

THE TAMIL NADU RIGHT TO INFORMATION ACT, 1997

(AS INTRODUCED IN THE ASSEMBLY)

A Bill to make provision for securing the right to information in the State of Tamil Nadu and for matters relating thereto.

WHEREAS it is necessary that every governmental action should be transparent to the public;

AND WHEREAS to achieve this object, every citizen should be able to get information from the Government;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty eighth Year of the Republic of India as follows: -

Short title and commencement

1. (1) This act may be called the Tamil Nadu Right to Information Act, 1997.
- (2) It shall come into force at once.

Definitions

2. In this act, unless the context otherwise requires-
 - (1) "Competent Authority" means any authority, officer not below the rank of Deputy Collector or an Officer of an equivalent grade and above empowered by the Government by notification, to be Competent Authority for the purpose of this Act;
 - (2) "Government" means the State Government;
 - (3) "Information" includes copy of any document relating to the affairs of the State or any local or other authorities constituted under any act for the time being in force or a statutory authority or a company, corporation or a co-operative society or any organisation owned or controlled by the Government.

Right of access to information

3. (1) Every person bonafied requiring information may have access to such information in accordance with the procedure specified under this Act.
- (2) Notwithstanding anything contained in sub-section (1), no person shall be given information relating to –
 - (a) information relating to defence security;
 - (b) information whose disclosure will prejudice the security, integrity and sovereignty of the Nation and the State;
 - (c) information whose disclosure would harm the conduct of international relations or affairs;
 - (d) information received in confidence from foreign Governments, foreign courts or international organisations;
 - (e) information whose disclosure would harm the frankness and candour of internal discussion, including:-
 - (i) proceedings of Cabinet and Cabinet committees;
 - (ii) internal opinion, advice, recommendations, consultation and deliberation;
 - (iii) projections and assumptions relating to internal policy analysis; analysis of alternative policy options and information relating to rejected policy options;
 - (iv) confidential communications between departments, public bodies and regulatory bodies;
 - (f) information relating to confidential communications between Ministers and the Governor;

- (g) information whose disclosure would prejudice the administration of justice, including fair trial and the enforcement or proper administration of the law;
 - (h) information whose disclosure would prejudice legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigation (whether actual or likely) or whose disclosure is has been or is likely to be addressed in the context of such proceedings;
 - (i) information covered by legal professional privilege;
 - (j) information whose disclosure would prejudice the prevention, investigation or detection of crime, the apprehension of offenders;
 - (k) information whose disclosure would harm public safety or public order;
 - (l) information whose disclosure 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;
 - (m) information whose disclosure would increase the likelihood of damage to the environment; or rare or endangered species and their habitats;
 - (n) information whose disclosure would harm the ability of the Government to manage the economy, prejudice the conduct of official market operations, or could lead to improper gain or advantage to any person;
 - (o) information whose disclosure would prejudice the assessment or collection of tax, duties, or assist tax avoidance or evasion;
 - (p) information including commercial confidences, trade secrets or intellectual property whose unwarranted disclosure would harm the competitive position of the third party;
 - (q) information whose disclosure could lead to improper gain or advantage or would prejudice,
 - (i) the competitive position of a department or other public body or authority;
 - (ii) negotiations or the effective conduct of personnel management or commercial or contractual activities;
 - (r) information held in consequence of having been supplied in confidence by a person who,
 - (i) gave the information under a statutory guarantee that its confidentiality would be protected; or
 - (j) was not under any legal obligation, whether actual or implied, to supply it, and has not consented to its disclosure;
 - (s) information whose disclosure is prohibited under any enactment, regulation or international agreement;
 - (t) information whose release would constitute a breach of Parliament/Legislative Assembly/Council Privilege;
 - (u) the documents referred in sections 123 and 124 of the Indian Evidence Act, 1872,
 - (v) any matter which is likely to, -
 - (i) help the commission of offence;
 - (ii) help or facilitate escape from legal custody or affect prison security; or
 - (iii) Impede the process of investigation or apprehension or prosecution of offenders.
- (3) (a) Any person who wants to have access to the information may make an application in the manner prescribed to the Competent Authority in such form with such particulars, as may be prescribed.
- (b) Where an application is made under clause (a) and the information is not available with the Competent Authority but is available with another department or authority, the Competent Authority may transfer the application to the Competent Authority with whom such information is available and inform the applicant accordingly. The Competent Authority to whom such application is transferred shall furnish the

information within thirty working days from the date of receipt of the application from the Competent Authority from whom it has been referred or received.

(c) Where an application is so transferred to a department or authority, the head of that department or authority shall be deemed to be Competent Authority.

(d) (i) Upon the receipt of an application requesting for an information, the Competent Authority shall consider it and pass orders thereon either granting or refusing the request, as soon as practicable and in any case, within thirty working days from the date of receipt of application.

(ii) In other cases, the Competent Authority shall take all reasonable steps to inform the applicant of its decision on the request as soon as practicable.

(4) (a) If in the opinion of the Competent Authority any information, if disclosed, is likely to cause breach of the peace or cause violence, or disharmony among the section of the people on the basis of religion, language, caste, creed, community or if it is prejudicial to public interest, the Competent Authority shall refuse to give information.

(b) Any application made under clause (a) shall be rejected, for reasons to be recorded in writing, if in the opinion of the Competent Authority, -

(i) any such information sought falls in any one or more categories of items listed under section 3(2), or

(ii) the disclosure of the information sought would be prejudicial to the maintenance of public order, or maintenance of essential services and supplies.

Appeal

(4) (1) Any person aggrieved by an order of the Competent Authority or any person who has not received any order from the Competent Authority within thirty working days may appeal to the Government or to such other authority as may be notified by the Government, subject to such rules as may be prescribed.

(2) The decision of the Government or such other authority as may be prescribed shall be final.

(3) No order adversely affecting any person shall be passed except after giving that person a reasonable opportunity of being heard.

Protection or action taken in Good faith

(5) No suit, prosecution or other legal proceeding shall lie against any authority or person for anything done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

Power to remove difficulties

(6) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act and appear to them to be necessary or expedient for removing the difficulty;

Provided that no such order shall be made after the expiry of two years from the date of the commencement of this Act.

Power to make rules

7. (1) The Government may make rules for carrying out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the Tamilnadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

STATEMENT OF OBJECTS AND REASONS

In order to provide the public the right of access to information, about the administration and to enable them to get details about the schemes of the Government implemented by various departments, the works executed by various departments, the quantity of rice and other essential commodities supplied to each of the shops under public distribution system of their stocks and to pave the way for the people to question irregularities in the system, the Government have decided to bring a legislation.

The Bill seeks to give effect to the above decision.

Aladi Aruna,
Minister of Law.

Secretariat,
Chennai
Date: 17.04.97

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 2(1), 3(3) 4, 6 and 7 of the Bill authorise the Government to prescribe the manner and method of giving effect to certain provisions of the proposed Act by making suitable Rules thereunder.

The powers delegated are normal and not of an exceptional character.