

Public Information Officers who adopt tactics to mechanically reject RTI requests must be shown the door: Madras HC

"... in my view, they are unfit to hold the post of Public Information Officer or any post in connection with the discharge of duties under RTI Act and they should be shown the doors", the Court opined.

The Madras High Court on Monday deprecated the tendency to reject RTI requests mechanically, opining that Public Information Officers who resort to doing so *"must be shown the door"* for failing to act in terms of the RTI Act's mandate.

In this regard, Justice **S Vaidyanathan** remarked,

*"Now-a-days, the Officials are used to adopt a tactic answer in mechanical manner that the information sought for is exempted in the light of Section 8(1)(d) of the Act, without actually ascertaining as to whether the information sought falls within the ambit of the said provision. **Such Officers must be taught a lesson and in my view, they are unfit to hold the post of Public Information Officer or any other post in connection with the discharge of duties under RTI Act and they should be shown the doors, so that it will be a lesson for other Officers to act in accordance with the terms of the Act, failing which they may also face the similar or more consequences.**"*

The Court also took the opportunity to emphasize on the significance of the Right to Information (RTI) Act, 2005.

"... the provision of Section 6 confers right to information to any person for the obvious reason that right to information flows from the right to expression... Even the Supreme Court clearly held that the office of Chief Justice will come under the purview of Right to Information (RTI), by observing that transparency does not undermine judicial freedom. "

Madras High Court

Referring to the Supreme Court's observations in the case of *State of Uttar Pradesh v. Raj Narain and Others*, Justice Vaidyanathan further observed that,

"... People of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its hearing."

Notably, the Court has now also directed the Tamil Nadu Government to issue a circular to its Departments warning of *legal consequences* that would follow if information is not divulged in line with the RTI Act.

"The Government is directed to circular this order to all its Departments, Public Sector Undertakings, Corporation, etc., so that the Authorities, more particularly under RTI Act, will come to know of the legal consequences of non-furnishing of the details, which the affected parties / General Public seek for."

Madras High Court

The Court made these observations in a case that involved an RTI enquiry made in 2008. By this RTI enquiry, a person had sought information concerning vacancies in the Tamil Nadu public services and the number of seats allocated to backward communities and most backward communities between 2006 and 2008.

The Public Information Officer refused to divulge the information, claiming that the information is exempted under **Section 8 (1)(d)** of the RTI Act. However, on appeal, the *second appellate authority*, i.e. the Tamil Nadu Information Commission (TNIC) ordered that the information sought be provided free of cost.

The High Court endorsed the TNIC's finding, stating,

"This may be one of the rarest of rare cases where the Second Appellate Authority has boldly taken a decision, which does not warrant any interference by this Court, as there is no error apparent on the face of record."

In doing so, the Court rejected contentions by the Tamil Nadu Public Service Commission (TNPSC) that the information sought for, if divulged, would infringe the privacy of individuals and create communal discontent and strife.

Contrary to the TNPC's stance, the High Court opined that the **disclosure of the caste-wise breakup would benefit the candidates as it would help them ascertain whether they actually fall under the reservation quota or not**. In any case, it was pointed out,

"When the general list itself has already been published for public view, as stated in the petition, there is nothing wrong in disclosing the details to the respondent."

The Court added that the TNPSC's apprehension that an in-depth description of castes would create communal unrest is *only an illusion*. Justice Vaidyanathan further remarked,

"... if it is the real concern of TNPSC and the Government, they should think of abolishing the quota system as well as removal of column regarding caste particulars in the school certificate itself, so that the people of Tamil Nadu could stand united under one roof irrespective of caste, creed, religion, etc. at least in the year 2050 and our State will be a model State for the whole of the country ."

The Court ultimately upheld the TNIC's findings and ordered the provision of the information sought for within a month's time, after also noting that first authority had erroneously relied on Section 8(1)(d) of the RTI act to reject the RTI request. The Court said,

"... the purpose of enactment of RTI Act itself is to ensure transparency in all respects. Moreover, a reading of the said section shows that it relates to commercial confidence, trade secrets, etc., and it does not strictly prohibit the authority concerned from providing such details, as divulging of caste details will surely be beneficial to candidates to doubly ascertain either about their induction or rejection and as such."

Before parting with the matter, the Judge also directed the TNPSC to appraise the Court of the names and position of the officials who had rejected the RTI request and who had, thereby, *"failed to discharge their official duties as adumbrated under the RTI Act, 2005."*