

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

WP.No.323 of 2016

R.Ganesh Prabhu
S/o.R.Rajkumar,
No.2, Thanjai Murugappa Chetty Street,
Park Town,
Chennai 600 003.

... Petitioner

Vs

1. The Director General of Police,
No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.
2. The Deputy Commissioner of Police,
R-3, Police Station,
Ashok Nagar, Chennai 600 083

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of MANDAMUS directing the respondent to consider the representation of the petitioner dated 07.12.2015.

For Petitioner : Mr.G.Thyagarajan

For Respondents : Mr.M.Digvijayapandian

Additional Government Pleader

O R D E R

This writ petition has been filed seeking a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 07.12.2015.

2. In the petition, it has been stated that the petitioner is a practising Advocate. He is a regular traveller to different parts of Tamilnadu and he used to reach the destination mostly after 11.00p.m. After a long travel on a particular day in July 2015, the petitioner reached the destination around 10.00p.m and located a restaurant nearby named Hot and Chat Fast Food at 22/61, Thambiah Road, West Mambalam, Chennai and he is a regular visitor of the restaurant. To the shock of the petitioner, the hotelier refused to serve food and when he enquired, he was informed that the Police

authorities from the R-3 Police Station, Ashok Nagar have instructed the hoteliers in the said area not to run hotels or restaurants after 10.00.p.m. Hence, the petitioner asked them whether any notice was served by the police authorities. Pursuant to the same, a copy of the notice issued by the Sub Inspector of Police, Law and Order, R-3 Ashok Nagar Police Station, Chennai 600 083 was given. Since the petitioner could not get any instruction or Government order any other law restricting the hoteliers to discontinue their service after 10.0.m, the petitioner preferred an application under RTI Act to the Director General of Police requesting them to furnish the provision of law under which the hotels and restaurants are restricted to function after 10.0..p.m. The Deputy Commissioner of Police Headquarters, Greater Chennai, sent a reply on behalf of the Director General of Police stating that the information sought for is not relating to any information pertaining to the Police department. Thereafter, the petitioner sent a representation to the first respondent dated 07.12.2015 in this regard. Though the representation was sent as early as in December 2015, till date, no action was taken. Hence, the petitioner has come forward with this Writ Petition.

3. The learned counsel for the petitioner submitted that the reason assigned by the second respondent viz., the information sought for is not relating to any information pertaining to the Police department, is not legally sustainable.

4. The learned counsel for the petitioner inviting the attention of this Court Section 2(f) of Right to Information Act, has submitted that information means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. According to the learned counsel for the petitioner, since the Hotelier refused to serve food in the restaurant based on the instruction given by the Police Station, it is for the second respondent to give correct particulars as to whether there is any provision of law under which the hotels and restaurants are restricted to function after 10.p.m. and hence, the petitioner made a representation to the first respondent seeking to furnish the details as to whether the police authorities are having authority to regulate the timing of hotels and restaurants after 10.00.p.m. Since no response is forthcoming, the present writ petition has been filed.

5. The learned Additional Government Pleader submitted that the petitioner having called for information under the Right to Information Act, he has to prefer only an appeal to the

Commissioner of Police. Hence, the present representation cannot be considered and therefore sought for dismissal of the Writ Petition.

6. Heard the learned counsel on either side and perused the materials available on record.

7. In view of the submission made by the learned Additional Government Pleader, this Court directs the petitioner herein to give a fresh representation to the Commissioner of Police, requesting to treat the earlier representation dated 07.12.2015 as an appeal and on receipt of the same, the Commissioner of Police is directed to pass appropriate orders on the same, within three weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of accordingly. No costs.
srn

-s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Director General of Police,
No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.
2. The Deputy Commissioner of Police,
R-3, Police Station,
Ashok Nagar, Chennai 600 083

+ 1 cc to M/s.G.Thiyagarajan, Advocate SR 6289

+ 1 cc to the Government Pleader, High Court, Madras SR 6557

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