

Proceedings of the special meeting of Karnataka Information Commission held on 06-09-2008 to consider the letter dated 02/09/2008 from Sri Tapan Senapathi, Principal Secretary (Janaspandana) regarding objections received by Government against introduction of rule 14 in the Karnataka Right to Information Rules, 2005.

Members Present:

- 1) Sri K. K. Misra, SCIC, KIC
- 2) Sri K. A. Thippeswamy, SIC, KIC
- 3) Dr. H. N. Krishna, SIC, KIC

Present by invitation:

Sri B. A. Nagesh, Secretary, KIC

1. This special meeting of the Commission was called to consider the letter dated 02/08/2008 from Sri Tapan Senapathi, Principal Secretary to Government (Janaspandana) seeking comments of the Commission on objections received by the Government from citizens and NGOs against introduction of rule 14 in Karnataka Right to Information Rules, 2005.

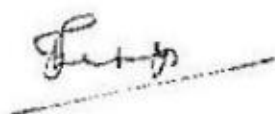
2. Commission carefully considered the objections received. Commission summarized the objections as follows:

- a) The rule places unlawful, unnecessary and undesirable restrictions on a fundamental right.
- b) Applicants have to file separate applications for each subject matter.
- c) They will have to file multiple applications on the same subject matter, if it exceeds 150 words.
- d) PIOs may misuse the rule and claim that the application pertains to more than one subject matter.
- e) The rule increases the grounds for refusal. A practical and intelligent interpretation of section 7(9) would have been adequate. If the information sought was voluminous, applicant could have been advised to prioritize the information needs. The rule making power under section 27 cannot be used for issuing such a rule. State Governments can only make rules to facilitate the Act not to restrict it.
- f) The rule violates sections 4(1)(c) and (d) of the Act.

3. Commission observed that the all rights, including fundamental rights under the Constitution, have to be exercised judiciously and are subject to reasonable restrictions. Commission has come across number of cases where requests consist of more than 5 to 6 pages with 20 or more questions dealing with diverse subjects. Thereafter, complaints are made to the Commission that the information provided is incomplete.

4. PIO's and Public Authorities have been repeatedly represented that no separate staff has been sanctioned for dealing with requests for information and the right has to be exercised judiciously. Limiting the requests to one subject and 150 words would lead to the applicants seeking more focused and specific information. It will also help the PIOs in dealing with the requests. The limit of







150 words is quite liberal and should not come in the way of the Petitioner seeking information on one subject.

5. Commission noted that even the Hon'ble Members of Parliament and State Legislatures have accepted similar restrictions on their right to ask questions. Commission also noted that in terms of proviso to section 8(1)(j) of the RTI Act, information which cannot be denied to Parliament or State Legislature shall not be denied to any person. Keeping the above criteria in view, the Commission had recommended the new rule to ensure reasonable and judicious exercise of the right to information.

6. When a Member of Parliament / State Legislature is required to ask separate questions for information on more than one subject and has to limit the length of his questions to 150 words each, extension of same restrictions to citizens cannot be termed as unlawful, unnecessary and undesirable.

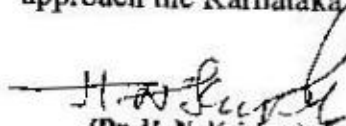
7. As regards misuse of the provisions, Commission is of the view that these are tried and tested provisions, which have facilitated the working of the Parliament / State Legislatures and there should be no apprehensions on this count. Further, decisions of the PIOs / First Appellate Authorities can be challenged before the Commission and the Commission would take a serious view if the provisions are misused. Introduction of new rule has in no way impaired the right of an individual to seek information.

8. Theoretically it was possible for an applicant to seek information from any number of public authorities, regarding any number of subjects containing any number of questions in a single request for information. It would then be the responsibility of the PIO to sort and transfer the requests to the concerned Public Authorities. Such situations can now be avoided under the new rule.


9. It is true that Section 7(9) of the Act could be used by PIOs, where information sought disproportionately diverted the resources of the public authority. But Section 7(9) is general in nature. Rule 14 can be seen as having been issued to carryout provisions of section 7(9). The rule therefore does not increase the grounds for refusal

10. Commission is at a loss to understand how the rule is violative of sections 4(1)(c) and (d) of the Act. The Commission feels that introduction of the new rule would facilitate exercise of the right to information instead of obstructing it and therefore strongly recommends that the amendment already made be retained.

11. If, some citizens still disagree with the above views, they can always approach the Karnataka High Court by way of a Writ Petition.


(Dr. H. N. Krishna)
State Information Commissioner


(K. A. Pilleppeswamy)
State Information Commissioner


(K. K. Misra)
State Chief Information Commissioner