

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 08.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN****W.P. (MD) No.11435 of 2013****and****M.P. (MD) .No.1 of 2013**

K.Sridhar

... Petitioner

Vs.

1. Tamil Nadu Information Commission,
represented by its Registrar,
No.2, Thiyagarayar Salai (Near Alayamman Koil),
Teynampet,
Chennai 600 018.

2. The Appellate Authority/Tashildar,
Taluk Office,
Vedasandur Taluk,
Vedasandur,
Dindigul.

3. The Public Information Officer,
Taluk Office,
Vedasandur Taluk,
Vedasandur,
Dindigul.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings made in order No.9579/C/2010 on the file of the first respondent herein, dated 25.04.2012, quash the same, and further direct the first respondent to initiate appropriate action as against the third respondent, as per Section 20(1) of Right to Information Act, 2005, in the light of order made in Case No.9579 of 2010 on the file of first respondent State Commission, dated 27.09.2010.

For Petitioner

: Mr.R.Sundar

For R1

: Mr.K.K.Senthil

For R2 & R3

: Mr.R.Anandharaj

Government Advocate

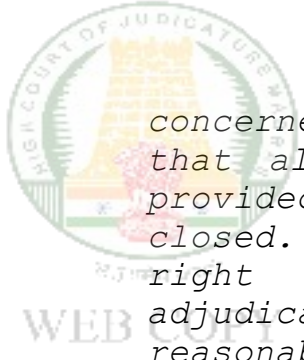
**ORDER**

The writ petition has been filed challenging the order passed by the first respondent, dated 25.04.2012 and quash the same and further to direct the first respondent to initiate appropriate action as against the third respondent, as per Section 20(1) of Right to Information Act, 2005, in the light of the order made in Case No.9579 of 2010 on the file of the first respondent, dated 27.09.2010.

2. According to the petitioner, he sought for some information with regard to cutting of bamboos trees in a public auction, in the property situated in S.F.No.1178, Sukkampatti Village, Vedasanthur Taluk, Dindigul District, before the third respondent. Since no information was furnished by the third respondent within the time stipulated in the Act, he has filed an appeal before the second respondent / appellate authority under Section 19(1) of Right to Information Act, 2005. Since some wrong information has been furnished, he has preferred a second appeal before the first respondent / State Information Commission and the first respondent after conducting enquiry, passed an order, dated 27.09.2010, directing the third respondent to furnish information sought for by the petitioner and also directed the third respondent to give explanation for initiating action for furnishing wrong information. Since the above said order has not been complied with, he preferred yet another appeal before the first respondent / State Information Commission on 27.12.2010. In the above appeal, the first respondent / State Information Commission, stating that all the required information has already been furnished to the petitioner and closed the application on 29.07.2011. Subsequently, the petitioner made a representation to the first respondent / State Information Commission, on 26.09.2011, stating that the required information has not been furnished to him within the time stipulated in the Act. He requested the Commission to take action against the third respondent under Section 20(1) of the said Act and also stated that the order dated 29.07.2011 has been passed without affording an opportunity to the petitioner. The said application has been rejected by the Commission stating that the Commission has no power to consider his representation. Challenging the above said order, the present writ petition has been filed.

3. The first respondent has filed a counter affidavit and in para-7, it is stated as follows:

"7. It is respectfully submitted that as per the proviso clause under Section 20(1) of the RTI Act, 2005, a ~~person~~ opportunity of being heard was given to the Public Information Officer by conducting a personal enquiry on 29.07.2011 and the Commission after having perused all the



concerned records during the enquiry came to a conclusion that all the information required by the petitioner were provided by the Public Information Officer, and the case was closed. It is respectfully submitted that as a matter of right the petitioner cannot compel the Commission, an adjudicatory body, to impose penalty on the PIO without reasonable cause. The Commission is duty bound to examine each case on merit enquiry came to a conclusion that all the information required by the petitioner were provided by the Public Information Officer, and the case was closed. It is respectfully submitted that as a matter of right the petitioner cannot compel the Commission, an adjudicatory body, to impose penalty on the PTO without reasonable cause. The Commission is duty bound to examine each case on merit and as per law and pass appropriate orders and it cannot act mechanically to the whims and fancies of an appellant/complainant."

4. The learned counsel for the petitioner submitted that the first respondent has passed an order, dated 29.07.2011, without giving an opportunity to the petitioner and conducting enquiry. Hence, he made a representation dated 26.09.2011 to the first respondent, seeking for re-enquiry. The State Information Commission has passed an order dated 25.04.2012, stating that under Section 19 of the Act, the Commission has no power to consider the representation and if the petitioner is aggrieved by the order passed by the first respondent, the only remedy available to him is to challenge the said order before the appropriate forum, in the manner known to law.

5. If at all the petitioner is having any grievance against the order passed by the first respondent, dated 29.07.2011, the only remedy available to him is to challenge the order passed by the first respondent, in the manner known to law and he cannot make a representation before the first respondent to re-consider the above decision. In the above circumstances, this court finds any infirmity or irregularity in the order passed by the first respondent.

6. With the above observation, the writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar



To

1. The Registrar,
Tamil Nadu Information Commission,
No.2, Thiagarayar Salai (Near Alayamman Koil),
Teynampet, Chennai 600 018.

2. The Appellate Authority/Tashildar,
Taluk Office,
Vedasandur Taluk, Vedasandur, Dindigul.

3. The Public Information Officer,
Taluk Office,
Vedasandur Taluk, Vedasandur, Dindigul.

+1 cc to M/s.R.Sundar, Advocate in SR.No.57081
+1 cc to M/s.K.K.Senthil, Advocate in SR.No.51156
+1 cc to The Special Government Pleader in SR.No.51493

akv

CSL/SS-3/14.10.2016:4P/8C

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