Section 4 of the Right to Information Act. The question of making an application for seeking information does arise when the public authority decline the disclosure. It is under such circumstance, the citizen is required to make an application in writing requesting for the information which was denied to him as a matter of course. Whether the non-disclosure was voluntary is a matter that can be judged by the scale of its resistance setting out the reasons for declining or from the circumstances of furnishing information at the fag end of the time limit. If the resistance is least, the informant would be furnished with the details sought by him within a reasonable time of his application. But such instances are very few indicating that at the administration are still reluctant to part informations to the public regarding its functions made “in public interest” and “as public servant”.

The Act have taken care of ensuring information to the citizens on mere

Commissions constituted under the Act across the country have taken any action against any department for non compliance of this mandatory provision. It is this breach of a statutory obligation cast on the public authority that has given raise to applications and or appeals before the designated Officers. Only when the State Information Commissions call upon the public authorities to discharge their obligations under Section 4, the State Information Commissions across the country will be managed to cope up with complaints and appeals, lest it will crumble down by the peril of mounting unmanageable arrears with its limited resources provided by the State stingingly.

The State Information Commissions have a duty to minimize the efforts of the citizen seeking information. It is possible for the State Public Information Officers to put the citizens unnecessarily which tendency can be curbed only by making the Public Information Officers responsible for not only awarding cost and compensation to the citizens as a matter of course wherever the State Commission find that the denial of the information is not justified under Section 8(1) and 9 of the Act, the instances of awarding cost and compensation are now rare with the result the tendency to put the citizens to undergo Appeal and Second Appeal and further complaints will only increase.

The State Information Commission and the Appellate bodies disposes of the cases with direction to comply by the application for information without ensuring its compliance. In such situations what happens is that the State Public Information Officers without complying with the order in full somehow make it appear its compliance thereby living the applicant in lurch again giving scope for another round of same procedure for obtaining information withheld. The Appellate Authorities and the State Information Commissions therefore have to bear in mind the compliance of its orders and the matter should be finally closed only after ensuring that the information has been duly provided to the citizen. In such event the State Public Information Officer under the fear of disciplinary action and other penalty will be force to comply by its directions within the specified time which in turn will bring down the number

provisions of Civil Procedure Code for enforcing his attendance by way of issuing warrant. This would give a signal for all the State Public Information Officers to take the notice of State Information Commission seriously. This procedure however is not being resorted to. Many State Commissions including Kerala.

It is submitted that the State Information Commissions quite often is seen disposing of cases without notice to the applicant. The applicant is not even served with copy of the orders at least some cases. May be by inadvertent omissions. Therefore the commissions have to ensure that the applicants are not only served with the copy of its orders but also its compliance before the file relating to the complaint or appeal is consigned to records finally.

It is often seen that the orders of the State Information Commission being challenged under Article 226 of the Constitution of India before the Hon'ble High Court. High Court on entertaining this petitions even grant stay. The Commission is seen not showing any keenness to bring up these writ petitions for vacating the stay orders, with the result the relief granted to the applicant by the commission remains in suspended animation indefinitely defeating the very purpose of the object of the Act. Therefore it is highly necessary that the Commission bring up such matters for early hearing before the High Court and ensure its speedy disposal, assuming the role of a watch dog of the Act.

The number of cases brought up before the State Commission is showing consistent increase on the one hand whereas its disposal rate is consistently going down. This trend if allowed to persist, that will lead to frustrating the object of the Act. In this circumstance, the State Information Commissions have to ensure not only the compliance of Section 4 of the Act but also attempt to revamp and rejuvenate the State Public Information Officers and its appellate authorities in effectively disposing the applications, rather than living them unaccountable for unnecessarily compelling the applicants to approach the State Information Commission for relief which

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