



GOVERNMENT OF KERALA

General Administration (Co-ordination) Department

No. 37767/Cdn5/10/GAD.

Dated, Thiruvananthapuram, 1st June, 2010.

From

The Secretary to Government

To

The Secretary to Governor, Raj Bhavan, Thiruvananthapuram.
The Secretary, Kerala Legislature Secretariat, Thiruvananthapuram.
The Secretary, Kerala Public Service Commission, Thiruvananthapuram.
The Registrar, High Court of Kerala, Ernakulam.
The Advocate General, Ernakulam.
The Secretary, State Information Commission, Kerala, Punnen Road, Thiruvananthapuram.
The Registrar, Kerala/Cochin/Calicut/Mahatma Gandhi/Kannur University.
The Registrar, Kerala Agriculture University, Mannuthi, Thrissur.
The Registrar, Sree Sankaracharya Sanskrit University, Kalady, Aluva.
The Secretary, KSEB, Thiruvananthapuram.
The Managing Director, KSRTC, Thiruvananthapuram.
All Heads of Departments/District Collectors.
Chief Executives of all Public Sector Undertakings.
Heads of all Autonomous Bodies.

Sir,

Sub:—GAD—Disclosure of third party information Under RTI Act, 2005—Instruction and clarification—Regarding.

Ref:— Office Memorandum No. 8/2/2010-IR dated 27-4-2010 from Govt. of India.

I am to forward herewith a copy of the Office Memorandum cited for information and to bring the same to the notice of all concerned.

Yours Faithfully,

G. P. Ramachandran,
Additional Secretary
For Secretary to Government.

Copy to:

All Officers and all sections of all Departments in Government Secretariat including Law and Finance.
Additional Secretary to Chief Secretary.
PAs to all Additional Chief Secretaries/Principal Secretaries/Secretaries.
CA to Additional Secretary-I

[P. T. O.]

No. 8/2/2010-IR
Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

North Block, New Delhi-110001
Dated the 27th April, 2010.

OFFICE MEMORANDUM

Subject:—Disclosure of third party information Under the RTI Act, 2005

The undersigned is directed to say that the Government, in a number of cases makes inter departmental consultations. In the process, a public authority may send some confidential papers to another public authority. A question has arisen whether the recipient public authority can disclose such confidential papers under the RTI Act, 2005. If yes, what procedure is required to be followed for doing so.

2. Section 11 of the Act provides the procedure of disclosure of 'third party' information. According to it, if a Public Information Officer (PIO) intends to disclose an information supplied by a third party which the third party has treated as confidential, the PIO, before taking a decision to disclose the information shall invite the third party to make submission in the matter. The third party has a right to make an appeal to the Departmental Appellate Authority against the decision of the PIO and if not satisfied with the decision of the Departmental Appellate Authority, a second appeal to the concerned Information Commission. The PIO cannot disclose such information unless the procedure prescribed in section 11 is completed.

3. As defined in clause (n) of Section 2 of the Act, 'third party' includes a public authority. Reading of the definition of the term, 'third party' and Section 11 together makes it clear that if a public authority 'X' receives some information from another public authority 'Y' which that public authority has treated as confidential, then 'X' cannot disclose the information without consulting 'Y' the third party in respect of the information and without following the procedure prescribed in Section 11 of the Act. It is a statutory requirement, non-compliance of which may make the PIO liable to action.

4. The Public Information Officers and the First Appellate Authorities should keep these provisions of the Act in view while taking decision, about disclosure of third party information in general and disclosure of the third party information, when third party is a public authority, in particular.

5. Hindi version will follow.

(Sd.)

K. G. VERMA,
Director.
Tel: 23092158

Copy to :

1. All the Ministries/Departments of the Government of India.
2. Union Public Service Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Vice-President's Secretariat/Prime Minister's Office/Planning Commission/Election Commission.
3. Central Information Commission/State Information Commissions.
4. Staff Selection Commission, CGO Complex, New Delhi.
5. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All Officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensions Welfare.

Copy to : Chief Secretaries of all the States/UTs.