

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2015

Coram

The Hon'ble Mr. Justice T.S.SIVAGNANAM

W.P.Nos.18203 and 18204 of 2012

M.Loganathan

.. Petitioner in both the W.Ps

Vs.

1.The State Information Commissioner,
The State Information Commission,
No.2, Thiyagaraya Road, Teynampet,
Chennai - 18.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram - 605 602.

3.The Public Information Officer/
Company Secretary,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram - 605 602.

.. Respondents in
W.P.No.18203 of 2012

1.The State Information Commissioner,
The State Information Commission,
No.2, Thiyagaraya Road, Teynampet,
Chennai - 18.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited, Vannarapettai Post,
Tirunelveli - 627 003.

3.The Public Information Officer/
Company Secretary,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Tirunelveli - 627 003.

.. Respondents in
W.P.No.18204 of 2012

Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the proceedings of the first respondent in Reference No.15340/B/2012 and 15339/B/2012 dated 08.05.2012 and quash the same and consequentially directing the respondents 1 to 3 to furnish the information sought for by the petitioner by his application dated 28.10.2011 within the time frame fixed by this Court and pass orders of imposing penalty on the respondents 1 to 3 for denying information to the petitioner.

For Petitioner .. Mr.K.M.Vijayan, Sr. Counsel
for M/s.K.M.Vijayan Associates
in both the W.Ps

For Respondents .. Mr.Niranjan Rajagopalan,
for G.R.Associates, for R1
in both the W.Ps
Mr.P.Paramasivadosh for R2 & R3
in both the W.Ps

COMMON ORDER

Heard the learned senior counsel for the petitioner and the learned counsel for the Transport Corporation.

2.The prayer sought for in this writ petition is for the issuance of a writ of certiorarified mandamus to quash the order passed by the first respondent - State Information Commission dated 08.05.2012 and for a consequential direction to direct respondents 1 to 3 to furnish the information sought for by the petitioner in his application dated 28.10.2011 within a time frame and also to impose penalty to respondents 1 to 3.

3.The petitioner is a practising advocate and claims to be a R.T.I. Activist and it is stated that he has filed several public interest litigations before this Court. The petitioner, by application dated 28.10.2011, sought for information under the provisions of the Right To Information Act, 2005 (hereinafter referred to as 'RTI Act') from all the State Transport Corporations. The gist of the information sought for has been set out in para 4 of the affidavit filed in support of the petition. The petitioner admitted that six of the Transport Corporations have given him all the particulars and according to the petitioner, only the Tirunelveli and Villupuram Divisions failed to give information for most of the questions and certain information furnished by them were vague and in respect of certain information, they specifically stated that they have to gather that information from other sources. On account of the vague information furnished, the petitioner preferred an appeal before the second respondent. Since there was no appropriate action,

the petitioner preferred a second appeal to the appellate authority/first respondent under Section 19(3) of the RTI Act. The petitioner would state that the first respondent without following the procedure under Section 19 of the Act, passed a stereotyped order invoking Section 7(9) of the Act without any such plea being raised by the respondents 2 and 3. The petitioner would contend that the State Information Commissioner/appellate authority did not refuse to provide information by taking umbrage under Section 7(9) of the R.T.I. Act. But they only requested time for complying few of the requests. Therefore, the petitioner would contend that the order passed by the first respondent invoking Section 7(9) of the Act is untenable. Therefore, challenging the order, the petitioner has filed this writ petition.

4. After hearing the submissions of the parties and perusing the materials placed on record, it is to be noted that the Transport Corporation did not take a stand that they cannot provide information sought for by taking umbrage under Section 7(9) of the Act. However, on a perusal of the reply given by the Villupuram and Tirunelveli Divisions, it is seen that they wanted further time to secure the information as it was available with the other sources. In such circumstances, the Commission ought not to have rejected the petitioner's second appeal by referring to Section 7(9) of the Act, when that was not the stand taken by the Transport Corporation. That apart, the first respondent Commission failed to note that the application filed by the petitioner under Section 9(3) of the Act was on account of the delay in furnishing the information and not against the denial of information by the respondents 2 and 3. Thus it is clear that the first respondent Commission has gone one step further than what was the stand taken by the respondents 2 and 3. In such circumstances, the impugned order has to be necessarily held to be unsustainable. Accordingly, the writ petition is allowed and the impugned order is quashed and the matter is remitted back to the first respondent for fresh consideration. The first respondent shall take note of the plea raised by the petitioner, afford an opportunity to the petitioner as well as respondents 2 and 3 and thereafter pass reasoned order on merits and in accordance with law as expeditiously as possible. No costs.

Sd/-
Assistant Registrar
Dated: 2.3.15

True Copy

Sub Assistant Registrar

To

- 1.The State Information Commissioner,
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Tirunelveli - 627 003.
 - 5.The Public Information Officer/
Company Secretary,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Tirunelveli - 627 003.
- +2 cc's to M/s.K.M.Vijayan Associates, Advocate, SR.9182, 9181
- +2 cc's to M/s.G.R.Associates, Advocate, sR.9213, 9214.

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krd 3/3

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