

Hema Committee Report വിവരാവകാശ നിയമ പ്രകാരം വെളിപ്പെടുത്തുന്നത് സംബന്ധിച്ച വിവരാവകാശ കമ്മീഷന്റെ ഉത്തരവ്



STATE INFORMATION COMMISSION, KERALA

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**Proceedings on Appeal Petitions Nos. 425(3)/24/SIC, 236(1)/20/SIC
1191(3)/24/SIC, 1211(5)/24/SIC, 1198(1)/24/SIC**

**File Nos. 841/SIC-G1/2024, 2447/SIC-G4/2020, 4760/SIC-G1/2024, 5693/SIC-G7/2024,
5609/SIC-G4/2024**

Orders are available on sic.kerala.gov.in

Present

Dr. A. Abdul Hakkim, State Information Commissioner

Order dated: 05.07.2024

1. Shri. Lesly John,
T.C 15/1647, Minchin Road,
Thycaud, Thiruvananthapuram.
(AP. No. 425(3)/24/SIC)
2. Shri. Aniru Ashokan,
Correspondent, Madyamam Daily News,
Gandhari Amman Covil Road,
Thiruvananthapuram – 695 014.
(AP. No. 236(1)/20/SIC)
3. Shri. Manoj Vijayaraj,
Karithandickal House,
Iraviperoor P.O, Thiruvalla.
(AP. No. 1198(1)/24/SIC)
4. Shri. R . Ajith Kumar,
T.C 6/1766 (2),
Santharaghavam, PTPm Nagar,
Thiruvananthapuram – 695 038.
(AP. No. 1191(3)/24/SIC)
5. Ullas. A.S,
Reporter, Manorama Online
(AP. No. 1211(5)/24/SIC)
Old File No. 7704/G7/2019

Appellants

- | | | |
|---|---|--------------------|
| 6. The State Public Information Officer,
Cultural Affairs (B) Section,
Govt. Secretariate, Thiruvananthapuram | } | Respondents |
| 7. The Appellate Authority,
Cultural Affairs (B) Section,
Govt. Secretariate, Thiruvananthapuram | | |
| 8. Secretary to Government,
Cultural Affairs Department,
Govt. Secretariate, Thiruvananthapuram | | |

Date of application u/s 6(1)	13.02.2024
Date of reply furnished	01.03.2024
Date of 1 st appeal	05.03.2024
Date of decision on the 1 st appeal	18.03.2024
Date of filing 2 nd appeals	20.03.2024, 14.02.2020, 15.05.2024, 14.06.2024, 26.06.2024

ORDER

1. The appellant, Leslie John, filed a second appeal before the Commission, alleging that no satisfactory information was received from the respondents regarding the application and subsequent appeal submitted to the SPIO of the Cultural (B) Department at the Government Secretariat.
2. The Commission considered other appeals related to this issue and combined them with appeals AP.No. 236(1)/20/SIC, AP.No. 1191(3)/24/SIC, AP.No. 1211(5)/24/SIC, and AP.No. 1198(1)/24/SIC, resulting in a joint decision. Thus this Commission heard all the appellants and the respondents.

3. The appellant requested the SPIO for the Justice Hema Committee Report, which studied the working conditions and issues faced by women in the film industry.
4. The Commission accepted the second appeal filed by the appellant on 20.04.2023 and demanded a report from the respondents on 27.03.2024. Upon review, the Commission observed that the SPIO's responses aimed to establish that they were not obligated to release the requested documents under Sections 2(f) and (g) of the Right to Information Act. The SPIO stated that the requested documents do not fall under the definition of information and that they are not required to compile or collate the information. Additionally, the SPIO cited the Commission's own order dated 22.10.2022, AP 236(1)/2020/SIC, to justify the denial of information.
5. In this appeal, the appellant submitted the application relying on Section 10(1) of the Right to Information Act. The Commission demanded a report on 27.03.2024, which was received on 03.04.2024. Subsequently, a hearing was organized at the Commission headquarters on 02.05.2024. A prior notice was issued to the respondents to submit the said Hema Committee Report in a sealed envelope before the Commission. However, although both the parties attended the hearing on 02.05.2024, the requested report was not provided. Instead, a status report detailing the reasons for denying the requested information was submitted. The respondents explained that the

report was intended for submission to the Chalachitra Academy for developing a comprehensive film policy for the state, and the Secretary had referred it to the Minister. Without considering these reasons, the Commission rescheduled the case for further hearing on 09.05.2024, directing that the Hema Committee Report be submitted for the Commission's review, to which the respondents agreed.

6. However, by 09.05.2024, the requested report had still not been submitted. Additionally, the respondents decided to seek legal advice on whether the report should be presented before the Commission or not; also they indicated that a policy decision from the Cabinet was necessary according to the current government procedure. Therefore, the First Appellate Authority requested additional time to complete these procedures and submit the report.
7. The Commission rejected all arguments and proceedings, stating that no further explanation was needed and that the Hema Committee Report must be submitted in a sealed envelope as soon as possible. An additional 10 days was granted to the First Appellate Authority, and notice was issued to the respondents under Sections 18(3) and (4) of the Indian RTI Act. Subsequently, the Joint Secretary of the Government Secretariat (B Department), Mr. G. R. Rajesh, submitted the report portion of Justice K. Hema Committee Report, consisting of 295 pages (excluding

appendices/exhibits), with the original signature of the chairperson Justice K Hema and members -actress T. Sharada and retired IAS officer Valsalakumari. The Cultural (B) Department informed the Commission that the supporting documents and the pendrive having the data used to prepare the report are securely stored in their office.

- a. The "Women in Cinema Collective" (WCC) submitted a petition to the Honorable Chief Minister of Kerala, highlighting the issues faced by women in the film industry and requesting solutions. Based on this, the state government formed a committee on 01.07.2017 via Order No. 16/2017/S.C.B., tasked with studying the working conditions of women in the film industry and suggesting solutions.
9. This initiative is the first official government effort in India to study this sector. The inclusion of three women, led by a senior High Court judge, indicates the government's commitment to address these issues. The Kerala State Chalachitra Academy was responsible for providing necessary facilities for the committee. The government's Terms of Reference for this are outlined as follows.
 - a. Issues faced by woman in cinema (like Security etc) and solutions to the problems
 - b. Service conditions and remuneration for women in cinema

- c. Measures to enhance participation of women in all fields connected to cinema
 - d. How to bring more women into the technical side of cinema, by giving concessions including scholarships etc.
 - e. How to help women into the technical side of cinema when they have to remain out of work due to delivery, child care or other health issues.
 - f. How to ensure gender equality in the content of cinema
 - g. How to encourage cinemas in which 30% of woman are engaged in production activities.
10. The committee functioned from 16.11.2017 to 31.12.2019 and submitted a study report to the Honorable Chief Minister of Kerala on 31.12.2019. A total of ₹1,06,55,000 was utilized from the public exchequer for remuneration and related expenses.
11. It is very important to notice that any document registered in a government office is a public record, and the public authority is its custodian. Applications, petitions, study reports, committee recommendations, bills, and receipts submitted to the government are public records. This includes information as defined under the RTI Act. Section 2(f) of the RTI Act says "Information" means any material in any form, including records, documents, memos, emails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material

held in any electronic form, and information relating to any private body that can be accessed by a public authority under any other law for the time being in force.

12. Regarding the definition of "information," a Supreme Court observation in the case of SLP (C) No. 7526/2009 (Civil Appeal No. 6454/2011), which clarified that the RTI Act provides access to all information that is available and existing. The Act obliges public authorities to provide information if it exists in the form of data or analyzed data, but not if it requires creating new information or drawing inferences. The obligation is to provide existing records only, and any advice or opinion is voluntary and not mandated by the RTI Act.
13. The RTI Act Provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and right to information under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such

non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inference and/or making of his own assumptions. The reference to 'opinion' or 'advice' in the definition of information in Section 2 (f) of the Act, refers to such material available in the records of the public authority. The SPIO is not required to offer his own opinion on the materials supplied. But as per Section 2(f) opinion kept in a file will also fall in the category of information.

14. Under Section 6(1) of the Right to Information Act, any citizen can submit an application, and under Section 7(1), any Public Information Officer is required to provide the information and public records within their jurisdiction in the prescribed manner and within the specified time. According to Section 4(1) of the Right to Information Act, every public authority must ensure that all records in their possession are linked to systems throughout the country via a network to facilitate access. If a public authority denies any information, the reason for such denial must be recorded in writing. Section 8(1) clearly outlines the ten categories of information that can be denied. Even so, the Act emphasizes that matters related to corruption and associated issues should be disclosed. No information that cannot be denied to Parliament or a State Legislature shall be denied to any citizen.

15. In this case, the reason cited by the SPIO for denying the information does not fall under any clause of Section 8 or 9 of the Right to Information Act. The Act implies that even the matters covered under the ten clauses of Section 8 should be disclosed subject to certain conditions. All the clauses in Section 8 conclude with this provision. Furthermore, Sections 10(1) and 10(2)(a) and (b) of the Right to Information Act further clarify this matter.
16. It is a fact that the Cultural Department has received several applications requesting the Justice Hema Committee Report, and one such application was filed as a second appeal to this Commission on 14.02.2020. The Commission issued an order considering the circumstances at that time and also the interest of the appellant. The Commission stated that the requested report was prepared based on the relevant parts of the testimonies given by the concerned witnesses. It assessed that individuals working in the film industry or related to it could possibly deduce specific conclusions about the witnesses mentioned in the report. The Commission evaluated that such disclosure would infringe on the privacy of the involved individuals and others. Additionally, revealing this information could lead to circumstances that might threaten the identity, safety, and employment of the related individuals. Thus, it concluded that the disclosure of the report is not justifiable.

17. However, the Commission observes that the appellants are aware of the reasons put forward by the Department of Culture and the directive cited above. The appellant Shri. Leslie John has requested information as per the directions of Section 10(1) of the Right to Information Act. The appellant desires access to the permissible parts of the information submitted by the Justice Hema Committee, which is now a public document held by the State Government, excluding those that cannot be disclosed under the relevant sections of the RTI Act. It is evident that the respondents have shown a tendency and inclination to deny the information with prejudice, without a careful consideration of the appellant's request.
18. The stance taken by the respondents in this regard is clearly to perpetually obscure the facts and findings of a study report commissioned by the government with the aim of reforming and advancing a significant art sector that can rapidly influence and create movements in human social life, focusing on the health, employment, cultural, and personal security of women in that sector. This is an example of how certain officials obscure the good intentions put forward by the government. Thus, when the Commission requested the report for reading to understand the validity of the respondent's arguments, the respondent's raised objections. As per the Act no public authority should hinder the hearings or evidence gathering conducted by any RTI Commission in the country as part of their

responsibilities. Sections 18(3) and (4) of the RTI Act makes it clear the Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters namely (a), summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things; (b), requiring the discovery and inspection of documents (c), receiving evidence on affidavit, (d) requisitioning any public record or copies thereof from any court or office, (e), issuing summons for examination of witnesses or documents; (f) any other matter which may be prescribed.

19. Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the Public Authority, and no such record may be withheld from it on any ground. In other words, under no circumstances should public authorities obstruct any document requested by the Commission as part of its evidence gathering.

20. This 19(1) application is filed by relying on section 10 of the RTI Act 2005, it deals with the severability of information which is to be given and which is not to be given. Section 10 in the Act reads as follows :-

" Where a request for access to information is rejected on the ground that is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this act and which can reasonably be severed from any part that contains exempt information.

Where access is granted to a part of the record under sub – section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing – that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided. the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based.

21. One thing is clear here. An SPIO can deny information only if section 8 or 9 permits it. Information should not be provided if it has to be collected or guessed, nor should advice or opinions be given. That is, if the information is with the public authority but it is mixed with what fall under exempted

categories, then it should not simply be denied to the citizen. Instead, after categorizing information into what can be given and cannot be disclosed, all available information that can be provided should be given to the citizen.

22. In WP (C) No. 11202 of 2019 Adv. D.B Binu Vs State Public Information Officer case the Hon'ble High Court of Kerala observed: “ *From this limited perspective, I must say that I fail to understand how the Government of Kerala could order in Ext. P2 that “all documents/information related to inter State Matters and documents /information which Government feels privy and the disclosure of the same may hamper the interest of the State shall be exempted from revealing to the public even on request under RTI Act”, particularly when, under the Right to Information Act is a well defined hierarchy of officers, with the State Information Commission at its head, which is expected to be autonomous and resistant to any pressure from the executive. It is disquieting that Ext. P2 order appears to be an attempt to influence the various information Officers and Appellate Authorities under the RTI Act, by dictating that they shall not make available certain types of information, no matter what the mandate of the RTI Act. This certainly is a very dangerous proposition and it is incomprehensible how the Government could arrogate to itself the power to issue such an order, knowing fully well that this is gross affront to the provisions of law, because it must certainly be aware*

that information sought for by an applicant under the RTI Act can only be denied under the specific instances enumerated in Sections 8 and 9 of the said Act and in no other. Whatever be the reason behind issuance of this order and however justified the reason stated therein may be, the incontrovertible fact is that the Government could not have issued this order to pre-empt grant of any information, whatever be its nature, since, it is upto the individual Information Officers, Appellate Authorities and the Information Commission, to grant or deny such information, guided by the imperatives of the Act, and the apparent attempt of the Government to dictate to them, through the impugned order, can never obtain support in law".

23. It is the responsibility of the Public Information Officer (PIO) to decide whether to provide information to an applicant under the Right to Information Act. Any decision made must be justified in the files and must be explained during the commission's review. The responsibility for the decision, whatever it may be, lies entirely with the PIO. If the PIO acts outside the law and the first appellate authority supports such actions, both will be held accountable.
24. The appellants are only requesting information subject to section 10, which means they want all possible information except the parts prohibited by law. The SPIO's refusal to provide information by citing the previous

commissioner's order and stating that the report cannot be provided is irresponsible. The Right to Information Act, section 8(1)(j), states that, "Provided that the information which cannot be denied to the Parliament or a State Legislative shall not be denied to any person". The relevance of the section was not seen by the SPIO.

25. At the same time, under the Right to Information Act, not all information should always be disclosed without any restrictions. The SPIO is citing a four-year-old decision from another bench of the commission to consistently deny information. That order was completely correct and justified in that context and time. However, the decision of the Honorable Supreme Court, as mentioned below, is very relevant in this regard.
26. In a civil appeal in Supreme Court by the institute of Chartered Accounts, the Hon'ble Supreme Court made a clarifications as follows:

Information can be sought under the RTI Act at different stages or different points of time. What is exempted from disclosure at one point of time may cease to be exempted at a later point of time depending upon the nature of exemption. Therefore, section 8(1) (d) of the RTI Act does not bar or prohibit the disclosure information as at the stage that all not harm the competitive position of the third party. We, therefore reject the contention of the appellant that if an information is exempt at any given point of time, the confidence to be exempt for all time to come.

27. The Right to Information Act fully supports citizens and aims for excellent democracy through an informed public. Even the sections that deny information are designed with the intent to make the maximum information available to citizens. The law states that information should be disclosed, especially in matters involving corruption, considering larger public interest
28. The central information commission in the case CIC/MA/A/2009/000154- the Full Bench Decision dated 30.07.2009 Says: Even if certain information cannot be disclosed under the law and falls within the scope of Sections 8, any parts of the information that can be shared with other available information must be provided to the citizen. The law's intent is to ensure that citizens receive all parts of the information they are entitled to. In connection with this decision of Central Information Commission in Franklin Caesar Thomas versus Ministry of Minority Affairs- the question before the CIC was whether the report of the National Commission for Religious and Linguistic Minorities (NCRLM) can be disclosed to the information seeker.
29. The Ministry of Minority Affairs (MMA) objected to the disclosure of the NCRLM Report on the ground that access to the said report had been denied to both the houses of the Parliament in answer to the Unstarred Questions. Further, it was wrong on the part of the information seeker to

have argued that report is in public domain. According to the MMA, the report is barred from disclosure u/s 8(1)(C) of the RTI Act.

The Central Information Commission of India, however, noticed that the NCRLM Report 3 was not presented before the Parliament by the Ministry. But it is not the same thing as saying that the report has not been disclosed to a Member of the Parliament when he asked for it. The CIC also observed that the MMA has not demonstrated that they have any intention to place the NCRLM Report before the Parliament and, therefore, it cannot claim exemption u/s 8(1)(C). In view of the above, the CIC ordered disclosure of the report to the information seeker.

30. In the SLA (C) No. (s) 8248/2023 dated 10.11.2023 before Hon'ble Supreme Court (Jayachandran Kallingal versus the State of Kerala and others) on Pay Revision Commission report, the Hon'ble Supreme Court directed the Chief Secretary of Kerala to disseminate the information with attested copies. By reversing the Single bench and Division bench judgements of the Hon'ble High Court of Kerala, denying the dissemination of information, the Hon'ble supreme Court upheld the mandate of the Act and ordered to disseminate the requested information. The relevant paragraphs of the orders reads as follows:

"There after, on 30th October, 2023, we pointed out to the learned counsel appearing for the first respondent that the repoert was submitted to the State

Government on 30th April, 2021 and till 30th October, 2023 it was admittedly not placed before the Cabinet.

We, therefore, informed the learned counsel for the State that for two and a half years, the status of the document cannot remain as a 'potential Cabinet document'. Though we were inclined to pass final order granting relief to the petitioner for providing a copy of the document, we granted time to the learned counsel appearing for the State on 30th October, 2023 till today. The order records that the time was granted at his request.

Now today, the learned senior counsel appearing for the first respondent states that after 30th December, 2023, the document has been placed before the Cabinet. We are sorry to say this that the State Government has taken undue advantage of the leniency shown by this Court by granting adjournment. Such a conduct of the State cannot be tolerated. Therefore direct the Chief Secretary of the State of Kerala to personally remain present in the Court on the next date of hearing for the purposes of explaining the conduct of the State Government. He has an option to appear through video conference.

The learned senior counsel appearing for the petitioner states that even the said statement that the report has been placed before the Cabinet is not entirely correct and in fact, another Committee has been constituted for the purpose of studying the report.

At this stage, the learned senior counsel for the first respondent states that the report was placed before the Cabinet on November, 2023, on which day, the Cabinet has decided to constitute a Committee to consider the report. Thus it appears that after taking adjournment from the Court, the report was hurriedly placed before the Cabinet.

The Chief Secretary of the State Government to remain personally present before this Court on 10th November, 2023 at 10.30 am, either physically or virtually. It will be always open for the State Government to provide a copy of the report to the Petitioner without prejudice to the rights and contentions of the State”

31. Here, in this case, the Committee purposefully made its report in two volumes- The first one is the report prepared by the committee members and the other is the Appendix which contains Exhibits, notes considered as evidences and some video – audio clips and some other data kept in pen drive
32. As this Commission went through the entire pages of the report portion, it is evident that the report portion contains only the version of the committee members who had discussions with the witnesses and the complainants . It contains no evidence, proving or indicating the persons who had indulged in the incidents quoted in or any specific name or identification

marks leading to the identity or hurting the privacy of any one in the field, except some photo printed quotes and comments added in some paras.

33. The mandate of Right to Information Act is to provide as much information to the citizens as in the maximum possible way. It should be noticed that even those sections which allow immunity in certain cases also make it clear that the information should not be held back if it warranted larger public interest or it dealt with corruption.
34. Therefore, although the order of the commission dated 22.10.2022, numbered A.P 236(1)/2020/SIC, was relevant at that time, holding the requested information was premature; citing the same observation years later to deny information does not align with the best interests of the law.
35. Regarding the disclosure of information related to the resolution of issues faced by women in workplaces, Section 16 of the Ministry of Law and Justice's Gazette notification dated April 23, 2013, states the following.
“ Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complainant made under section 9 , the identity and address of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings , recommendations of the Internal Committee or the Local Committee, as the case may be and the action taken by the employer or the District officer under the provisions of

this act shall not be published, communicated or made known to the public, press and media in any manner.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses”.

36. In the Puneet Sood versus Cantonment Board, Ferozepur Cantt, Punjab CiC/Vs/A/2015/003406/SD (Date of Decision : 19.10.2016) case the Hon’ble CIC India Orders as follows:

“The Appellant sought to know whether any action was taken by the Chief Executive Officer of the Cantonment Board against Satish Kumar, SDE, and Yogesh Kumar, Clerk in a sexual harassment case and, if yes, to provide him a copy of the order passed in this regard along with the inquiry report.

When the matter reached the CIC, it took the view that even though the matter appears to fall within the ambit of Section 8(1)(j) of the RTI Act, yet the larger public interest warrants disclosure of this information as the occurrence of sexual harassment has not been disputed by the parties during the hearing. Hence the CIC directed to CPIO to provide requisite information to the Appellant”.

37. In Reshma M.G versus All India Radio, Calicut

CIC/AIRCL/A/2017/101742/SD (Date of Decision : 04.01.2018) case the abstract of the verdict of Hon'ble CIC India is as follows:

"The Appellant sought certified copies of the documents provided by Johan Kurian to the Internal Complaint Committee in connection with the sexual harassment case lodged by her against said Kurian in which the latter (Kurian) was exonerated. As she was denied the requisite information by the CPIO, she moved the CIC.

It was the contention of the Appellant that being the victim of sexual harassment, she is entitled to get copies of documents submitted by the Johan Kurian so that she may know the grounds on which he was exonerated. The CIC took note of Section 16 of the Sexual Harassment of Woman at work Place (Prevention, Prohibition and Redressal) Act 2013, which prohibits publication or disclosure of the complaint and the proceedings of the inquiry. However this Section also provides that information regarding the outcome of the inquiry may be disseminated without disclosing the name and identity of the victim. The CIC ordered disclosure of the information sought for by the Appellant".

38. 'Right to Information' is a fact of speech and expression as contained in Article 19(1) a of the Constitution of India. Right to Information, thus ,

indisputably is a fundamental right, which is listed in Part III of the Constitution.

There should not be a conflict between revelation of information and other public interests including efficient operation of the Government, Preservation of confidentiality, sensitive information etc. In my opinion there should be harmony between the two.

39. Here the respondents did not raise any major objections to provide the said information such as: informations, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence or which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court or the disclosure of which would cause a breach of privilege of Parliament or the State Legislature or which include commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, or information available to a person in his fiduciary relationship, or information received in confidence from foreign Government or information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes or information which would impede

the process of investigation or apprehension or prosecution of offenders or cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.

40. The only contention the respondents raised is that the query is related to personal information in a report disclosure of which was prevented by another order of the Commission during 2020; and the chairperson of the Committee alerted the officers concerned not to part with the report in a routine manner. As to personal information the RTI act says that "information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information".
41. No doubt here the larger public interest justifies the disclosure. Still further the proviso to Section 8(1) (j) which further elucidates the provision by stating that information that cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
42. The Commission agrees with the contentions of the respondents. As to dissemination of personal information as detailed above, to which the SPIO has no obligation to give away such information and disclosure of such

information, is exempted as per the legislation. Here I am satisfied with the opinion of the respondents. At the sametime it should be noticed that the first appellant has submitted the 6(1) application as per the provisions of section 10 of the RTI Act.

43. By reading section 10 of the RTI Act as quoted in para 17, I would like to emphasis that the flow of information is neither to be an unregulated flood, nor a cascade washing away every norms and procedures. It needs to be controlled but only as permitted under the RTI act; and no other. The Central and State public Information officers are empowered to handle flow of information within the precincts marked out by the legislature.

44. Information can be sought under the RTI Act at different stages or different points of time. What is exempted from disclosure at one point of time may cease to be exempted at a later point of time depending upon the nature of exemption.

45. The Hon'ble Supreme Court in the case of PUCI vs Government of India in para 74 (Air 2004 SC 1442) has observed : *"in order to claim immunity from disclosure of unpblished State documents, the douments must relate to affairs of state and disclosure thereof must be against interest of the State or public interests"*

46. In order to avoid the conflict between revelation of information and other interests of confidentiality, this Commission takes a balanced view considering various aspects of the case and order as follows:-

1. The appeal petitions filed before the Commission are allowed
2. For the purpose, the SPIO shall be instrumental as per Section 10(1) and Section 10(2)-(a) and (b) of the RTI Act.
3. The SPIO is directed to provide all the information and attested copies of all relevant pages from the Justice K Hema Committee Report, except which is exempt from disclosure under RTI Act.
4. To make operational the above mentioned orders, the SPIO is directed to personally scrutinise the Justice K Hema Committee Report to identify and sever information that is exempt from disclosure.
5. The SPIO should issue a notice to the appellants informing them that only parts of the requested records, after severance of exempt information, are being provided. The notice should also specify which portions are not being provided.
6. The details of fees calculated, the mode of payment, and other relevant details should be communicated by the SPIO along with the above notice to the appellants before **20th July 2024**.
7. Since most of the appellants are journalists, the SPIO should ensure that the copies of the Justice K Hema Committee Report are disseminated

simultaneously to all the appellants with due receipts positively before **25th July 2024.**

8. While providing attested copies of the Justice K Hema Committee Report, the SPIO should ensure that the materials do not lead to the identification of individuals referenced in the said report or compromise their privacy.
9. Even though the SPIO can reasonably sever and disseminate the information due to larger public interest, the following portions from the Justice K Hema Committee Report are exempt from disclosure:

Para 96 (Page 49)

Para 165 to 196 (Page 81 to 100) and the Appendix

10. After implementing the above orders, the respondents are ~~directed to file a~~ Compliance Report before this Commission by **3.00 pm on 26th July 2024.**
11. The State Public Information Officer and the First Appellate Authority are directed to remain personally present before this commission **on 27th July 2024 @11.30 am.**, if there is any lapse in compliance of the above orders.
12. The Secretary to Government (Cultural Affairs) is directed to ensure time-bound implementation of the above orders without any lapses or loopholes.
47. Grievances, if any, arising from the implementation of the above orders by any of the parties involved in this case may be brought before this Commission, which remains available to adjudicate such matters in accordance with the provisions of the RTI Act.

48. Thus, this Commission disposes of all the above Appeal Petitions viz AP.No. 425(3)/24/SIC, AP.No. 236(1)/20/SIC, AP.No. 1191(3)/24/SIC, AP.No. 1211(5)/24/SIC, AP.No. 1198(1)/24/SIC accordingly on the 5th day of July 2024.

Sd/-

Dr. A. ABDUL HAKKIM
State Information Commissioner

Authorized copy



Commission Secretary

