

## **Decisions Pertaining to Roles of Appropriate Government / Competent Authorities or their Rules**

### **Kerala State Information Commission**

Ref: AP. No. 781(4)/2008/SIC (File No.7690/SIC-Gen1/2008): Adv. T. Asaf Ali Vs. Revenue department: Order dated 19th March 2009

A show cause notice was issued to the State Public Information Officer (SPIO) and Joint Secretary, Revenue (N) Department, Secretariat, Trivandrum for non-compliance of the orders of the SIC. The appellant had preferred a request for a copy of the report of the Committee on the HMT land transaction. While disposing off the appeal on December 22, 2008, the Commission had ordered to provide the information within 30 days.

The PIO failed to comply with the orders of the Commission and sought extension of time for two months to carry out the orders, since 'the matter was placed before the Cabinet' vide letter dated 4.2.2009, the Commission had intimated the PIO that there was no provision under the RTI Act for extension of time and again directed the SPIO to provide the information forthwith and the Commission favored with the explanation for not complying with its orders. In spite of this, the SPIO had again sought for enlargement of time explaining the difficulties faced by her in complying with the orders of the Commission, for want of a decision from the Cabinet, since the matter was placed before the Cabinet, and the file was pending with the Hon. Chief Minister. Information was provided only on 13.3.2009 entailing a delay of 50 days.

*The SIC observed thus: 'The RTI Act is a law that confirms a fundamental right on citizens providing access to information from Governmental, Quasi-Governmental and other similar organisations, wherein taxpayers' money was utilized. It is an Act compiling in itself procedural law as well as substantive law. The statute does not provide for enlargement of time for execution of the orders of the Commission. So also, the RTI Act does not provide for obtaining/providing clarification or clearance by any authority including the Ministry or the Council of Ministers. Council of Ministers has no jurisdiction to sit on deciding an issue relating to providing information under the RTI Act the way, the Commission does not comment upon or be judgmental on an administrative decision taken by any public authority'.*

**Ref: AP.No.604(4)/2008/SIC & AP.No.35(4)/2009/SIC (File No.5504/SIC-Gen3/2008 & 3586/SIC-Gen1/2008) : Shri. Mohandas. K vs. Kerala State Electricity Board: Order dated February 12, 2009**

Part of the requested information was denied to the appellant on the grounds that KSEB has issued a circular against providing the requested information (prohibiting dissemination of information with regard to power theft and sources of the same). The Commission noted that *even if there was a circular prohibiting dissemination of information, the provisions of the RTI Act supersedes statues, rules and circulars, which are repugnant to it, and, therefore, the information will have to be provided.*