

STATE INFORMATION COMMISSION, KERALA

PUNNEN ROAD, THIRUVANANTHAPURAM 695 039

(Constituted under Section 15 of the Right to Information Act, 2005)

Tel: 0471 2335199, Fax: 0471 2330920

Email: sic@infokerala.org.in

Proceedings of the State Information Commission, Kerala in appeal
petition No. AP.26/2006/S IC.

No.1340/SIC-Gen/2006.

Dated 31 .7.2006.

Present

Sri. Palat Mohandas, Chief Information Commissioner

Sri. V.V.Giry, Information Commissioner

Sri.P. Faziluddin, Information Commissioner

Sri.P.N. Vijayakumar, Information Commissioner

Sri. D.B. Binu,

Advocate,

Chamber of Lawyers,

2nd floor, Providence Road,

Kochi-18.

Appellant

The Inspector General of Registration,

Thiruvananthapuram.

Respondent

Order

The appellant Sri. D.B. Binu had, on 13.2.2006 made a request for information before the Public Information Officer, Sub Registry Office, Thrippunithura, under section 6 of the Right to Information Act, 2005. The Sub Registrar, Thrippunithura vide letter dated 15.2.2006 informed the appellant that the information requested, related to Sub Registrar Office, Maradu and hence instructed him to contact the Sub Registrar Office, Maradu. Accordingly, the appellant filed an application for information under section 6 of the Right to Information Act before the Public Information Officer, Sub Registrar Office, Maradu, Ernakulam District on 1.3.2006. The documents

Information Act within the prescribed time limit if essential information about the documents were furnished by the requestor along with the application. He also submitted that encumbrance certificate is not a document already held in the Sub Registrar Office, but a document prepared against request made for the same.

The Commission had a meticulous examination of all facts relevant to the appeal petition. After careful examination of the appeal petition, the request for information made to the Public Information Officer, the decision of the Public Information Officer, the first appeal filed under section 19(1) of the Act, the orders rejecting the first appeal, the report of the IG of Registration and all other relevant materials arrive at the following conclusions.

1. Documents/deeds registered in the offices of Registration Department are documents coming under the definition of 'information' under section 2(f) of the Right to Information Act and hence citizens have right to get copies of these documents.
2. An encumbrance certificate is not a document which is already in possession of the Registration Department. It is a document prepared against a request after examining/verifying many other documents.

In the light of the above observations the Commission make the following decisions.

1. The Public Information Officer, Sub Registrar Office, Maradu shall provide copies of the documents as requested for by the appellant. The Public Information Officer can, if found necessary require the appellant to provide information essential to search/trace the documents. The Commission find that the information required to be provided by the applicant in Form No.19 (Order No.515(a)) issued under Registration Act, 1908 are information normally required for easy search/trace of the documents. The appellant shall not be required to submit an application under the Registration Act, 1908. However, the required information, as indicated in Form 19, and found to be required to help trace/search for the document by the Commission, shall be reflected in the application form submitted under section 6(i) of the Act.
2. The Sub Registrar, Maradu is entitled to demand fee under Section 18(1) of the Registration Act, treating it as fees

requested for were (1) Copies of certain documents/deeds (2) An encumbrance certificate .

The appellant received a reply dated 3.3.2006 informing that the appellant should apply in the prescribed form to obtain copies of the documents and encumbrance certificate. The appellant filed an appeal under section 19(1) of the Right to Information Act before the Sub Registrar, Maradu against the decision of the Public Information Officer, on 24.4.2006. The Sub Registrar, Maradu vide communication dated 28.4.2006 rejected the appeal on the ground that the request for copies of documents and issue of encumbrance certificate were not submitted in the forms prescribed under the Registration Act. The appellant was required to submit application for encumbrance certificate in form No.20 of Order No.515 (a) of Registration Manual Orders and for certified copies of documents in form No.19 of the same orders and to remit the fee prescribed in Section 78 (1) (b) and (c) of the Registration Act, 1908.

Aggrieved by the decision of the first appellate authority the appellant filed this second appeal before the State Information Commission on 11th may, 2006.

On receipt of the second appeal, the Commission issued a copy of the appeal petition to the IG of Registration for his remarks. The IG of Registration vide letter dated 2.6.2006 informed the Commission that for obtaining copies of documents and encumbrance certificate, the appellant should apply in the manner prescribed under the Registration Act, 1908 and the orders made there under. The documents requested by the appellant were not issued as the appellant did not apply in the prescribed manner and also not remitted the prescribed fee.

The Commission considered the decision of the Sub Registrar, Maradu and the report of the IG of Registration in its sitting on 13.7.2006. The Commission decided to hear in person the appellant and the IG of Registration on 26.7.2006. Accordingly, the appellant and the IG of Registration were called to appear before the Commission on 26.7.2006. The appellant informed the Commission by a fax message, his inability to present before the Commission and explained in length his right to get information under the Right to Information Act, 2005. The IG of Registration appeared before the Commission and explained the provisions of the Registration Act, 1908 and also the difficulty in searching and tracing documents without essential information about the documents. The IG of Registration also stated that copies of documents/deeds can be issued under the Right to

Information Act within the prescribed time limit if essential information about the documents were furnished by the requestor along with the application. He also submitted that encumbrance certificate is not a document already held in the Sub Registrar Office, but a document prepared against request made for the same.

The Commission had a meticulous examination of all facts relevant to the appeal petition. After careful examination of the appeal petition, the request for information made to the Public Information Officer, the decision of the Public Information Officer, the first appeal filed under section 19(1) of the Act, the orders rejecting the first appeal, the report of the IG of Registration and all other relevant materials arrive at the following conclusions.

1. Documents/deeds registered in the offices of Registration Department are documents coming under the definition of 'information' under section 2(f) of the Right to Information Act and hence citizens have right to get copies of these documents.
2. An encumbrance certificate is not a document which is already in possession of the Registration Department. It is a document prepared against a request after examining/verifying many other documents.

In the light of the above observations the Commission make the following decisions.

1. The Public Information Officer, Sub Registrar Office, Maradu shall provide copies of the documents as requested for by the appellant. The Public Information Officer can, if found necessary require the appellant to provide information essential to search/trace the documents. The Commission find that the information required to be provided by the applicant in Form No.19 (Order No.515(a)) issued under Registration Act, 1908 are information normally required for easy search/trace of the documents. The appellant shall not be required to submit an application under the Registration Act, 1908. However, the required information, as indicated in Form 19, and found to be required to help trace/search for the document by the Commission, shall be reflected in the application form submitted under section 6(i) of the Act.
2. The Sub Registrar, Maradu is entitled to demand fee under Section 18(1) of the Registration Act, treating it as fees

representing cost of providing information under Section 7 (3)(a) of the Right to Information Act, 2005.

3. The encumbrance certificate is not an 'information' already in possession of or held by the Registration Department. Hence the appellant has no right to obtain the encumbrance certificate is an 'information' under the Right to Information Act, 2005. The appellant may apply in the manner prescribed under the Registration Manual of Orders.
4. The IG of Registration shall issue directions to all subordinate offices that copies of documents/deeds registered in the offices of the Registration Department come within the definition of 'information' under the Right to Information Act, 2005 and, citizens have right to get copies of the same under the Right to Information Act, if applied for under the Act. The IG of Registration shall issue instructions on the essential information that have been furnished while making a request for copies of documents/deeds, under the Right to Information Act. The action taken by the IG of Registration shall be intimated to the Commission.

The appeal petition is disposed of as above.

Dated this the 31st day of July, 2006

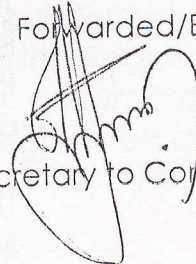
Sd/-
Sri. V.V.Giry
Information
Commissioner
To

Sd/-
Sri.P. Faziluddin
Information
Commissioner

Sd/-
Sri.P.N.Vijayakumar
Information
Commissioner

Sd/-
Sri. Palat Mohandas
Chief Information
Commissioner

1. Sri.D.B. Binu,
Advocate, Chamber of Lawyers,
2nd Floor, Providence Road, Kochi-18.
2. The IG of Registration, Thiruvananthapuram.
3. The Sub registrar,
Office of the Sub Registrar, Maradu, Ernakulam.

Forwarded/By Order

Secretary to Commission.