



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN**W.P (MD) No.2794 of 2014
and M.P. (MD) No.1 of 2014**

The Headmistress,
St.Joseph Primary School,
Sivagangai,
Sivagangai District - 630 561.

..Petitioner

Vs

- 1.The Tamilnadu Information Commission,
No.2, Thiyagarajar Salai,
Near Aalai Amman Kovil,
Thenampet,
Chennai - 18.
- 2.The District Elementary Educational Officer,
Sivagangai District,
Sivagangai - 630 561.
- 3.The Assistant Elementary Educational Officer,
Sivagangai District,
Sivagangai - 630 561.
- 4.M.T.Thomas

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records and proceedings of the 1st respondent relating to the impugned order No.51468/C/2013 dated 02.01.2014 and to quash the same as illegal.

For Petitioner :Mr.M.P.Senthil
For 1st Respondent :Mr.K.K.Senthil

For Respondents 2 & 3:Mr.D.Muruganandham
Additional Government Pleader

For 4th Respondent :No appearance

O R D E R

The Petitioner, who is a minority school has approached this Court seeking quash of the proceedings of the 1st respondent relating to the impugned order No.51468/C/2013 dated 02.01.2014.



2.The fourth respondent herein has approached the second respondent seeking some information under the Right to Information Act, 2005 (hereinafter referred to as the R.T.I. Act) relating to one Sister R.Lourdes Mary, working in that school. The matter was referred to the third respondent. On receipt of communication from the third respondent the petitioner has replied that the information sought for by the 4th respondent pertain to the personal details of the said Sister R. Lourdes Mary and the same cannot be divulged to a third party. Moreover, the school being a minority institution, they have very limited information and being Headmistress of the School she has only limited role in the administration of the School.

3.Having not satisfied with the reasons stated by the petitioner, the fourth respondent has filed appeal before the Correspondent of the School on 27.09.2013. The appellate authority in turn replied to the fourth respondent stating that the information sought for by the fourth respondent relates to personal details of the Congregation Member i.e., Lourdes Mary and since the personal details did not involve any public interest, the appellate authority declined the information. Against the appellate authority's order the fourth respondent preferred Second Appeal before the first respondent. The first respondent without ascertaining the views of the school and the congregation by order dated 02.01.2014, has directed the petitioner to supply the information as sought for by the fourth respondent.

4.According to the learned counsel appearing for the petitioner, the said order passed by the first respondent is contrary to the Scheme of the R.T.I. Act and the Rules framed thereunder as no notice or opportunity was given to the petitioner to place her objection prior to passing of the order. It was also contended on behalf of the petitioner that the impugned order passed by the first respondent is bereft of any reason and there was no discussion as to what formed the basis for issuing such a mandatory direction, directing the school to furnish all information sought for by the 4th respondent. It was also further contended that the first respondent has overlooked the fact that the information sought for by the first respondent is purely personal to a member of the Congregation, which cannot be divulged as there was no public interest involved. In any event, such a mandatory direction was issued by the first respondent, without putting the school on notice and without ascertaining its views, is per se illegal and un-sustainable in law.

5.Mr.K.K.Senthil, the learned counsel appearing for the first respondent would contend that the order passed by the first respondent cannot be faulted with and the same was only in

of the R.T.I. Act and the Rules made thereunder.

6.I have considered the submissions made by the learned



counsel on either side and perused the materials on record and the pleadings.

5.As contended by the learned counsel appearing for the petitioner, the impugned order passed by the first respondent cannot be sustained at all in view of the admitted fact that no prior notice was issued to the petitioner's school. From the proceedings of the first respondent, which is impugned in the writ petition, it could be seen that no opportunity was afforded to the petitioner school and no reason was spelt out for seeking the information as sought by the fourth respondent. The impugned order prima-facie appears to have been issued without proper application of mind and without following the scheme of the R.T.I. Act and the Rules framed thereunder. Therefore, I have no hesitation to hold that the impugned order is un-sustainable in law and therefore, the same is liable to be set aside.

6.Accordingly, the Writ Petition is allowed and the impugned order of the 1st respondent dated 02.01.2014 is set aside. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Tamilnadu State Information Commission,
No.2, Thiyagarajar Salai,
Near Aalai Amman Kovil,
Thenampet,
Chennai - 18.

2.The District Elementary Educational Officer,
Sivagangai District,
Sivagangai - 630 561.

3.The Assistant Elementary Educational Officer,
Sivagangai District,
Sivagangai - 630 561.

+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 14383

+1 CC to M/s.M.P.SENTHIL, Advocate, SR No. 14295

SJ

PSM/SKN-RSK/24.03.2017/3P/6C

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and M.P. (MD) No.1 of 2014
13.03.2017