

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN**

**MONDAY, THE 27<sup>TH</sup> DAY OF JUNE 2022 / 6TH ASHADHA, 1944**

**WP(C) NO. 18529 OF 2022**

**PETITIONER:**

JAYACHANDRAN, AGED 53 YEARS, S/O. BALAKRISHNAN NAIR,  
KNRA 65B, LANE 14, KADAPPATHALA NAGAR, GOLF CLUB,  
KAWDIAR, THIRUVANANTHAPURAM, PIN - 695 003.

BY ADVS.

V.M.KRISHNAKUMAR

G.MOTILAL

**RESPONDENTS:**

- 1 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
- 2 ADDITIONAL CHIEF SECRETARY, DEPARTMENT OF FINANCE,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN- 695 001.
- 3 THE SECRETARY, DEPARTMENT OF GENERAL ADMINISTRATION,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
- 4 STATE INFORMATION OFFICER  
(OFFICE OF THE CHIEF SECRETARY) SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695 001.
- 5 OFFICER ON SPECIAL DUTY (APPELLATE AUTHORITY)  
OFFICE OF CHIEF SECRETARY, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695 001.
- 6 STATE PUBLIC INFORMATION OFFICER  
FINANCE DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM,  
PIN - 695 001.
- 7 THE STATE INFORMATION COMMISSION  
OFFICE OF THE STATE INFORMATION COMMISSION,  
PALAYAM, THIRUVANANTHAPURAM, PIN - 695 001,  
REPRESENTED BY ITS SECRETARY.

SPL.G.P-SRI.T.B HOOD

SRI.M.AJAY, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 24.06.2022, ALONG WITH WP(C).19962/2022, THE COURT ON  
27.06.2022 DELIVERED THE FOLLOWING:

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**  
**PRESENT**  
**THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN**  
**MONDAY, THE 27<sup>TH</sup> DAY OF JUNE 2022 / 6TH ASHADHA, 1944**  
**WP(C) NO. 19962 OF 2022**

**PETITIONER:**

- 1 STATE OF KERALA REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 STATE PUBLIC INFORMATION OFFICER-1 AND UNDER SECRETARY TO GOVERNMENT, FINANCE (INFORMATION) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANATHAPURAM, PIN - 695001

SHRI.T.B.HOOD, SPL.G.P.

**RESPONDENTS:**

- 1 JAYACHANDRAN KALLINGAL  
GENERAL SECRETARY, JOINT COUNCIL OF STATE SERVICE ORGANIZATIONS, STATE COMMITTEE, E.J. FRANCIS MEMORIAL, NEAR PRESS CLUB, THIRUVANANTHAPURAM, PIN - 695001
- 2 THE STATE INFORMATION COMMISSION  
REPRESENTED BY ITS SECRETARY,  
PUNNEN ROAD, THIRUVANATHAPURAM, PIN - 695001  
BY ADVS.  
V.M.KRISHNAKUMAR  
SHRI.M.AJAY, SC, STATE INFORMATION COMMN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.06.2022, ALONG WITH WP(C).18529/2022, THE COURT ON 27.06.2022 DELIVERED THE FOLLOWING:

## **JUDGMENT**

Since common issues arise for consideration in these writ petitions, they were heard together and are disposed of by this common judgment. The petitioner in W.P.(C) No.18529/2022 is referred to as 'applicant' in this judgment for the sake of convenience. The documents are relied on as they appear in W.P.(C) No. 19962/2022.

2. The applicant is a government employee and the office bearer of a service organisation. He made Ext.P2 application dated 24.5.2021 under the Right to Information Act, 2005 ( for short, 'the Act') before the Public Information Officer, Office of the Chief Secretary, Government of Kerala requesting for a copy of the report submitted by the committee appointed by the Government to review Contributory Pension Scheme. The application was received by the State Public Information Officer, General Administration (Strictly Confidential) Department (for short, 'SPIO, GAD (SC)') on 27.05.2021. The SPIO, GAD (SC) transferred the said application to the State Public Information Officer of the Finance Department (SPIO, (FD)) in terms of section 6(3) of Act with intimation to the

applicant, since the matter was concerning the Finance Department. The SPIO, (FD), vide Ext.P4 letter, informed the applicant that steps are being taken by the Government to examine the report submitted by the Committee to review Contributory Pension in detail and to take a policy decision in the matter and the applicant will be provided with a copy of the same when a decision is taken in the matter and as and when the applicant requests for the same.

3. The applicant had, in the meantime, filed an appeal under the Act before the appellate authority of the SPIO, GAD (SC) stating that he had not received any reply from the SPIO, GAD(SC) on his application. The appellate authority of the SPIO, GAD (SC), by Ext.P5, informed the applicant that, his application was already transferred to the Finance Department and the grievance, if any, of the applicant must be raised before the appellate authority in the Finance Department. The applicant did not prefer any appeal before the appellate authority in the Finance Department. He filed an appeal before the State Information Commission, Kerala ('the Commission', for brevity) contending that he has not received any information on his application submitted before the SPIO, GAD (SC). The

Commission issued notice to the SPIO, GAD (SC), the appellate authority, GAD (SC) and SPIO, (FD). The appellate authority, GAD (SC) as well the SPIO, (FD) filed report before the Commission stating that Ext. P2 application was considered by the SPIO, (FD) and a reply was given.

4. The Commission, by Ext.P8 order, disposed of the appeal preferred by the applicant directing SPIO, GAD (SC) to provide the copy of the report submitted by the committee appointed by the Government to review Contributory Pension Scheme to the applicant through registered post within ten days from the date of receipt of copy of the order. Later, the Commission issued Ext.P9 correction order and directed the SPIO, (FD) to provide the copy of the said report. The operative portion of Ext. P8 order, translated and produced in the writ petition reads as under:

“4). The appeal petitioner at the time of hearing stated that, what he has required is about a public official document and the report was submitted after obtaining the opinion of the Government Employees and associations. They have no objection in taking a policy decision. In fact the content of the report affects the coming generation and the employees which comes to about 5,00,000/- persons

and the information required by the petitioner is having public importance and hence the parties who are affected by the same is having a right to know about the content of the report. The 1<sup>st</sup> opposite party stated at the time of hearing that, it was informed by the Finance Department that the document is secretive one and since the same is submitted before the Government, the reviewing committee has not finalised about the same and the report which is before the Government can be finalised only after a policy decision is taken in the matter. Since the matter concerned is very serious in nature, policy decision has to be taken. After hearing both the parties, it is seen that what the petitioner has required is a Government document. The said subject will affect the employees and coming generation. This Commission understand that the public has got a right to view the document required by the petitioner. Government can take policy decision and also can take a decision how it must be. The report was prepared by the reviewing committee formulated for contributory pension after taking into consideration the opinions of employees, employees association and the public. The Contributory Pension Reviewing Committee is functioning solely with the public fund of the Government. The Committee formulated by the Government has functioned solely with the money from the Public Exchequer. For that reason alone the contention of the petitioner that the public is entitled to know about

the content of the report is absolutely correct. Hence this Commission finds that the copy of the report submitted by the Contributory Pension Reviewing Committee can be made available to the appeal petitioner.”

5. W.P.(C) No.18529/2022 is filed by the applicant for direction to the SPIO, GAD (SC) and SPIO, (FD) to comply with Exts.P8 and P9 orders of the Commission (marked as Exts. P1 and P2 in the said writ petition), within a time frame. W.P.(C)No.19962/2022 is filed by the State of Kerala and the SPIO, (FD) seeking to quash Exts.P8 and P9 orders of the Commission. They have also sought for a declaration that the copy of the report sought for in Ext.P2 application cannot be granted until the Council of Ministers takes a decision on the report submitted by the committee appointed by the Government to review Contributory Pension Scheme.

6. According to the Government and the Public Information Officer, the second appeal preferred by the applicant under section 19(3) of the Act before the Commission is not maintainable as he has not preferred an appeal against Ext.P4 issued by the SPIO (FD) in terms of section 19 (1) of the Act. It is also contended that the appeal

before the Commission has been preferred not in the manner and form prescribed under the Kerala State Information Commission (Procedure for Appeal) Rules, 2006. That apart, it is stated that the report sought for by the applicant in Ext.P2 is under consideration of the Government and the decision to be taken on the report is essentially a policy decision. Accordingly, it is contended that the report which is the material on the basis of which a decision has to be taken by the Council of Ministers, falls within the category of information exempted from disclosure under section 8(1)(i) of the Act and that the report can be made public only after the Council of Ministers takes a policy decision regarding the issue.

7. In W.P.(C) No.18529/2022, the applicant would contend that, the report sought for by him in Ext.P2 is not exempted from disclosure under section 8 of the Act and the said report is an information covered under the Act and in view of section 3 of the Act, he has the right to the said information and the same cannot be denied to him. It is also contended that the Public Information Officers of the General Administration and Finance Departments are bound to comply with Exts.P8 and P9 orders of the Commission.

8. Heard Sri.Ranjith Thampan, the learned senior counsel for the petitioner in W.P.(C)No.18529/2022, Sri.T.B Hood, the learned Special Government Pleader for the petitioners in W.P.(C)No.19962/2022 and Sri. M.Ajay, the standing counsel for the State Information Commission, Kerala.

9. According to Sri.Hood, the second appeal filed by the applicant before the Commission under Section 19 (3) is not maintainable since the applicant had not exhausted his remedy of appeal before the appellate authority in the Finance Department under section 19 (1) of the Act. Sri. Hood submits that, as per the Rules of Business of the Government of Kerala, framed in exercise of the powers under Article 166 (2) and (3) of the Constitution of India, only the Council of Ministers can consider cases raising question of policy and administrative importance. He refers to entries 11, 20 and 24 of the Second Schedule to the Rules of Business and submits that, proposals for legislation, proposals involving any important change of policy or practice and proposals involving any important alteration in the conditions of service of the members of the State service, shall be brought before the Council of Ministers for discussion. The

information sought for by the applicant pertains to the report submitted by the Committee constituted by the Government of Kerala for review of National Pension System in Kerala. Sri. Hood submits that, the said report is under consideration of the Government and requires detailed examination before taking any decision on the same and the decision to be taken on the report is a policy decision and the applicant has been so informed in Ext. P4. Sri.Hood refers to Ext.P1 terms of reference of the said committee and submits that, since the decision to be taken on the report may involve change of policy and alteration in the conditions of service, the same has to be placed before the Council of Ministers. Since the report is the material on the basis of which a decision has to be taken by the Council of Ministers, it falls within the category of information exempted from disclosure under section 8(1)(i) of the Act. He submits that the report can be made public only after the Council of Ministers takes a policy decision in the matter.

10. On the contrary, Sri.Ranjith Thampan would contend that, the question of maintainability of the appeal before the Commission was not raised by the Public Information Officers before that Forum

and cannot be permitted to raise the objection in the proceedings under Article 226 of the Constitution. The senior counsel submits that, in Ext.P4 reply, the stand of the Public Information Officer is that, the report cannot be furnished since steps are being taken by the Government to examine the report in detail to take policy decision. It is pointed out by the learned senior counsel that the Public Information Officer did not have a case that the report is exempted from disclosure under section 8(1)(i) of the Act. He refers to Rule 17 of the Rules of Business and contends that the report will form part of Cabinet papers only after the Chief Minister decides to bring the same before the Council and such stage has not reached and the report is, therefore, not exempted from disclosure under section 8(1)(i) of the Act. He contends that the applicant is entitled to get a copy of the report and the Public Information officer is statutorily liable to comply with Ext. P8 and P9 orders of the Commission. The learned senior counsel relied on the decisions of the Apex Court in **S.P. Gupta v. Union of India [1981 Supp SCC 87]**, **M/s. Doypack Systems Pvt. Ltd. and others v. Union of India and Others [1988 KHC 947]** and **Union of India through, Director, Ministry of**

**Personnel, Pg & Pension v. Central Information Commission and another [2009 SCC On Line Del 3876]** and also took me to various provisions of the Act.

11. Sri.M.Ajay, the learned standing counsel for the State Information Commission would contend that the report sought for by the applicant is not before the Cabinet and what has been contended by the Government and the Public Information Officer is that the report is likely to be part of Cabinet papers. Sri.Ajay contends that there cannot be 'potential cabinet papers' and what is contemplated in section 8(1)(i) of the Act is cabinet papers already placed in the Council. He submits that, only such papers which are actually brought before the Council and the decision whereon of the Council is pending, come within the ambit of section 8(1)(i) of the Act to get exemption from disclosure of information. He refers to section 8 (2) of the Act to contend that, none of the exemptions declared under sub-section (1) of section 8 can stand in the way of access to information if the public interest in the disclosure overshadows the harm to the protected interests. The learned counsel would submit that the State has obligation to disclose information and no law

should be passed in a clandestine manner. Sri. Ajay relied on the decisions of the Apex Court in **Doypack Systems Pvt. Ltd** (supra), **Yashwant Sinha and others v. Central Bureau of Investigation [2019 KHC 6424: AIR 2019 SC 1802: (2019) 6 SCC 1]** and **Anuradha Bhasin and another v. Union of India and others [2020 KHC 6022: AIR 2020 SC 1308: (2020) 3 SCC 637]**.

12. Regarding the objection of Sri. Hood as to the maintainability of the second appeal filed by the applicant before the Commission, though plea of non maintainability is a question of law, as rightly pointed out by Sri. Ranjith Thampan, the said technical plea was not raised before the Commission and no explanation is forthcoming as to why such objection was not raised before the Commission. Therefore, Exts P8 and P9 orders of the Commission cannot be interfered with on the ground of non maintainability of the appeal before the Commission.

13. Section 8 of the Act deals with exemption from disclosure of information and reads as follows:-

"8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,--  
(a) information, disclosure of which would prejudicially

affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any Court of law or tribunal or the disclosure of which may constitute contempt of Court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of

investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in

disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under S.6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act."

*(emphasis supplied)*

14. The object and purpose behind the enactment of the Act was considered by the Apex Court in **Chief Information Commissioner and another v. State of Manipur and another [2011 KHC 5099: AIR 2012 SC 864: (2011) 15 SCC 1]** and the Court observed as follows:

"7. As its preamble shows the Act was enacted to promote transparency and accountability in the working of every public authority in order to strengthen the core constitutional values of a democratic republic. It is clear that the Parliament enacted the said Act keeping in mind the rights of an informed citizenry in which transparency of

information is vital in curbing corruption and making the Government and its instrumentalities accountable. The Act is meant to harmonise the conflicting interests of Government to preserve the confidentiality of sensitive information with the right of citizens to know the functioning of the governmental process in such a way as to preserve the paramountcy of the democratic ideal.”

15. The Constitution Bench of the Apex Court in **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal [(2020) 5 SCC 481: 2019 (5) KHC497]** considered the scope of sections 8 to 11 of the Act in the context of the object of the Act in harmonising the conflicting interests of Government to preserve the confidentiality of sensitive information with the right of citizens to access to information. The Court held that the attempt to resolve the conflict and disharmony between these aspects is evident in the exceptions and conditions on access to information set out in sections 8 to 11 of the Act. Elucidating the scope and ambit of section 8 of the Act, the Court held as follows:

“33. Sub-section (1) of S.8 begins with a *non - obstante clause* giving primacy and overriding legal effect to different clauses under the sub-section in case of any

conflict with other provisions of the RTI Act. S.8(1) without modifying or amending the term 'information', carves out exceptions when access to 'information', as defined in S.2(f) of the RTI Act would be denied. Consequently, the right to information is available when information is accessible under the RTI Act, that is, when the exceptions listed in S.8(1) of the RTI Act are not attracted. In terms of S.3 of the RTI Act, all citizens have right to information, subject to the provisions of the RTI Act, that is, information 'held by or under the control of any public authority', except when such information is exempt or excluded.

34. Clauses in sub-section (1) to S.8 can be divided into two categories: clauses (a), (b), (c), (f), (g), (h) and (i), and clauses (d), (e) and (j). The latter clauses state that the prohibition specified would not apply or operate when the competent authority in clauses (d) and (e) and the PIO in clause (j) is satisfied that larger public interest warrants disclosure of such information (For the purpose of the present decision, we do not consider it appropriate to decide who would be the 'competent authority' in the case of other public authorities, if sub-clauses (i) to (v) to clause (e) of S.2 are inapplicable. This 'anomaly' or question is not required to be decided in the present case as the Chief Justice of India is a competent authority in the case of the Supreme Court of India). Therefore, clauses (d), (e) and (j) of S.8(1) of the RTI Act

incorporate qualified prohibitions and are conditional and not absolute exemptions. Clauses (a), (b), (c), (f), (g), (h) and (i) do not have any such stipulation. Prohibitory stipulations in these clauses do not permit disclosure of information on satisfaction of the larger public interest rule. These clauses, therefore, incorporate absolute exclusions.

35. Sub-section (2) to S.8 states that notwithstanding anything contained in the Official Secrets Act, 1923 or any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information if the public interest in disclosure outweighs the harm to the protected interests. The disclosure under S.8(2) by the public authority is not a mandate or compulsion but is in the form of discretionary disclosure. S.8(2) acknowledges and empowers the public authority to lawfully disclose information held by them despite the exemptions under sub-section (1) to S.8 if the public authority is of the opinion that the larger public interest warrants disclosure. Such disclosure can be made notwithstanding the provisions of the Official Secrets Act. Section 8(2) does not create a vested or justiciable right that the citizens can enforce by an application before the PIO seeking information under the RTI Act. PIO is under no duty to disclose information covered by exemptions under S.8(1) of the RTI Act. Once the PIO comes to the conclusion that any of the exemption

clauses is applicable, the PIO cannot pass an order directing disclosure under S.8(2) of the RTI Act as this discretionary power is exclusively vested with the public authority.”

*(emphasis supplied by me)*

The Constitution Bench, referring to the decision in **Thalappalam Service Coop. Bank Ltd. v. State of Kerala [(2013) 16 SCC 82]**, observed that the right to information is not absolute and is subject to the conditions and exemptions under the Act.

16. The prohibition under section 8(1)(i) of the Act is absolute. The prohibitory stipulation in section 8(1)(i) does not permit disclosure of information on the satisfaction of the larger public interest rule. It is to be noted that the exemption under section 8(1)(i) of the Act is for a specific period with an obligation to make information public, after such period. The proviso to section 8(1)(i) provides that, once the Council of Ministers takes a decision on cases brought before the Council and the matter is complete or over, the exemption from disclosure of information ceases and the decisions of Council of Ministers, the reasons thereof, and the material on the

basis of which the decisions were taken shall be made public. Only at this stage, the Public Information Officer can provide the material on the basis of which the Council decisions were taken.

17. The exemption from disclosure under section 8 (1) applies to cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers. In **Doypack Systems Pvt. Ltd** (supra), a decision rendered much before the enactment of the Act, the Apex Court held as follows:

“45. Cabinet papers are, therefore, protected from disclosure not by reason of their contents but because of the class to which they belong. It appears to us that Cabinet papers also include papers brought into existence for the purpose of preparing submission to the Cabinet. See Geoffrey Wilson Cases and Materials on Constitutional and Administrative Law, 2<sup>nd</sup> Edition pages 462 to 464. At page 463 para 187, it was observed:

“The real damage with which we are concerned would be caused by the publication of the actual documents of the Cabinet for consideration and the minutes recording its discussions and its conclusions. Criminal sanctions should apply to the unauthorised communication of these papers”.

Thus, going by the decision in **Doypack Systems Pvt. Ltd** (supra), Cabinet papers also include papers brought into existence for the

purpose of preparing submission to the Cabinet.

18. The information sought for by the applicant in Ext. P2 is a copy of the report submitted by the committee appointed by the Government to review Contributory Pension Scheme. Admittedly, the said report is not yet brought before the Council of Ministers. Rule 8 of the Rules of Business provides that, subject to the orders of the Chief Minister under Rule 14, all cases referred to in the second schedule shall be brought before the Council in accordance with the provisions of rules contained in Part II. Rule 14 of the Rules of Business provides that, all cases referred to in the Second Schedule shall be submitted to the Chief Minister for bringing them up for discussion at a meeting of the Council or for circulation under Rule 15. Entries 11, 20 and 24 of the Second Schedule to the Rules of Business provide that, proposals for legislation including the issue of Ordinance under Article 213, proposals involving any important change of policy or practice and proposals involving any important alteration in the conditions of service of the members of any All India Services or the State service or in the method of recruitment to the service or post to which appointment is made by the Government,

shall be brought before the Council of Ministers for consideration. Once the matter is placed before the Council in terms of the Rules of Business of the Government, the exemption from disclosure of information under section 8(1)(i) is attracted and the exemption is absolute. Before the matter is so brought before the Council, can the information be made public?

19. In my considered view, the exemption from disclosure available to cabinet papers referred to in section 8 (1) (i) will equally apply to potential cabinet papers not brought before the Council. Otherwise, by the time a decision is taken to bring a case before the Council and the material based on which decision has to be taken by the Council of Ministers is made public, the purpose for which exemption from disclosure provided in the Act will get defeated. Therefore, by allowing disclosure of information before it reaches the Council, the exemption from disclosure granted under section 8(1) (i) is defeated. The cases to be brought before the Council of Ministers have been determined under the Rules of Business. The proposals that are placed before the Council of Ministers may be the culmination of a series of steps. It is not for the State Information Commission or for

this Court to say whether a matter is to be brought before the Council for decision, the time within which it shall be placed before the Council or on what materials the decision shall be taken. The finding of the Commission that the report can be furnished and then the Government can take policy decision cannot be sustained. The finding of the Commission that Contributory Pension Reviewing Committee is functioning solely with the public fund of the Government and therefore the report shall be furnished, also cannot be sustained in the light of the provisions under section 8(1) (i) of the Act.

20. According to Sri. Ranjith Thampan, the Public Information Officer did not have a case that the report is exempted from disclosure under section 8(1)(i) of the Act. Though, it is not stated in Ext. P4 communication that the report is exempted from disclosure under section 8(1)(i) of the Act, the stand of the Public Information officer was that the report cannot be furnished as the matter involves policy decision and once decision is taken, the report can be furnished. Though no provision has been cited, what was conveyed to the applicant is that the Government has to take a policy decision in

the matter and once decision is taken, the report would be given. This squarely falls within section 8(1)(i) of the Act.

In the light of the above discussions, Exts.P8 and P9 cannot be sustained and they are set aside. It is declared that the petitioner in W.P.(C)No.18529/2022 is not entitled to get a copy of the report sought for in Ext.P2 application until the Council of Ministers takes a decision on the report or until the authority competent under the Rules of Business decides not to bring the report/case before the Council. Accordingly, W.P.(C) No.19962 of 2022 is allowed and W.P.(C)No.18529/2022 is dismissed. No order as to costs.

**Sd/-**

**MURALI PURUSHOTHAMAN  
JUDGE**

**APPENDIX OF WP(C) 19962/2022**

## PETITIONER'S EXHIBITS:

- Exhibit P1 TRUE COPY OF G.O.(P) NO.172/2018/FIN DATED 07.11.2018 ALONG WITH TERMS OF REFERENCE OF THE COMMITTEE APPENDED TO THE GOVERNMENT ORDER.
- Exhibit P2 TRUE COPY OF THE APPLICATION DATED 24.05.2021 SUBMITTED BY THE FIRST RESPONDENT UNDER THE RIGHT TO INFORMATION ACT, 2005 ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P3 TRUE COPY OF THE LETTER DATED 28.05.2021 SENT BY THE STATE PUBLIC INFORMATION OFFICER, GENERAL ADMINISTRATION (STRICTLY CONFIDENTIAL) DEPARTMENT TO THE FIRST RESPONDENT, ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P4 TRUE COPY OF THE LETTER DATED 01.07.2021 SENT BY THE SECOND PETITIONER TO THE FIRST RESPONDENT, ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P5 TRUE COPY OF THE ORDER DATED 30.07.2021 ISSUED BY THE APPELLATE AUTHORITY GENERAL ADMINISTRATION (STRICTLY CONFIDENTIAL) DEPARTMENT, ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P6 TRUE COPY OF THE SECOND APPEAL DATED 07.09.2021 FILED BY THE FIRST RESPONDENT HEREIN BEFORE THE SECOND RESPONDENT COMMISSION, ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P7 TRUE COPY OF THE REPORT DATED 16.02.2022 SUBMITTED BY SECOND PETITIONER BEFORE THE SECOND RESPONDENT COMMISSION ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P8 TRUE COPY OF THE ORDER DATED 14.03.2022 ISSUED BY THE SECOND RESPONDENT COMMISSION IN A.P. NO.1287(6)/2021/SIC, ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.
- Exhibit P9 TRUE COPY OF THE CORRECTION ORDER DATED 18.04.2022 PASSED BY THE SECOND RESPONDENT COMMISSION IN A.P. NO.1287(6)/2021/SIC ALONG WITH TRUE ENGLISH TRANSLATION THEREOF.

**APPENDIX OF WP(C) 18529/2022**

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE ORDER DATED 14/03/2022 IN AP NO.1287 (6)/2021/SIC.
Exhibit P2	TRUE COPY OF THE ORDER DATED 18/4/2022 OF THE STATE INFORMATION COMMISSIONER.

spc/