

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.13145 of 2016

Singanamala Vidyadhari,
W/o Singanamala Ramesh Bahu

.. Petitioner

Vs.

1. The Commissioner of Police,
EVK Sampath Road,
Vepery, Chennai-600 007.
2. The Deputy Commissioner of Police,
Public Information Officer,
Central Crime Branch-2,
O/o the Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai-600 007.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent herein to furnish the proper and factual information sought for by the petitioner, within a time frame as may be stipulated by this Court and also to grant adequate damages by way of compensation for every day's delay, as enacted under the Right to Information Act, 2005.

For Petitioner : Mr.M.Mohanraj

For Respondents : Mr.V.Jayaprakash Narayanan, Spl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the second respondent herein to furnish the proper and factual information sought for by the petitioner, within a time frame as may be stipulated by this Court and also to grant adequate damages by way of compensation for every day's delay, as enacted under the Right to Information Act, 2005 (for short, RTI Act).

2. In the affidavit filed in support of the Writ Petition, it is averred by the petitioner that on 30.07.2015, she sent an application under Section 6(1) of the RTI Act before the Additional Commissioner of Police, CCB, Greater Chennai City Police, Vepery, Chennai, by way of Registered Post Acknowledgement Due, seeking for the basis of registration of a civil dispute. The said civil dispute is stated to have been registered under Crime No.70 of 2015. Under Column No.8 of the format in the above application, she sought certain information running to Serial Nos.1 to 14. Though the said application was received on 31.07.2015, the Additional Commissioner of Police (appellate authority), Central Crime Branch, Greater Chennai City Police, Vepery Chennai-600 007, in proceedings C.No.124/ACOP-CCB/Camp/2015, dated 01.08.2015, gave a reply stating that the said application dated 30.07.2015 was forwarded to the second respondent herein for furnishing information to the petitioner in accordance with the provisions of the RTI Act within specified time.

3. It is the further case of the petitioner that since the above said information pertaining to Sl.Nos.1 to 14 in Column No.8 was not duly complied with, the petitioner sent another letter, dated 05.08.2015 to the second respondent. It is stated by the petitioner that the proceedings in Crime No.70 of 2015 were stayed by this Court in Crl.O.P.No.10215 of 2015. The said letter was received by the second respondent on 06.08.2015. Thereafter, the second respondent replied on 28.08.2015 in proceedings in C.No.180/DC/CCB-2/RTI/2015, stating that the information furnished by the Inspector of Police, which was sought for by the petitioner under the RTI Act, in the application, had been enclosed therewith. It is the grievance of the petitioner that most of the answers are one and same. She further states that out of 14 questions, only 12 questions have been replied stating that the reply to the question does not come under the definition clause of information under Section 2(f) of the RTI Act.

4. It is further stated that since the second respondent failed to act upon her representation based on the provisions of Section 6 of the RTI Act, the petitioner preferred a statutory First Appeal, dated 21.09.2015 under Section 19(1) of the RTI Act before the first appellate authority, namely the Additional Commissioner of Police, Central Crime Branch, Greater Chennai City Police, Vepery, Chennai-600 007, raising various grounds. The said statutory First Appeal was received on 25.09.2015. The first appellate authority passed orders on 16.10.2015 stating that the RTI appeal petition had been considered on merits and further stated that as reported by the second

respondent herein, based on her husband's petition, dated 28.03.2015, no F.I.R. was registered and hence, furnishing the same does not arise.

5. It is the grievance of the petitioner that the above reply of the first appellate authority is nothing but verbatim repetition of the order of the Public Information Officer. Hence, as the said reply is not satisfied, the petitioner sent another petition, dated 27.10.2015 to the first appellate authority seeking to furnish the information as sought for by the petitioner in a complete manner. The second respondent, vide proceedings in C.No.255/DC-CCB/2/RTI/Appeal/2015, dated 20.11.2015 did not give proper and factual information sought for by the petitioner in respect of her queries as requested in the First Appeal, dated 21.09.2015. Hence, another petition, dated 07.12.2015 was submitted before the first appellate authority, which was received on 08.12.2015, and again, improper reply was given. Therefore, further reminder petition, dated 15.12.2015 was submitted to the first appellate authority, seeking for information to all her queries requested in the First Appeal, dated 21.09.2015.

6. Subsequently, the petitioner filed Second Appeal, dated 30.12.2015, under Section 19(3) of the RTI Act before the Tamil Nadu State Information Commission, Chennai, raising further grounds against the order passed in the above First Appeal. Though the Second Appeal was received by the Chief Information Commissioner on 02.01.2016, neither any notice was received from the Commission, nor any reply was furnished/order was passed by the Commission. In the meantime, the Additional Commissioner of Police, the appellate authority of the First Appeal, has passed an order, vide proceedings in Rc.No.1/ACOP/CCB/Camp/2016, dated 07.01.2016 and also in the proceedings in C.No.2/ACOP/CCB/Camp/2016, dated 07.01.2016, stating that the appeal petition filed by the petitioner under the RTI Act seems to be a grievance petition rather than RTI appeal petition. However, the second respondent herein was directed to furnish information which has been left out in the RTI petition, dated 21.09.2015 in accordance with the provisions of the RTI Act, within specified time.

7. In view of treating the appeal petition as grievance petition, the petitioner sent reminder petition, dated 11.01.2016, to the second respondent regarding the pendency of proper reply for the unattended/unanswered 13 queries sought for through the First Appeal, dated 21.09.2015. Since no reply is forthcoming either in the Second Appeal or against the appeal petition, dated 11.01.2016 and since the information sought for by her

ought to have been granted within a time frame as per the mandate prescribed under the RTI Act, every day's delay is countable and is a loss to a person seeking such information and thereby, it attracts penalty under Section 20(1) of the RTI Act. Hence, for the above reasons, the petitioner has filed this Writ Petition seeking the relief stated supra.

8. Heard both sides and perused the materials available on record.

9. In view of the fact that the statutory Second Appeal filed by the petitioner is pending before the Tamil Nadu Station Information Commission, I am of the opinion that the petitioner cannot approach this Court. Therefore, this Writ Petition is dismissed, with liberty to the petitioner to work out her remedy before the Tamil Nadu State Information Commission in the above said Second Appeal preferred by her. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cs

Copy to

1. The Commissioner of Police,
EVK Sampath Road,
Vepery, Chennai-600 007.
2. The Deputy Commissioner of Police,
Public Information Officer,
Central Crime Branch-2,
O/o the Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai-600 007.

1 cc to Mr.M. Mohanraj, Advocate, Sr. 22373
1 cc to the Government Pleder, Sr. 22487

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