

25-Feb-2020

To:

The Principal Secretary & Commissioner
Hindu Religious & Charitable Endowments Dept.
Nungambakkam High Road
Chennai 600 034

From:

T R Ramesh
[REDACTED]
[REDACTED]
[REDACTED]

Dear Sir,

Sub: Non-compliance of the directions issued by the State Chief Information Commissioner vide his order dated 20.10.2016 in **Case Nos.SA-5339, 5340, 5639,5640,5641 and 5673 /SCIC/ 2016** (Copy enclosed) by the Commissioner - Hindu Religious and Charitable Endowments Department and by the Public Authorities functioning in the said Department under the said Commissioner – notice issued

Ref: My communication dated **14.06.2017** to the Principal Secretary - Tourism, Culture Religious Endowments Department - Government of Tamil Nadu and to the Commissioner – Hindu Religious and Charitable Endowments Department

I, T. R. Ramesh, S/o Dr. T.N. Ramachandran, Hindu and residing at [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Chennai. I am also the President of Indic Collective Trust.

B. I issue the following notice to you:

C. You are the Principal Secretary and the Commissioner of Hindu Religious and Charitable Endowments Department (hereinafter referred to as the HR & CE Department for brevity), which is a limb of the Government of Tamil Nadu.

D. The Right to Information (RTI) Act, 2005 came fully into force on 12th October 2005. A substantial period of 120 days was provided in the RTI Act to Public Authorities of various Public entities to comply with the mandatory duties under Section 4(1)(b) of the said Act. It is mandatory for such Public Authorities to **publish within one hundred and twenty days from the enactment of RTI Act,—**

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such and thereafter other information as may be prescribed; update these publications every year;

E. It is also part of the mandatory duties of the public authorities under Section 4(1) to

c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

F. The HR & CE Department functioning under the Government and for which the you are the Corporate Sole has from the promulgation of the Right to Information Act, 2005 given scan respect for the rights guaranteed to citizens

under the said Act. The HR & CE Department and the Public Authorities functioning therein have not fulfilled their mandatory duties under Section 4 of the RTI Act, 2005 even after more than 13 years of promulgation of the said Act.

G. Today the Public Authorities in the HR&CE Department and in the temples and Devasthanams functioning under the control of the HR & CE Department have devised crafty and devious methods to deny information to citizens applying for information under the RTI Act, 2005. In the first place, the RTI applications are not answered as expeditiously as possible as required under Section 7(1) of the RTI Act, 2005. Even in the case of refusal or denial of information (which form the bulk of the RTI replies by PIOs of the HR & CE Department and the temples and Devasthanams) the reply date is stretched to the end of the 30-day maximum period permitted under the RTI Act,2005.

H. Even after 14 years of promulgation of the RTI Act, 2005 the Public Information Officers in HR & CE Department seek reasons from RTI applicants as to why they are seeking the information. It is a shameful sight to see that persons who seek such reasons are law graduates and their promotion from the post of Deputy Commissioner to Joint Commissioner have been made without merits. Further, their aim, it is uniformly seen to be, only to somehow deny information to the RTI applicants under one pretext or other. The following chart would illustrate the levels the Public Authorities working under you stoop to in denying information to valid applications and queries of RTI applicants:

S. No.	Public Authority	RTI Date and Information sought	RTI Reply and reason for denial
01.	<i>Deputy Commissioner/ Executive Officer – Sri Subramaniaswamy Temple, Tirupparankundram</i>	14.10. 2019 – Copies of Audit Report – Immovable Property Management Data – Details of funds transfer under Section 36, Inspection report, etc.	11.11.2019 - Voluminous – No Public purpose served through this application - If information is given it will lead to crimes – Incomplete replies, etc.

02.	<i>Executive Officer – Sri Marundheeswarar Temple, Tiruvanmiyur, Chennai -41</i>	01.08.2019 – Details of Property alienation – Copies of approvals and plans of Wedding Halls - Audit Report	30.09.2019 - False and incomplete information – Denial of audit report on wrong grounds
03.	Public Information Officer – Sri Subramaniaswamy Temple, Tiruchendur	07.05.2019 – Audit Report	28.06.2019 – Delayed response – Denial of audit report on false grounds
04.	Public Information Officer– Sri Devarajaswamy Temple - Kanchipuram	11.06.2019 – Audit Report	15.07.2019 – Delayed response – Denial of audit report on false grounds
05.	Public Information Officer/Manager – Office of the Joint Commissioner - Thanjavur	11.06.2019 - Para-wise replies for objections made in Fasali 1422-1423 of Sri Vedaranyeswarar Temple, Vedaranyam.	10.07.2019 – Denial of information under unsustainable ground
06.	Assistant Commissioner / Executive Officer of Sri Courtallanatha Swamy Temple, Courtallam.	20-02-2019 – Audit Report, Details of (i) Audit fees, (ii) Common Good Fund (iii) Funds Transfer and copies of approvals & Proceedings of the above	20.03.2019 - Denial of details, copies of approvals and proceedings
07.	Public Information Officer, Office of the Commissioner, HR & CE Department	15.03.2019 – Copies of orders of appointment of Executive Officers issued by the Commissioner – HR & CE	27.03.2019 – RTI application diverted with ulterior motives to individual temples – regional Joint Commissioner’s office – even though the orders were passed by the Commissioner

I. I had sent a complaint to you on 06.04.2019 regarding abject denial of information to my RTI Application by the Executive Officer of Sri Courtallanatha Swamy Temple, Courtallam (referred in item no. 06 of Paragraph H above). You, however, unabashedly chose to retain a stoic silence in the matter and never replied to me. It is seen from your deliberate silence and inaction in the matter that you and your subordinates are diabolically scheming together to somehow deny information to RTI applicants.

J. To sum up, HR & CE Department is one of the worst adherers of the provisions of the Right to Information Act, 2005. The Public Authorities therein have consistently followed a dubious and unlawful system of refusing RTI queries, delaying or giving half-baked and misleading information, delaying information even after receiving payment demanded for information to be provided, not properly enquiring the 1st Appeals and complaints made under the RTI Act and so on.

K. On 20th October, 2016 in a hearing on a 2nd Appeal filed by me, the Chief State Information Commissioner issued the following (inter-alia) orders with the direction they should be communicated to all Public Information Officers by the Commissioner, HR&CE, Chennai:-

(a) *In all replies the name and designation should be mentioned without fail*

(b) *The designation of Appellate Authority and his address should be given in the reply, so that the petitioner can file an appeal, if he so desires*

(c) *Whenever additional charges are payable for supply of document the following details should be given:*

(i) Total Number of pages

(ii) Cost per page as per Tamil Nadu RTI Fee Rule

(iii) Total charges to be paid

(iv) Mode of payment.

L. The Chief State Information Commissioner, in the order cited above, had also observed and directed as follows:

“...It seems there is a lot of misunderstanding among the PIO’s regarding the RTI Act. The Commissioner, HR&CE is requested to organize training programmes to the Public Information Officers and to the Appellate Authorities to avoid incorrect and inappropriate replies...”

The order dated 20.10.2016 is enclosed herewith. I also wish to point out that the then Joint Commissioner- Headquarters, Joint Commissioner- Chennai Region attended the hearing.

M. I particularly wish to bring to your attention that the Commissioner had in its order dated 20.10.2016 directed that the following types of information have to be given to the RTI Applicants:

Para Nos. of the Order dated 20.10.2016	Information Sought	Commission’s Decision
<i>Paras 7 and 8</i>	Copies of the completed annual Audit Reports	<i>Copy of the last completed Audit Report should be provided</i>
<i>Paras 9 and 10</i>	<i>details of the total area of lands, sites and buildings belonging to the above temples and to its connected endowments - full details of the type of lands / sites / buildings, extent, location of the properties, annual demand of rent, annual collection of rents, arrears in rent collection (all the above for the past for five fasali years)</i>	<i>Annual Demand of rent, Collection and arrears of rent is said to be available in the Miscellaneous Demand Register with respective temples. Therefore, copies of the relevant pages may be furnished to the petitioner.</i>
<i>Paras 11 and 12</i>	<i>extent of lands/sites and buildings which are under hostile occupation or encroachments or subject matter of litigation, period of such hostile occupation / encroachment or</i>	<i>a monthly report is submitted by the Executive Officer to the Joint Commissioner in Form-2, which is among the Forms submitted by the Executive</i>

	litigation or the extent of such properties which are not let out any time during the past five years.	Officers for the monthly review meeting held by the concerned Joint Commissioner in some cases. The last such statement submitted to the Joint Commissioner, or Regional Commissioner or Commissioner, HR&CE as the case may be furnished to the Petitioner. (Form-2
Para 18	The petitioner says that he would narrow down the request to two years from 2014 and 2015 in respect of Sri Nageswaran Temple and Sri Kumbeswarar Swamy Temple, Kumbakonam, and also said that he will be satisfied if a copy of work order in respect of work done for Rs. five lakhs or more and information whether consultation was done with Archaeology Department regarding these constructions/civil works.	The Public Authority is directed to supply this information to the petitioner as now refined by the petitioner.
Paras 21 and 22	Kindly provide the extent and survey numbers and location of the landed properties (with address and pin code numbers) that belong to the above temples or to the endowments connected to the above temples which are in the form of lands, sites and buildings.	The Public Authority says that this information is available in the Temple Property Register. Copies of the relevant pages should be given to the petitioner.
Paras 23 and 24	Arrears of rent for that are more than 6 months, encroachments, proceedings under Section 79-C to recover the arrears, etc.	The Public Authority is directed to furnish the details of arrears of rent as available in the Demand Collection Register.
Paras 25 and 26	If there are irregular payments of rents from lease holders or occupiers who were regularized or deemed to be lease holders, provide the names, addresses, period and amounts outstanding of those persons whose rental payments as on 31.12.2015 are	The Public Authority says this information can be given. Accordingly the respective officials are directed to furnish the information.

	<p>pending for more than 18 months or whose rental payment dues are more than 18 times the last fixed monthly fair rent for each of these properties.</p>	
<p>Paras 29, 30 and 31</p>	<p>provide the demand and collection details for the immovable properties of the above temples for each of the fasali years 1416 to 1424.</p> <p>provide the amounts paid as Administrative fees and audit fees for the fasali years 1416 to 1424 for the above temples</p>	<p>It is informed by the Public Authority that Income and expenditure accounts of the last five years is available and the Public Authority is directed to supply this information to the petitioner.</p>
<p>Paras 32 and 33</p>	<p>provide the income and expenditure accounts of the above temples for the fasali years 1420, 1421, 1422, 1423 & 1424.</p>	<p>It is informed by the Public Authority that Income and expenditure accounts of the last five years is available and the Public Authority is directed to supply this information to the petitioner.</p>
<p>Para 36 and 37</p>	<p>Provide the names as per demand register, name of the current occupant, extent of land in acres or sq. feet, description whether, wet lands, dry lands, maanavari lands or sites – commercial, or sites – residential or buildings – commercial or residential, the fair rent payable, current total arrears etc for those lease holders, rent-holders, occupants of the temple and connected endowment properties whose current arrears of rent or lease amount is more than Rs.5.00 Lakhs as on 31.03.2016</p>	<p>Regarding arrears of rent more than Rs. 5.00 lakhs as on 31.03.2016, the public authority is directed to furnish the information which is available as compiled list.</p>
<p>Paras 38 and 39</p>	<p>Kindly provide a copy of the order appointing an Executive Officer for the above temples by an appropriate authority for the very first time under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 or under any of the provisions of the earlier Acts.</p>	<p>The petitioner asked for a copy of the order of appointing the Executive Officer for the very first time. The Public Authority promises that where ever such order is available a copy will be given to the petitioner, and if it is not available a reply will be given accordingly.</p>

N. It is highly regrettable that even after 3 years of specific directions of the State Information Commission issued in an inquiry, where two of your Joint Commissioners were present, the public authorities under you continue to flout the law declared in the Right to Information Act, 2005 and the directions of the State Information Commission that are binding on you and your department.

O. It is therefore requested that you, the Principal Secretary and Commissioner of the Hindu Religious and Charitable Endowments Department suitably instruct your subordinates in the HR & CE Department to immediately implement:

(a) the publication of the mandatory and Suo Motu information required to be published under Section 4 of the RTI ACT, 2005 without any further delay in the website of the HR & CE Department and in the websites of the temples that are under the administrative control of your department.

(b) Conduct appropriate training programmes for the Public Authorities including Appellate Authorities as suggested by the Chief State Information Commissioner in his order dated 20.10.2016 **Case Nos.SA-5339, 5340, 5639,5640,5641 and 5673 /SCIC/ 2016** cited above and confirm such initiation of training programs prominently in the website of the HR & CE Department

(c) Take disciplinary action and penal at the earliest on chronic and deliberate violators of the Public Authorities including Appellate Authorities in your Department who violate RTI Act provisions and disobey the directions of the State Information Commission issued in its order dated 20.10.2016 in **Case Nos.SA-5339, 5340, 5639,5640,5641 and 5673 /SCIC/ 2016** cited above.

If you, as the Principal Secretary and Commissioner of the HR & CE Department fail to implement such publication of mandatory information (as per Section 4 of the Right to Information Act, 2005) in its website and in the

websites of the Hindu temples under its administrative control and/or fail to conduct training programmes for the public authorities including appellate authorities in the said department and/or moot disciplinary and penal action against public authorities including appellate authorities in your department for violating the provisions of the Right to Information Act, 2005 and/or the directions given by the State Information Commission by its order dated 20.10.2016 and cited above, within 4 weeks' time, I would be constrained to file a Public Interest Litigation or an appropriate Writ Petition in an a Court of Law seeking appropriate relief at your cost.

Thanking You
Sincerely

(T R Ramesh)

- Encl:** (1) As mentioned in Subject above **i.e.** order dated 20.10.2016 of the Chief State Information Commissioner
- (2) RTI applications and replies thereto mentioned in Para H above
- (3) Complaint to Commissioner mentioned in Para I above

Copy to: The State Chief Information Commissioner -
Tamil Nadu State Information Commission
Teynampet
Chennai - 600 018