



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2026

WEB COPY

CORAM :

THE HONOURABLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P. No.9671 of 2026

Er.L.Jagannathh,
No.1263, Mariyamman Koil Street,
Thendral Nagar, Vengikkal,
Thiruvannamalai - 606 604.

.. Petitioner(s)

Vs

1.The Principal Secretary,
Human Resources Management Department,
Secretariat, Fort George,
Chennai - 600 009.

2.The Registrar
Tamilnadu Information Commission,
Block No.19, Government Farm Village,
Panepet, Nandanam, Chennai - 600 035.

.. Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration to declare Rule 5(1)(vii) and Rule 10 of the Tamil Nadu Information Commission (Appeal Procedure) Rules, 2012, framed under the Right to Information Act, 2005, as unconstitutional, being violative of Articles 14, 19 and 21 of the Constitution of India and as ultra vires Section 19 of the Right to Information Act, 2005.

For Petitioner(s): Er.L.Jagannathh
Party-in-Person



For Respondent(s): Mr.E.Vijay Anand
Additional Government Pleader
For R1
Mr.C.Vigneswaran
Standing Counsel
For R2

ORDER

(Order of the Court was made by G.ARUL MURUGAN, J.)

Heard.

2. The writ petition is filed seeking for a declaration to declare Rule 5(1)(vii) and Rule 10 of the Tamil Nadu Information Commission (Appeal Procedure) Rules, 2012, [hereinafter referred to as "the Rules"] as ultra vires and violative of Articles 14, 19 and 21 of the Constitution of India.

3. The constitutional validity of the above provisions is challenged primarily on three grounds.

(i) The impugned Rules are ultra vires the Parent Act, viz. Section 20(1) of the Right to Information Act, 2005 [hereinafter referred to as "the Act"].

(ii). The Rule allows the authorities to pass orders without affording a personal hearing, which is violative of Article 14, 19 and



21 of the Constitution of India and also in contravention to Rules 7 and 8.

WEB COPY

(iii). The limitation period of one year fixed under Rule 10 is beyond the rule making power under Section 27 of the Act and therefore, ultra vires.

4. At the outset, it is useful to refer to Sections 20 and 27 of the Act, which read as follows:-

"20. Penalties.—(1)Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:



Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

WEB COPY

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him."

"27. Power to make rules by appropriate Government.—(1)
The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;*
- (b) the fee payable under sub-section (1) of section 6;*
- (c) the fee payable under sub-sections (1) and (5) of section 7;*
- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;*
- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and*



(f) any other matter which is required to be, or may be, prescribed.”

5. Further, Rules 5 and 10 read as under;

"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, 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:



WEB COPY

(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.

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 filled by the appellant within a period of one year from the date of such order issued by the Commission.”

6. The Right to Information Act was promulgated with the object to provide for setting out the practical regime of right to information for citizens, to secure access to information under the control of public authorities, promoting transparency and accountability.

7. When the provisions of the Act elaborately deals with the manner of seeking information, procedure for processing the request and providing the information by the Public Information Officers, Section 19 deals with filing of appeal in the case of failure to furnish or defective



information furnished. For better understanding Section 19 is extracted hereunder;

WEB COPY

Sec.19: Appeal.

(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority: Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission: Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.



(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including

(i) by providing access to information, if so requested, in a particular form.

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

8. When Section 19(1) deals with the right to prefer appeal,

Section 19(3) deals with the right to file second appeal to the Central/State

Information Commission. Section 19(6) prescribes the time in which the

appeal is to be decided and Section 19(10) mandates the Commission to

decide the appeal in accordance to the procedure as may be prescribed.



9. Section 20 of the Act allows the Commission to impose a penalty if the information has not been furnished or incorrect, incomplete, or misleading information is furnished. Section 27 of the Act authorises the appropriate Government to frame rules to carry out the provisions of the Act.

10. In view of the rule making power conferred under Section 27 of the Act, the State Government has framed the Appeal Procedure Rules. Rules 3 and 4 stipulate the manner in which the appeal is to be filed and the documents to be accompanied with the appeal. Rules 5 to 8 deal with the procedure in deciding appeal, issuance of notice, personal presence of the appellant or complainant or the public information officer. Rule 10 prescribes the limitation within which the complaint of non-compliance of Commission order is to be preferred.

11. While under Section 19(3) appeal could be filed within 90 days and the Commission is also vested with power to condone any delay if sufficient cause is shown, the same has not been in any way tinkered with



by the impugned rule. Only in case of complaint regarding non-compliance of the order of Commission is made, then since no time limit is prescribed under the parent Act, Rule 10 prescribes a period of one year in which the complaint for non-compliance of the order of Commission is to be filed. Rule 10 is not in conflict with the parent Act but is in consonance and within the rule making power conferred on the State Government to implement the provisions of the Act. Therefore the challenge to Rule 10 on the ground of lack of legislative competence of the State, is misplaced.

12. As regards the challenge to Rule 5(1)(vii) is concerned, the same cannot be read in isolation and it has to be read along with Rules 7 and 8. Section 20(1) of the Act only deals with imposition of penalties where the Public Information Officer shall be given an opportunity of being heard before any penalty is imposed on him. When Section 19(10) mandates the Commission to decide the appeals in accordance with the procedure to be framed by the State, Rule 5 deals with the procedure in deciding the appeal.



13. When once an appeal is filed, as per Rule 6, notice is to be issued by the Commission and Rule 7 contemplates that 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.

14. Rules 7 and 8 deal with the personal appearance of the appellant or complainant and the Public Information Officer, which are extracted hereunder;

"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



WEB COPY

(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."*

"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 as 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."*

15. As per Rule 7, the appellant or complainant, shall in every case be informed of the hearing date at least seven days prior to the hearing, where the appellant or complainant shall be present in person at the time of hearing of the appeal by the Commission. Even if the appellant or



complainant is absent, the Commission may afford another opportunity of being heard before a final decision is taken.

WEB COPY

16. Further under Rule 8, the Public Information Officer who decided the first appeal, against whom the complaint lies, shall also be informed of the date of hearing at least seven days prior to the hearing and the Information Officer, shall invariably be present in person. A detailed procedure has been set out for the personal appearance and opportunity to be afforded under Rules 7 and 8.

17. When the procedure to be adopted by the Commission in deciding the appeal is set out under Rule 5, Sub Rule (1)(vii) of Rule 5 only deals with certain exceptional circumstances, where in the facts of the case from the available materials, certain directions/orders are required to be issued.

18. Rule 5(1)(vii) is to be read along with Rules 7 and 8. Any decision is to be taken by the Commission in the appeal only on the



appearance of the appellant/complainant and the Public Information Officer.

Only in cases where no adverse orders are passed against opposite party or

in cases where the party concerned fails to appear inspite of proving

opportunities, orders can be issued by the Commission based on available

materials. The petitioner has not cited any instance where adverse orders

have been passed without affording opportunity. When no adverse orders

could be passed against any party in their absence or enquiry, the challenge

to Rule 5(1)(vii) on the ground of violation of fundamental rights and that it

is ultra vires the provisions of the Act is completely misplaced. The Rules

framed are intra vires the Parent Act.

19. In view of the above, the challenge to the impugned provisions fails and accordingly, the writ petition stands dismissed. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, CJ)

(G.ARUL MURUGAN, J)

13.03.2026

Index : Yes/No
Neutral Citation : Yes/No
sri



To:

1. The Principal Secretary,
Human Resources Management Department,
Secretariat, Fort George,
Chennai - 600 009.
2. The Registrar
Tamilnadu Information Commission,
Block No.19, Government Farm Village,
Panepet, Nandanam, Chennai - 600 035.



WEB COPY



THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

sri

W.P. No.9671 of 2026

13.03.2026