Abstract

The Right to Information Act, 2005 (Central Act 22 of 2005) – The Tamil Nadu Information Commission (Appeal Procedure) Rules, 2012 – Issued.

PERSONNEL AND ADMINISTRATIVE REFORMS(A.R.III) DEPARTMENT

G.O.(Ms) No : 137

Dated : 03.09.2012
Avani. 18
Thiruvalluvar Aandu 2043

ORDER:

The following Notification will be published in the Tamil Nadu Government Gazette:

NOTIFICATION

In exercise of the powers conferred by sub-section (1) and clause (e) of sub – section (2) of section 27 of the Right to Information Act, 2005 (Central Act 22 of 2005), the Governor of Tamil Nadu hereby makes the following Rules, namely:-

RULES

1. Short title and commencement - (1) These rules may be called the Tamil Nadu Information Commission (Appeal Procedure) Rules, 2012.

(2) They shall come into force on the 3rd September 2012.

2. Definitions - In these Rules, unless the context otherwise requires ,

(a) "Act" means the Right to Information Act, 2005(Central Act 22 of 2005);
(b) "Section" means section of the Act;
(c) "Commission" means the Tamil Nadu Information Commission;
(d) words and expressions used in these Rules and not defined in the Act, shall have the meanings assigned to them in the Act.

3. Contents of appeal - (1) An appeal to the Commission shall contain the following particulars, namely:-

(i) name and address of the appellant;
(ii) name and address of the Public Information Officer against the decision of whom the appeal is preferred;
(iii) name and address of the Appellate Authority against the decision of whom the appeal is preferred;

(iv) information sought in the petition under the Act;
(v) particulars of the order including number, if any, against which the appeal is preferred;
(vi) brief facts leading to the appeal;
(vii) prayer and grounds for such prayer;
(viii) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Public Information Officer / Appellate Authority to whom the application was made;
(ix) verification by the appellant; and
(x) any other information which the commission may deem necessary for deciding the appeal.

(2) The appeals shall be addressed only to the Tamil Nadu Information Commission and shall not be addressed to the names of the Chief Information Commissioner or the Information Commissioners.

4. Documents to accompany appeal.- Every appeal made to the Commission shall be accompanied by the following documents, namely:-

(i) self – attested copies of the orders or documents against which the appeal is being preferred;
(ii) copies of documents relied upon by the appellant and referred to in the appeal;
(iii) copy of petition given to the Public Information Officer;
(iv) copy of appeal given to the Appellate Authority;
(v) copy of reply or information furnished by the Public Information Officer;
(vi) copy of reply or information furnished by the Appellate Authority;
(vii) in case of alleged incomplete or incorrect information, the details thereof;
(viii) an index of the documents referred to in the appeal;

5. Procedure in deciding appeal.- (1) In deciding the appeal, the Commission may.-

(i) hear oral or written evidence on affidavit from concerned or interested person;
(ii) peruse or inspect documents, public records or copies thereof ;
(iii) inquire through authorized officer further details or facts;
(iv) hear Public Information Officer, Assistant Public Information Officer or such senior officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
(v) hear third party;
(vi) receive evidence on affidavits from Public Information

Officer, Assistant Public Information Officer, such senior officer who decided the first appeal, such person against whom the complaint lies or the third party;

(vii) issue orders or directions based on available documents or evidences without personal enquiry, if the Commission is satisfied about the adequacy of such material;

(viii) initiate an inquiry if it is satisfied that there are reasonable grounds to inquire into the matter and issue orders;

(ix) conduct inquiry in the Head Quarters of the Commission or in the offices established at other places in the State with the previous approval of the State Government ;

(x) conduct inquiry through video conference also.

(2) In case the Commission decides to impose penalty, reasonable opportunity shall be given to Public Information Officer and Other Officers, including the time sought by them to defend their case in another date.

6. Service of notice by Commission.- Notice to be issued by the Commission may be served in any of the following modes, namely:-

(i) service by the party itself;
(ii) by hand delivery through Process Server;
(iii) by registered post with acknowledgement due; or
(iv) through Head of Office or Department.

7. Personal presence of the appellant or complainant .- (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date.

(2) The appellant or the complainant, as the case may be, shall be present in person at the time of hearing of the appeal or complaint by the Commission.

(3) Where the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, then, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit :

Provided the appellant or the complainant, as the case may be, should inform the commission the reasons for not attending the hearing in writing or through any other mode of communication in advance before the hearing is taken up.

(4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his points and the person representing him may not be a legal practitioner.

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8. Personal presence of the Public Information Officer.- (1) The Public Information Officer or Assistant Public Information Officer or such senior officer who decided the first appeal, such person against whom the complaint lies, shall in every case, be informed of the date of hearing at least seven days before that date.

(2) The Public Information Officer or Assistant Public Information Officer or such senior officer, who is summoned by the Commission, shall invariably be present in person. The Commission may at its discretion permit an authorized representative, but such a representative shall be an officer of sufficient seniority.

(3) Where the Commission is satisfied that there are compelling circumstances such as, attending flood relief works, epidemic control measures and containing of law and order problem for the Public Information Officer or Assistant Public Information Officer or such senior officer or the other officials summoned for not attending the hearing of the Commission, the Commission may give another opportunity of being heard. The reason shall invariably be intimated to the Commission in advance, by the officials. Routine excuses shall not be entertained by the Commission.

9. Order of the Commission.- Order of the Commission shall be in writing, duly authenticated by the Registrar or any other officer authorized by the Commission, for this purpose.

10. Limitation Period: The Commission shall not admit any complaint on the non-compliance of the order of the Commission by the Public Authority, unless it is filed by the appellant within a period of one year from the date of such order issued by the Commission.

(BY ORDER OF THE GOVERNOR)

M. KUTRALINGAM
PRINCIPAL SECRETARY TO GOVERNMENT.

To
All Secretaries to Government,
All Heads of Department / All Public Sector Undertakings / Corporations.
All Collectors.
The Tamil Nadu Information Commission, Chennai-18.
The Secretary to Government of India, Ministry of Personnel,
Public Grievances and Pensions, New Delhi – 110 001.
The Secretary to Government of India, Ministry of Home Affairs, New Delhi.
The Works Manager, Government Central Press, Chennai – 79.
(for publication of the Notification in the Tamil Nadu Government Gazette Extraordinary)

/Forwarded / By Order/

Section Officer