

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 16503 of 2013 (K)

PETITIONER:

B.VASANTHI, CHETTIKUDI VEEDU,
VENNIYOOR, VENGANNOOR.P.O,
THIRUVANANTHAPURAM.

BY ADVS.SRI.K.RAJESH KANNAN
SRI.A.S.SHAMMY RAJ
SRI.N.HARI KUMAR

RESPONDENT(S):

1. STATE INFORMATION COMMISSION,
REPRESENTED BY ITS COMMISSIONER,
PUNNEN ROAD, THIRUVANANTHAPURAM-695001.
2. PUBLIC INFORMATION OFFICER,
VENGANNOOR GREAMA PANCHAYATH,
VENGANNOOR.P.O, THIRUVANANTHAPURAM-695523.
3. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF LOCAL AUTHORITY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
4. S.ASHOK KUMAR, SECRETARY,
PARASSALA GRAMA PANCHAYATH,
PARASSALA, THIRUVANANTHAPURAM-695502.

R1 BY ADV. SRI.M.AJAY, SC,
R2 & R4 BY ADV. SRI.POOVAPPALLY M.RAMACHANDRAN NAIR
R3 BY GOVERNMENT PLEADER SMT.K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1 : TRUE COPY OF THE APPLICATION TO THE 2ND RESPONDENT UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT SUBMITTED BY PETITIONER DATED 20.03.2009.

EXHIBIT-P2 : TRUE COPY OF THE REPLY DATED 7.4.2009 ISSUED BY 2ND RESPONDENT .

EXHIBIT-P3 : TRUE COPY OF THE APPEAL DATED 22.04.2009 FILED BY PETITIONER BEFORE THE STATE PUBLIC INFORMATION OFFICER.

EXHIBIT-P4 : TRUE COPY OF THE ORDER DISMISSING THE APPEAL PASSED BY THE THIRUVANANTHAPURAM PANCHAYATH DEPUTY DIRECTOR/APPELLATE AUTHORITY DATED 5.6.2009.

EXHIBIT-P5 : TRUE COPY OF THE APPEAL FILED BY PETITIONER BEFORE THE 1ST RESPONDENT DATED 28.1.2011.

EXHIBIT-P6 : TRUE COPY OF THE ORDER DATED 30.4.2012 OF THE 1ST RESPONDENT.

EXHIBIT-P7 : TRUE COPY OF THE PETITION TO THE 1ST RESPONDENT FILED BY PETITIONER DATED 15.5.2012.

EXHIBIT-P8 : TRUE COPY OF THE ORDER DATED 31.12.2012 OF THE 1ST RESPONDENT.

EXHIBIT-P9 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 6.5.2013.

RESPONDENT(S)' EXHIBITS:

EXT.R2(A): ORDER NO.A4-1401/09 DATED 22.1.2013 OF THE 1ST RESPONDENT.

EXT.R2(B): LETTER NO.PA5-5037/13 DATED 21.10.2013 OF THE DEPUTY DIRECTOR OF PANCHAYAT DEPARTMENT, THIRUVANANTHAPURAM.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M.SHAFFIQUE, J

*** * * * ***

W.P.C.No.16503 of 2013

Dated this the 16th day of June 2015

J U D G M E N T

Petitioner challenges Ext.P9 order passed by the State Information Commission permitting her to approach the respondent Panchayath for verifying the records in the office and to demand copy of such documents as has been required by the petitioner. This order came to be passed in an appeal filed by the petitioner alleging that the information sought for by her in terms of Ext.P1 application was not provided by the Public Information Officer attached to the Venganoor Grama Panchayath. When information was not given, an appeal was filed before the State Public Information Officer. Direction was issued to provide all the documents, but the authority insisted for certain fee. However, at a later stage of the proceedings, available documents were given to the petitioner and the fee that was collected was refunded since BPL card holders have some

concession for payment of fee for the documents sought for. State Information Commission, after hearing the appeal filed by the petitioner, formed an opinion that the Commission accepts the contention of the respondent authority that all the available records which were applied for have been given, but in view of the fact that the petitioner had expressed a doubt regarding availability of other documents which were concealed by the Information Officer, an opportunity was given to the petitioner to verify whether such documents were available in the office.

2. Learned counsel for the petitioner submits that this observation of the State Information Commission is contrary to the judgment of the Supreme Court in **Chief Information Commissioner v. State of Manipur** [2012 (1) KLT SN 18] wherein it is stated that the Central Information Commission or the State Information Commission, as the case may be exercising power under Section 18 can only provide for a penalty as provided under

Section 20, on being satisfied that the action of the Information Officer was not bona fide. There is no jurisdiction vested in the Commission to exercise power under Section 18 to pass an order providing for access to the information.

3. In Ext.P9, apparently there was no direction to provide any information. The said order came to be passed based on an apprehension expressed by the petitioner that documents which were available were not supplied. According to the panchayath, there was no such document as claimed by the petitioner which was not given.

4. The learned counsel for the respondents, based on the counter affidavit, submits that if the petitioner has any apprehension that any document which has been requested for in terms with Ext.P1 has been withheld, it is open for the petitioner or her authorised representative to verify any of the records from the village office and to give a proper application to provide copies of the same which could as

well be provided.

In the said circumstances, I am of the view that this writ petition can be disposed of as under:

i) Petitioner or her authorised representative is permitted to verify the records available in the 2nd respondent's custody and after verification of the same, proper application shall be submitted requesting for copies of the said document with clear specification and on receipt of the same, 2nd respondent shall consider the same and pass appropriate orders.

ii) It is made clear that verification shall be conducted by the petitioner or her authorised representative with the least inconvenience to the Panchayath and without causing any hindrance to the proper functioning of the office.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

