

DESPATCHED
On... 30/10/2020



STATE INFORMATION COMMISSION, KERALA
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Proceedings of the Appeal Petition No.1273(1)/2020/SIC
(File No.9234/SIC-Gen4/2020)

PRESENT

Vinson M. Paul, Chief Information Commissioner

Dr. Immanuel Thomas,
Trinity,
Thrippadapuram North, Kulathur P.O.,
Thiruvananthapuram – 695 583.

Appellant

1) The State Public Information Officer,
Kerala University,
Thiruvananthapuram – 695 034.

Respondents

2) The Appellate Authority,
Kerala University,
Thiruvananthapuram – 695 034.

Date of application u/s 6(1)	30/06/2020
Date of reply furnished	27/08/2020
Date of 1 st appeal	10/08/2020
Date of decision on the 1 st appeal	08/09/2020
Date of filing 2 nd appeal	18/09/2020
Date of receipt of 2 nd appeal in the Commission	18/09/2020
Date of report called for by the Commission	28/09/2020
Date of receipt of report in the Commission	13/10/2020
Date of Hearing conducted	13/10/2020 – (Audio Hearing)
Presence in the Hearing : Appellant	: Present
SPIO	: Present

ORDER

Appeal Petitioner Dr. Immanuel Thomas, represented before the Commission that no reply was furnished on his application even after a lapse of 40 days. Hence an appeal was filed before the 2nd Respondent. In the meantime, a reply was furnished by the 1st Respondent after more than 70

days from the date of application. The 1st Respondent sent 77 pages of random office file notes along with a forwarding letter which just stated that the copy of documents containing information requested by the Appellant were attached. A detailed perusal of those 77 pages sent to him revealed that it did not contain any information sought by him. The documents sent to him were totally unrelated to the requirement made by him. He further stated that instead of furnishing specific information, copies of certain documents unrelated to what was required by him were furnished. The Appellate Authority just forwarded a copy of the reply sent by the 1st Respondent in response to his appeal. He also stated that the information furnished by the 1st Respondent amounts to ridiculing and humiliating him.

2. In his application submitted before the 1st Respondent, the Appellant sought the following information:

- i. What allegations were levelled against the Dr. Immanuel Thomas which led to the decision by the University Syndicate to restrict his entry in the University Campus at Kariavattom.
- ii. Who raised those allegations
- iii. Copy of those complaints
- iv. What documentary data were obtained by the University to support such complaints
- v. Copy of all such documents
- vi. Whether Prof. Immanuel Thomas was issued with the copy of memo charges containing allegations against him and explanation sought from him and so on numbering to 11 items.

The Appellant also made a specific request in his application that the information sought by him should be furnished in respect of each item mentioned in his application.

3. The Appellant filed his first appeal before the 2nd Respondent stating that though his application was delivered to the 1st Respondent by speed post on 2/7/2020, no reply has been furnished on his request even after a lapse of 40 days. He also stated that the restrictions due to Covid lockdown cannot be used as an excuse for the delay as the University had served two communications on him during June, July 2020. The above appeal was disposed of by the 2nd Respondent stating that reply was furnished to the Appellant on 27/8/2020 by the 1st Respondent. It was also stated that the delay in furnishing timely information was on account of lockdown in the light of Covid -19.

4. In the reply furnished to the Appellant by the 1st Respondent vide letter No. 0121/RTI-2/2020-21 dated 27/8/2020, it was stated that documents containing the information sought by the Appellant were enclosed.

5. In the report furnished before the Commission by the 1st Respondent, it was stated that reply to the application submitted by the Appellant could not be furnished within 30 days of its receipt due to complete lockdown during the period. The office of the Deputy Registrar Administration-I gave reply stating that the information sought in items 1 to 8 were not available in that office. With regard to items 9, 10. & 11, it was intimated that copy of the relevant file could be furnished. The above reply was sent back to the Deputy Registrar Administration-1 with a direction to furnish reply by re-examining the reply provided. Copies of the documents furnished by the Deputy Registrar Administration-1 were furnished to the Appellant free of cost. The appeal filed by the Appellant was disposed of by the 2nd Respondent by informing the Appellant that the information sought by him were already furnished by the 1st Respondent. The Appellant filed

another appeal alleging that the information furnished by the 1st Respondent was totally unrelated to what was sought by him. The Appellate Authority, on the basis of the above appeal, directed to furnish detailed information. Accordingly the Deputy Registrar Administration-I/ADA-2 wing provided reply on 8/10/2020 and the same was sent to the Appellant. It was also stated that the file concerned could be scrutinized by the Appellant if he so desired.

6. On scrutinising the appeal petition and connected documents, the Commission finds that the 1st Respondent had furnished a summarised reply to the Appellant stating that copies of the documents containing the information sought by the Appellant were enclosed. However, in the above reply, it was never specified as to which pages of the documents contained the information sought by the Appellant in each of the items. Similarly information on each of the items was never furnished by the 1st Respondent though the Appellant had specifically requested for the same. Scrutiny of the documents sent to the Appellant also discloses that most of the documents sent to the Appellant had nothing to do with what was actually sought by him. From the above, it can reasonably be concluded that the 1st Respondent furnished copies of some irrelevant documents just to fulfil the formality of furnishing some sort a reply. It is also seen that the 1st Respondent claims that information as was supplied by the Deputy Registrar Administration-1 was furnished to the Appellant. The SPIO is not an authority to function as a sheer post office. He has to ensure that the reply furnished contains all information as sought by the information seeker unless they are covered under section 8 or 9 of the Act. Even in such cases, convincing reply has to be provided as to why all or certain information has been denied. In short, the 1st Respondent acted totally against the letter and spirit of the RTI Act. The above lapse is quite serious in nature, warranting penal action under section 20(1) of the RTI

Act. Hence the Commission directs the 1st Respondent to furnish his explanation with regard to the above omissions and commissions within 15 days of receipt of this order. If no satisfactory explanation as required by the Commission is furnished within the above time limit, the Commission will issue final orders on the presumption that the above Respondent has no explanation whatsoever to furnish before the Commission. If the above Respondent wants to represent anything in person before the Commission, the same should be made clear in the above explanation.

7. The Commission also finds that the first Appellate Authority, on receipt of the appeal after furnishing of the documents by the 1st Respondent on 27/8/2020, should have conducted a detailed hearing in the matter to ascertain the objections of the Appellant and circumstances under which such documents were furnished to the Appellant by the 1st Respondent. In case no hearing could be conducted due to the restrictions imposed in the light of Covid-19, detailed notes should have been obtained from the Appellant as well as the 1st Respondent and a speaking order should have been furnished by the 2nd Respondent. Here again the 2nd Respondent is seen to have disposed of the appeal in a routine and casual manner. The Commission wonders if ever the Appellate Authority has gone through the RTI Act. At this moment the Commission advises the 2nd Respondent to study the RTI Act in the detail so that such lapses do not recur.

8. The Commission finds that the SPIO and the first Appellate Authority have not acted in accordance with the provisions of the RTI Act. It is seen that even employees under the above authorities act in an indifferent and casual manner defeating the purpose and objectives of the RTI Act. Hence the Commission under section 19(8)(v) of the RTI Act, directs the Vice-Chancellor of Kerala University to take immediate steps to organise suitable training

programme for the University staff, particularly the SPIO and the first Appellate Authority. The Director, IMG can be requested for organising a capsule training programme for the staff as the IMG imparts such training on the RTI Act. The Commission directs the Secretary to the Commission to forward a copy of this order to the Vice-Chancellor for taking appropriate steps as indicated above.

9. The Appellant brought to the notice of the Commission that somebody from the University tried to deliver some material to him relating to RTI on 12/10/2020. He did not accept the same as the messenger insisted on his signature in acknowledgement of receipt of the above. As such, he is not sure as to what has been furnished to him by the Respondent institution. In this regard, the Commission directs the 2nd Respondent to entertain appeal, if any, to be preferred by the Appellant on the contents of the reply sent to the Appellant on 12/10/2020. The 2nd Respondent should also ensure that correct information as sought by the Appellant is furnished to him depending on its availability in the Respondent office. If any of the information sought by the Appellant is not available in any of the files/registers/computer system of the Respondent institution, the fact thereof should be intimated to the Appellant clearly.

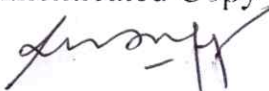
9. The Commission provisionally disposes of this appeal petition as stated above on the 13th day of October, 2020.

Sd/-

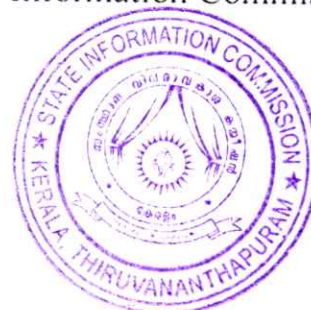
Vinson M. Paul

Chief Information Commissioner

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Commission Secretary



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