ಕರ್ನಾಟಕ ಸರ್ಕಾರ
ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣಾ ಇಲಾಖೆ
(ಜನಸ್ಪಂದನ ಕೋಶ)

ಸಂಖ್ಯೆಃಸಿಆಸುಇ:60:ಆರ್‌ಟಿಐ:2009

3ನೇ ಮಹಡಿ, ಪೋಡಿಯಂ ಬ್ಲಾಕ್,
ವಿಶ್ವೇಶ್ವರಯ್ಯ ಗೋಪುರ,
ಬೆಂಗಳೂರು. ದಿನಾಂಕ:07.05.2009.

ಸುತ್ತೋಲೆ

ವಿಷಯ : ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮ 2005ರಡಿ ಕಾರ್ಯನಿರ್ವಹಣಾ ವರದಿಗಳನ್ನು ಅರ್ಜಿದಾರರಿಗೆ ನೀಡುವ ಕುರಿತು,

ಉಲ್ಲೇಖ: ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಕಾರ್ಯಾಲಯದ ಪತ್ರ ಸಂಖ್ಯೆ : CS/6397/Comp/09 ದಿ: 24.04.2009ರೊಂದಿಗೆ ಸ್ವೀಕರಿಸಿರುವ ಮಾಹಿತಿ ಆಯೋಗದ ಆದೇಶ ಸಂಖ್ಯೆ : KIC:258/APL:2008, ದಿನಾಂಕ : 02.03.2009

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಆಯೋಗವು ಅರ್ಜಿದಾರರಾದ ಶ್ರೀ ಎಸ್.ಎಸ್.ರಂಗನಾಥ, ಇವರ ಅಪೀಲು ಪ್ರಕರಣದ ವಿಚಾರಣೆಯ ಆದೇಶದಲ್ಲಿ ಅರ್ಜಿದಾರರಿಗೆ ಸರ್ಕಾರಿ ನೌಕರರ ಕಾರ್ಯನಿರ್ವಾಹಣಾ ವರದಿಗಳನ್ನು ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮದಡಿ ಒದಗಿಸುವ ಬಗ್ಗೆ ನೀಡಿರುವ ಆದೇಶದ ಪ್ರತಿಯನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ (ದಿ: 02.03.2009 ರ ಆದೇಶ ಸಂಖ್ಯೆ:KIC:258/APL:2008).

ಆಯೋಗದ ನಿರ್ದೇಶನದಂತೆ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮದಡಿ ಕಾರ್ಯನಿರ್ವಾಹಣಾ ವರದಿಗಳನ್ನು ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುವ ಅರ್ಜಿದಾರರಿಗೆ ಕಾರ್ಯನಿರ್ವಾಹಣಾ ವರದಿಗಳನ್ನು ಒದಗಿಸುವಂತೆ ತಮ್ಮ ಆಡಳಿತದ ಅಧೀನಕ್ಕೊಳಪಡುವ ಎಲ್ಲಾ ಇಲಾಖಾ ಮುಖ್ಯಸ್ಥರು, ನಿಗಮ/ಮಂಡಳಿ, ಸರ್ಕಾರಿ ಸಾಮ್ಯ ಸಂಘ/ಸಂಸ್ಥೆಗಳಿಗೆ ಸೂಕ್ತ ನಿರ್ದೇಶನ ನೀಡುವಂತೆ ಸೂಚಿಸಲಾಗಿದೆ.

(ಬಿ. ಕಮಲಮ್ಮ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿಗಳು,
ಸಿಆಸುಇ (ಜನಸ್ಪಂದನ ಕೋಶ- ಮಾಹಿತಿ ಹಕ್ಕು)

ಗೆ,

1. ಸರ್ಕಾರದ ಎಲ್ಲಾ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು/ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿಗಳು
2. ಹೆಚ್ಚಿನ ಪ್ರತಿ

ಪ್ರತಿ:

1) ಸರ್ಕಾರದ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿಯವರಿಗೆ, ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು.
2) ಸರ್ಕಾರದ ಅಪರ ಕಾರ್ಯದರ್ಶಿಗಳು ಮತ್ತು ಅಭಿವೃದ್ಧಿ ಆಯುಕ್ತರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿಯವರಿಗೆ, ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು.
3) ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು, ಸಿಆಸುಇ (ಜನಸ್ಪಂದನ) ಇವರ ಆಪ್ತ ಶಾಖೆಗೆ.
4) ಕಾರ್ಯದರ್ಶಿಗಳು, ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಆಯೋಗ, ಬಹುಮಹಡಿ ಕಟ್ಟಡ, ಬೆಂಗಳೂರು ಇವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ.

KIC 258 APL 2008

KARNATAKA INFORMATION COMMISSION

(Sri S. S. Ranganath vs. Under Secretary to Government, DPAR (Services-I), KGS, Vidhana Soudha, B'lore)

ORDER

2-3-2009

1. Petitioner has filed two separate but almost identical requests for information dated 17-01-2008 addressed to UPSC and Under Secretary to Government, DPAR (Services-1), KGS; seeking copies (i) Proceedings of Selection Committee Meeting for In-service promotion to IAS-2007 (Karnataka Cadre), (ii) C.Rs., integrity certificate (including integrity certificate from date of provisional selection to confirmation), letters of appreciation and other references considered useful by the selection committee in the selection of Sri B. G. Nandakumar to IAS.

2. UPSC has provided part of the information. Further, the Respondent has provided the remaining information except the C.Rs. of concerned officer.

3. As regards CR's, Respondent has stated that the C.Rs. of KAS and IAS officers are maintained in the Chief Secretary's office. The Respondent has therefore sent a U.O. note dated 15-02-2008 to Chief Secretary's office to make the C.Rs. of the concerned officer available. Petitioner has also stated that UPSC has also sent this part of the request to the Chief Secretary but the Chief Secretary has not provided this information. Petitioner has stated that he will be satisfied, if copies of the C.Rs. of the officer are made available to him.

4. The Petitioner had also filed a first appeal before the First Appellate Authority and the First Appellate Authority had passed an order dated 24-3-08 stating that the information sought by the Petitioner have been furnished by the Respondent except that the copies of the information provided were not attested. Therefore attested copies should be provided to the Petitioner. As regards copies of the C.Rs. the request has been transferred to the PIO in the Office of the Chief Secretary.

5. Petitioner has stated that the Respondent has not even complied with the orders passed by the First Appellate Authority. Respondent however, has stated that he has complied with the orders of the First Appellate Authority on 11-11-08. Petitioner has stated that Respondent has not produced any proof for having sent this information to the Petitioner vide DPAR 53 SAS 2008 dated 11-11-08. Respondent has stated that he had sent it by RPAD and he would produce the acknowledgement after obtaining it from R&I section.

6. Petitioner had stated that the First Appellate Authority had directed that this information should be provided within one week and therefore, there has been inordinate delay, even if it is considered that the information was provided on 11-11-08.

7. Respondent, Sri Anantha has stated that copy of this order of the First Appellate Authority was not delivered to him. He came to know of this order of the First Appellate Authority only after the Commission sent him a copy and thereafter he has arranged to send the required information to the Commission as well as to the Petitioner. However, by mistake, R&I section did not send this letter to the Petitioner and instead sent it to the Commission. The explanation given from R&I department has also been enclosed by him along with his explanation.

8. Petitioner has stated that he has an acknowledgement for his application dated 18-1-09 and another copy of his application was also forwarded to Sri Anantha through UPSC. He has stated that since the orders of First Appellate Authority were not implemented, he has filed this second appeal before the Commission and he has also filed his written arguments, which are on record.

9. As regards merits, Commission has heard the parties including Sri Krishnamurthy, Additional Secretary, DPAR. Sri Krishnamurthy has stated that information sought is personal information. He has also filed an O. M. dated 31-9-07 issued by Ministry of Personnel, Public Grievances and Pensions stating that the public authority has the discretion to disclose the A. C. R. of an employee to the employee himself or to any other person, if the public authority is satisfied that public interest in disclosure outweighs the harm to the protected interests. A copy of the O. M. has been provided to the Petitioner.

10. Respondent has also filed a copy of amendment to All India Service (Performance Appraisal Report) Rules 2007 according to which the appraisal report shall be made available to the Officer reported upon. Respondent has argued that the report may be made available only to concerned officers and not to anybody else. Petitioner has however argued that under section 20(2) of the Act, the Act overrides all the other enactments, circulars, etc.

11. There are only two issues to be decided by the Commission in these proceedings:

(i) Should the C. Rs. Of the Officer made available to the Petitioner?

(ii) Should any penalty be imposed on the Respondent Sri Anantha for the delay in providing the information?

12. Commission has carefully considered all the arguments advanced by the parties. In CIVIL APPEAL NO. 7631 OF 2002 (Dev Dutt vs. Union of India & Ors.) the Supreme Court has ruled as follows:

> *"In the present case, we are developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the Annual Confidential Report of a public servant, whether in civil, judicial, police or any other State service (except the military), must be communicated to him within a reasonable period so that he can make a representation for its upgradation. This in our opinion is the correct legal position even though there may be no Rule / G.O. requiring communication of the entry, or even if there is a Rule / G.O. prohibiting it, because the principle of non-arbitrariness in State action as envisaged by Article 14 of the Constitution in our opinion requires such communication. Article 14 will override all rules or government orders."*

13. The Commission is therefore unable to accept the contention that C.Rs. constitute personal information. Personal information by definition is information 'disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual.' Performance record of a public servant is a public record and its disclosure would also be in public interest. Further, in matters of promotion and selection, disclosure of performance records of all the candidates is essential to ensure fairness and impartiality. **Commission therefore replies the first issue in affirmative and directs Sri S. R. Raikar, PIO and PS to the Chief Secretary that certified copies of C.Rs. of Sri B. G. Nandakumar, which were considered by the Selection Committee Meeting for his In-service promotion to IAS-2007 (Karnataka Cadre), shall be made available to the Petitioner within 30 days of this order, free of cost, though RPAD, under intimation to the Commission.**

14. As regards imposition of penalty on Sri Anantha for the delay in providing the information, Commission noted that he has provided the information available with him to the Petitioner on 27-02-2008. The delay is therefore only marginal.

15. As regards C.Rs., Respondent has transferred the request to the PIO and PS to the Chief Secretary. It is true that there was delay in implementing the orders of the First Appellate Authority. It is also true that there have been lapses on part of the DPAR in not communicating orders of First Appellate Authority to the Respondent and again in not dispatching the certified copies to the Petitioner. However, Respondent cannot be held solely responsible for these lapses and Commission does not consider this to be a fit case for levy of penalty.

16. Commission however expresses its anguish at the inefficiency in working of some officers of this department and directs the Respondent to be cautious in dealing with the requests for information under RTI Act.

17. The appeal is disposed off as having been allowed in terms of the above directions.

18. Pronounced and signed in the open court, this 2nd day of March 2009.

(K. K. MISRA)
STATE CHIEF INFORMATION COMMISSIONER

KIC 258 APL 2008 RPAD / Acknowledgement

KIC 258 APL 2008

Sri S. R. Raikar, PIO and PS to the Chief Secretary,
Vidhana Soudha, Bangalore-560 001.

Sri S. S. Ranganath,
House No. 522, II A Main,
B.V.S. Layout, Bilekally,
Bannerghatta Road, Bangalore – 560 076.

KIC 258 APL 2008

Sri K. G. Anantha, Under Secretary,
DPAR (Services-1), Vidhana Soudha.
Bangalore-560 001