

Kerala

1. STATE FACTSHEET

State Chief Information Commissioner	Palat Mohandas
State Information Commissioners	Dr K Rajagopal P Faziluddin P N Vijayakumar V V Girya
Total Number of Cases Analysed by Us (as provided to us)	1,560
Pendency as on January 1, 2008	114
Pendency as on December 31, 2008	953
Time Taken Between Filing of Appeal and First Hearing	Not available
Total Funds Spent by the Commission (FY 2008-09)	Rs. 1,50,25,000

2. STATE OF RECORDS:

After two RTIs and several letters and phone calls, we finally got copies of 1,560 orders. However, Col NR Kurup (Retd.) informed us that in a letter (No.9039-SIC-PIO/2008 dated 6-9-2008), the SIC had communicated to him the monthwise receipts and disposals of the Commission from Jan 2006 (start) till August 2008, which does not match the figures provided to us by the commission. For example, the pendency figure provided to us was 114 as of January 1, 2008, while the pendency figure provided to Col Kurup was 365. Similarly, the pendency as of August 2008 provided to Col Kurup was 1333, whereas in the data provided to us it was just 953 as of December 31, 2008. This raises a serious question on the correctness of the data provided by the Kerala state information commission.

3. PERFORMANCE OF INFORMATION COMMISSION ON VARIOUS PARAMETERS

a) DISPOSALS: An average of 29 cases per commissioner per month

- During calendar year 2008, Kerala Information Commission disposed 1,560 cases. While four commissioners – Palat Mohandas, P Faziluddin, P N Vijayakumar and VV Girya—worked for 12 months each, Dr K Rajagopal worked for 5 months. So, calculating on that basis, it comes to roughly 29 cases per commissioner per month.

b) PRO-DISCLOSURE FACTOR: 86%

Rank: 10

Total Number of Orders Analysed	1,560
Orders in Favour of Disclosure	1,342 (86%)
Orders in which information was partially or fully denied	204 (13%)
Remanded Back	14
Rank of Commission	10

c) EFFECTIVENESS: 40-50%

This parameter refers to how many of the pro-disclosure orders were complied with as a percentage.

- 40 to 50% of the orders were complied with.
- Compliance, though slightly greater than the national average 30 to 40%, is much less than the best 90-100%

d) DETERRENCE IMPACT: 1.4%

Rank: 17

- Number of cases in which show cause notices issued: 229
- 21 of these notices were dropped after hearings (i.e. 9% of show cause notices)
- Penalty was imposed in 19 cases (i.e. 1% of pro-disclosure cases).
- Show cause notices remained pending in 83% cases at the end of the year.

The Commission directed information to be provided in 1,342 cases. However, the Commission asked the reasons for this delay only in 229 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

e) OVERALL PUBLIC SATISFACTION (OPS): 40 to 50%

So, if 100 people approach Kerala Information Commission, pro-disclosure orders were done in 86 cases. Out of these, 40 to 50% finally got information.

4. GENERAL OBSERVATIONS

- In Kerala, Public Information Officers (PIOs) stated missing records as an excuse for not providing information. This was treated as a legitimate excuse by the commission, and no FIR or enquiry was ordered in many such cases.
- As per the RTI rules, the appellant can deposit the fees for filing the RTI application in any of the prescribed modes that include cash, DD, banker's cheque or pay order. However, in an [order \(AP No 452/2007/SIC\)](#), it was observed that the appellant should pay the fees in the mode as prescribed by the Public Information Officer (PIO). The choice of the mode of submission of fees lies with the appellant and not with the PIO. Therefore, this order is not only contrary to the law but also can create hardships for information seekers in future.

7. STATUS OF COMMISSIONERS BY PARAMETERS

Name	Pro-disclosure Factor (Rank)	Effectiveness (Band)	Deterrent Impact (Rank)	Overall Public Satisfaction (Band)
Palat Mohandas	89.7% (34 th)	50-60%	2.76% (24 th)	40-50%
P Faziluddin	89.2% (35 th)	50-60%	2.27% (30 th)	40-50%
Dr K Rajagopal	90.4% (29 th)	50-60%	0 (57 th)	40-50%
P N Vijayakumar	95.0% (14 th)	40-50%	0 (57 th)	40-50%
V V Giry	87.6% (43 rd)	40-50%	0.92% (46 th)	30-40%
Combined Benches of Kerala	75.7% (64 th)	40-50%	0.62% (50 th)	30-40%

INFORMATION COMMISSIONERS (Kerala)

1. Palat Mohandas

Disposals: Roughly 40 per month

- Pendency of Palat Mohandas was calculated as 191 at the end of December 31, 2008.

Pro-disclosure Factor: 89.7%

Rank: 34

Total Number of Orders Analysed	485
Orders in Favour of Disclosure	435 (~89.7%)
Orders in which information was partially or fully denied	48 (10%)
Remanded Back	2
Rank of Commission	34

Effectiveness: 50 to 60%

- 50 to 60 % pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90 to 100%

Deterrence Impact: 2.8%

Rank: 24

- Number of cases in which show cause notices issued: 107 (25% of pro-disclosure cases)
- Of this, 11 (roughly 10% of show cause notices issued) were dropped subsequently.
- Penalty was imposed in 12 cases (~3% of pro-disclosure cases).

The Commissioner directed information to be provided in 435 cases. However, the Commissioner asked the reasons for this delay only in 107 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction 40 to 50%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in ~89.7% cases. Out of these, 40 to 50% people finally got information.

2. P. Faziluddin

Disposals: Roughly 12 cases per month

- The pendency of the commissioner was 191 at the end of 2008.

Pro-disclosure Factor: 89.2%

Rank: 35

Total Number of Orders Analysed	148
Orders in Favour of Disclosure	132 (~89%)
Orders in which information was partially or fully denied	16 (11%)
Remanded Back	0
Rank of Commission	35

Effectiveness: 40-50%

- 40 to 50% pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90-100%.

Deterrence Impact: 2.3%

Rank: 30

- Number of cases in which show cause notices issued: 11 (8% of pro-disclosure cases)
- Of this, 2 (roughly 18% of show cause notices issued) were dropped subsequently.
- Penalty was imposed in 3 cases (~2% of pro-disclosure cases).

The Commissioner directed information to be provided in 132 cases. However, the Commissioner asked the reasons for this delay only in 11 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction: 40 to 50%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in ~89 cases. Out of these, 40 to 50% people finally got information.

General observations

- In almost every case, P Faziluddin discussed the reason for the delay. However, he accepted excuses given by the PIO at face value.

3. Dr. K Rajagopal

Disposals: Roughly 23 per month

- The pendency of the commissioner was 191 at the end of 2008.

Pro-disclosure Factor: 90.4%

Rank: 29

Total Number of Orders Analysed	114
Orders in Favour of Disclosure	103 (90.4%)
Orders in which information was partially or fully denied	9 (8%)
Remanded Back	2
Rank of Commission	29

Effectiveness: 40-50%

- 40 to 50% pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90-100%.

Deterrence Impact: 0

Rank: 57

- Number of cases in which show cause notices issued: 29 (28% of pro-disclosure cases)
- Of this, 3 (roughly 10% of show cause notices issued) were dropped subsequently.
- Even though Dr.K Rajagopal issued show cause notices in 29 cases, he did not impose even a single penalty. This could be a reason for his low compliance rate of between 40-50%.

The Commissioner directed information to be provided in 103 cases. However, the Commissioner asked the reasons for this delay only in 29 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction: 40 to 50%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in ~90 cases. Out of these, only 40 to 50% people finally got information.

4. P. N Vijayakumar

Disposals: Roughly 12 cases per month

- The pendency of the commissioner was 191 at the end of 2008.

Pro-disclosure Factor: 95%

Rank: 14

Total Number of Orders Analysed	140
Orders in Favour of Disclosure	133 (95%)
Orders in which information was partially or fully denied	6 (4%)
Remanded Back	1
Rank of Commission	14

Effectiveness: 40-50%

Pro-disclosure orders: 133

- 40 to 50% pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90-100%.

Deterrence Impact: 0

Rank: 57

- Number of cases in which show cause notices issued: 28 (21% of pro-disclosure cases)
- Of this, 2 (roughly 7% of show cause notices issued) were dropped subsequently.
- Even though PN Vijayakumar issued show cause notices in 28 cases, he did not impose even a single penalty. This could be a reason for his low compliance rate of between 40-50%.

The Commissioner directed information to be provided in 133 cases. However, the Commissioner asked the reasons for this delay only in 28 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction: 40 to 50%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in 95 cases. Out of these, only 40 to 50% people finally got information.

General observations

- P N Vijaykumar made an important observation in one of his orders (488(4)/2008/SI). In this case, the PIO claimed that the applicant was his subordinate and was asking for information just to harass him. The Commission did not accept this as a legitimate plea for denial of information. He had observed: "It may be true that, the requester may be a subordinate. It may be true that, he wanted all the questions to trouble the officer concerned. It may be true that, the person who had access to the records itself is making the request. But these are not grounds to withhold the information. Therefore, the information should have been furnished by the Public Information Officer within the time limit. There was a delay of more than 4 months. But the delay was limited to 100 days. Therefore,

the Commission is compelled to award the maximum penalty of Rs. 25,000/- to the Public Information Officer. The Public Information Officer shall remit the amount within 30 days the receipt of this order”

- The compliance of his orders is low at only 40-50%. One of the major reasons for this could be the fact that the commissioner did not impose a single penalty.

5. VV Giriy

Disposals: 12 cases per month

The pendency of the commissioner was 191 at the end of 2008.

Pro-disclosure Factor: 87.6%

Rank: 43

Total Number of Orders Analysed	249
Orders in Favour of Disclosure	218 (88%)
Orders in which information was partially or fully denied	29 (12%)
Remanded Back	2
Rank of Commission	43

Effectiveness: 40-50%

Pro-disclosure orders: 218

- 40 to 50% pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90-100%.

Deterrence Impact: 0.9%

Rank: 46

- Number of cases in which show cause notices issued: 7 (3% of pro-disclosure cases)
- Of this, 1 (roughly 14% of show cause notices issued) were dropped subsequently.
- VV Giriy issued show cause notices in only 7 cases. Of this penalty was imposed in only 1 case. This could be a reason for his low compliance rate of between 40-50%.

The Commissioner directed information to be provided in 218 cases. However, the Commissioner asked the reasons for this delay only in 7 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction: 30 to 40%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in 88 cases. Out of these, only 40 to 50% people finally got information.

5. Combined Benches of Kerala

Pro-disclosure Factor: 75.7%

Rank: 64

Total Number of Orders Analysed	424
Orders in Favour of Disclosure	321 (76%)
Orders in which information was partially or fully denied	96 (23%)
Remanded Back	7
Rank of Commission	64

Effectiveness: 40-50%

Pro-disclosure orders: 321

- 40 to 50% pro-disclosure orders were complied with.
- It is slightly more than the national average (30 to 40%) but much less than the best 90-100%.

Deterrence Impact: 0.6%

Rank: 50

- Number of cases in which show cause notices issued: 47 (15% of pro-disclosure cases)
- Of this, 2 (roughly 4% of show cause notices issued) were dropped subsequently.
- VV Giry issued show cause notices in only 47 cases. Of this penalty was imposed in only 2 cases. This could be a reason for his low compliance rate of between 40-50%.

The bench directed information to be provided in 321 cases. However, the bench asked the reasons for this delay only in 47 cases. In rest of the cases, the officials were not even asked to explain the reasons for delay.

Overall Public Satisfaction: 30-40%

So, if 100 people approached this Commissioner, pro-disclosure orders were done in ~76 cases. Out of these, only 40 to 50% people finally got information.