

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.1999 of 2016
& W.M.P.No.1741 of 2016

E.Sumathy

.. Petitioner

Vs.

1. Tamil Nadu State Information Commission,
No.2, Sir Theagaraya Road,
Near Aalai Amman Temple,
Teynampet, Chennai-600 018.
 2. The Appellate Authority / Zonal Officer,
Corporation of Chennai, Zone-IX,
K.B.Dasan Road, Teynampet, Chennai-600 018.
 3. The Public Information Officer,
Corporation of Chennai, Zone-IX,
K.B.Dasan Road, Teynampet,
Chennai-600 018.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in pursuant to its order, dated 30.10.2015 in S.A.No.6104/Enquiry/2015 and quash the same and consequently direct the respondents to provide the information sought for by the petitioner, vide her RTI application and communication, dated 28.01.2015 and 02.11.2015 respectively.

For Petitioner : Mr. R.Gopinath

For Respondents : Mr.L.P.Maurya
for M/s.G.R.Associates for R-1
Mr.P.V.Selvakumar for RR-2 and 3

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent-Tamil Nadu State Information Commission, in pursuant to its order, dated 30.10.2015 in

S.A.No.6104/Enquiry/2015 and quash the same and consequently direct the respondents to provide the information sought for by the petitioner, vide her RTI application and communication, dated 28.01.2015 and 02.11.2015 respectively.

2. In the affidavit filed in support of the Writ Petition, it is stated by the petitioner that she is the owner of the property bearing house, ground and premises being front facing ground floor flat in Door No.49/1 (Old Door No.74), Kavignar Bharathidasan Road (K.B.Dasan Road), Vannia Teynampet, Chennai-600 018. While so, a notice dated nil, in No.U-26/C.No./E1/002/2014 was issued by the officials of the Corporation of Chennai. Subsequently, the Inspector of Police, Law and Order, E.3 Teynampet Police Station, issued notice, dated 20.01.2015 to stop the work initiated by the petitioner in compliance of the above said first notice issued by the Corporation of Chennai. In the second notice issued by the Inspector of Police, it is stated that the same was issued on a complaint given by one Mr.Kasinathan, Junior Engineer, Division-122, Zone-IX, Corporation of Chennai, who was also a party to the first notice issued by the Corporation of Chennai. It is the grievance of the petitioner that the above action of the officials of the Corporation of Chennai in taking dual stand raised various queries. Hence, the petitioner sent application, dated 28.01.2015 to the third respondent seeking certain information and copies of documents under the provisions of the Right to Information Act. In spite of the fact that the third respondent received the said application, dated 28.01.2015, the third respondent has not provided the required information sought for by the petitioner under the said Act. Hence, the petitioner preferred first appeal, dated 12.03.2015 before the second respondent. Even though the second respondent received the above appeal, dated 12.03.2015, the second respondent has not disposed of the appeal. Therefore, the petitioner preferred second appeal, dated 27.04.2015 under Section 19 of the said Act to the first respondent. Even though the said second appeal was received by the first respondent, in spite of the reminder, the same was not disposed of by the first respondent. Hence, the petitioner filed a Writ Petition in W.P.No.25727 of 2015 before this Court to direct the first respondent to consider the appeal, dated 27.04.2015 of the petitioner under Section 19 of the said Act and pass orders within a time frame by providing the petitioner with an opportunity of personal hearing. This Court, by order dated 19.08.2015 passed in the said Writ Petition, directed the first respondent to dispose of the appeal within a period of four weeks from the date of receipt of a copy of the order.

3. It is further stated by the petitioner that thereafter, by letter dated 27.10.2015, a personal hearing was fixed on 30.10.2015 by the first respondent in respect of the second

appeal, on which date, the petitioner's counsel appeared before the first respondent and represented her case. At the time of hearing, the third respondent appeared and produced certain papers relating to the information sought for by the petitioner and the third respondent also submitted that the copies of the said papers produced before the Commission on the date of hearing, have already been communicated to the petitioner by post, which was received by the petitioner only on 31.10.2015. The first respondent, while recording the submissions made by the third respondent, closed the above said appeal on 30.10.2015 on the ground that the information sought for, has already been furnished to the petitioner. It is the grievance of the petitioner that the third respondent did not furnish any information as sought for by the petitioner and thereby, mislead the first respondent by providing certain irrelevant information in order to close the second appeal preferred by the petitioner. It is the further grievance of the petitioner that on 02.11.2015, her counsel personally visited the office of the first respondent and on behalf of the petitioner, they requested the first respondent to reopen the case and fix a personal hearing to ensure that the exact information which the petitioner sought for, is provided to the petitioner and also to take appropriate action against the third respondent under Section 20 of the said Act. But, till date, the said second appeal has not been reopened and no action has been taken against the third respondent by the first respondent. Hence, the petitioner has filed this Writ Petition for the above said relief.

4. Heard both sides.

5. Learned counsel for the respondents submitted that the petitioner is having liberty under Section 18 of the said Act to give a complaint to the first respondent and if such a complaint is preferred, necessary action will be taken, if the first respondent comes to a conclusion that the documents sought for were not furnished to the petitioner.

6. In view of the above said submission of the learned counsel for the respondents, without going into the merits of the claim of the writ petitioner, this Court grants liberty to the petitioner to furnish a complaint to the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such complaint, if any preferred, the first respondent shall conduct enquiry and after providing an opportunity of personal hearing to the petitioner and necessary parties, dispose of the said complaint, on merits and in accordance with law, within a period of four weeks thereafter.

7. With the above observations and directions, the Writ Petition is disposed of. W.M.P.No.1741 of 2016 is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cs
Copy to

1. Tamil Nadu State Information Commission,
No.2, Sir Theagaraya Road,
Near Aalai Amman Temple,
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2. The Appellate Authority / Zonal Officer,
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+1cc to Mr.R. Gopinath, Advocate, S.R.No.12245
+1cc to M/s.P.V.Selvakumar, Advocate, S.R.No.12365

CNR(CO)
EU(01/03/2016)

सत्यमेव जयते

W.P.No.1999 of 2016

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