

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.12853 of 2013

&

M.P.No.1 of 2013

A.K.Ramadoss

.. Petitioner

Vs.

1.Public Information Officer-cum-
Superintendent of Police (North),
Puducherry.

2.The Senior Superintendent of Police,
Head Quarter,
Puducherry.

3.Central Information Commission,
No.305, B-Wing, August Kranti Bhawan,
Bhikaji Kama Place,
New Delhi-66.

4.The Inspector General of Police,
Puducherry.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to pay a sum of Rs.25,000/- as penalty as per Section 20 of the RTI Act to the petitioner herein.

For Petitioner : Mr.R.Sunil Kumar

For Respondents : Mr.J.Kumaran,
Government Pleader (Puducherry)
for R1,R2 and R4

No appearance for R3

ORDER

Heard Mr.R.Sunil Kumar, learned counsel for the petitioner and Mr.J.Kumaran, learned Government Pleader for the respondents 1, 2 and 4.

2.It is the case of the petitioner is that by an application dated 30.05.2011, the petitioner had sought for certain informations from the first respondent under the provisions of Right to Information Act, 2005. Since the first respondent failed to furnish the informations within thirty days as contemplated under the said Act, he had filed the first Appeal dated 22.07.2011, before the Second Respondent seeking for the information. The second respondent, in turn, directed the first respondent to furnish the details. Pursuant to which, the first respondent, by his letter dated 18.08.2011, had furnished seven out of eight informations sought for by the petitioner. The eighth information required by the petitioner was a final order submitted by the police before the Jurisdictional Magistrate in Crime No.337 of 1989. Since this information was not furnished, the petitioner had filed a Second Appeal before the third respondent on 17.09.2011. The third respondent had directed

the first respondent to furnish a copy of the report sought for by the petitioner within 21 days from the order passed in the appeal. While passing the said order, the Appellate Authority had also observed that there was a delay even in the details already furnished to the petitioner. Pursuant to the orders of the third respondent, the second respondent, by a letter, dated 10.12.2012, had directed the first respondent to comply with the orders passed in the second appeal. Ultimately, by letter dated 27.12.2012, the first respondent informed the petitioner that the required information was destroyed and hence it was not possible to furnish the information. Subsequently, the petitioner was able to get the copy of the required information which is the final report of the first respondent in Crime No.337 of 1989 and which he had obtained from the Judicial Magistrate, Puducherry.

3. According to the petitioner, the first respondent had deliberately denied to furnish the report and hence, he had filed the present writ petition seeking for a direction to the first respondent to pay penalty under Section 20 of the Right to Information Act.

4. The copy of the final report, which is the information sought for by the petitioner, is produced before this Court. On a perusal of the said report, it is seen for the first respondent had observed that pursuant to his enquiry, he has

found that something fishy in the registration of criminal case against the petitioner. I am unable to accept the submissions of the respondents that they were unable to procure the copy of the order since the first respondent, who is the Superintendent of Police cannot plead ignorance that he was not aware that the enquiry report has been filed in the Judicial Magistrate Court at Puducherry by his own department, where the case in Crime No.337 of 1989 was pending. Nothing prevented the first respondent from obtaining a copy from the concerned Magistrate and furnish the same to the petitioner. Even in the earlier occasion, when seven out of eight informations were furnished to the petitioner, there was a delay which had been observed in the third respondent's order.

5.Under Section 6 of the Right To Information Act, the Public Information Officer is bound to furnish the details available and even when the required information is held by another Public Authority, he shall transfer the application under Right to Information Act and furnish the required information. As such the petitioner had moved the 3rd respondent to initiate penalty proceedings under Section 20 of the Right to Information Act.

6.At this juncture, the Special Government Pleader appearing for the

respondents would rely upon the judgement of the Delhi High Court in W.P.No.10065 of 2015 extra and submit that the information seeker has no locus standi for penalty proceedings under Section 20 of the Right to Information Act.

7.In the present case, it is quite evident that the information was very much available with the respondents and in spite of the same, they had been lethargic in making an attempt to get a copy from the concerned Jurisdictional Magistrate Court. Though the petitioner may not have *locus* in the penalty proceedings under Section 20 of Right to Information Act, now that it is brought to the notice of this Court, it would be appropriate to direct the first respondent to initiate appropriate action against the concerned Official who had failed to furnish the information to the petitioner.

8.Under such circumstances, the third respondent is directed to initiate proceedings under Section 20 of the Right to Information Act against such individual who had failed to furnish the informations sought for by the petitioner in time and pass appropriate orders at the earliest, within a period of three months from the date of receipt of a copy of this order.

M.S.RAMESH,J

kal
 9. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2016

Index : Yes/No

kal

To

1. Public Information Officer-cum-Superintendent of Police (North),
Puducherry.
2. The Senior Superintendent of Police,
Head Quarter,
Puducherry.
3. Central Information Commission,
No.305, B-Wing, August Kranti Bhawan,
Bhikaji Kama Place,
New Delhi-66.
4. The Inspector General of Police,
Puducherry.

**W.P.No.12853 of 2013 &
M.P.No.1 of 2013**

<http://www.judis.nic.in>