

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2018

CORAM

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

W.P.No.30213 of 2014

and

M.P.No.1 of 2014

The Head Mistress,
J.K.K.Rangammal Girls Higher,
Secondary School,
Komarapalayam - 638 183,
Tiruchengode Taluk,
Namakkal District.

.. Petitioner

vs.

1. The Chief Educational Officer,
Namakkal District,
Namakkal.

2. M.Rajasekaran

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings made in Na.Ka.No.5514/A7/2014 dated 22.08.2014, passed by the first respondent, quash the same and consequently forbear the second respondent from seeking any information which are exempted under Sec. 8 (1) of the Right to Information Act, 2005 in respect of the petitioner institution.

For Petitioner : Mr.N.Manokaran
For Respondent 1 : Mr.K.Karthikeyan
Government Advocate
For Respondent 2 : No appearance

O R D E R

The relief sought for in this writ petition is to call for the records in relation to the order of the first respondent dated 22.08.2014, requesting the writ petitioner to provide the information to the information seeker/second respondent within a period of seven days from the date of receipt of the order. Challenging the said order the present writ petition is filed.

2. The learned counsel appearing on behalf of the writ petitioner, contented that the order passed by the first respondent is without application of mind and that is reason why the writ petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner states that the Right to Information Act, 2005 (RTI Act), provides certain conditions and exemption for the purpose of providing the information to the information seeker but certain documents are exempted and certain information are also protected. Contrarily, the first respondent issued the impugned order directing them to provide certain information to the second respondent .

4. The learned Government Advocate appearing on behalf of the first respondent opposed the contention by stating that the first respondent forwarded the application submitted by the information seeker and therefore, it is for the writ petitioner to furnish the information sought for by the information seeker. Therefore, the writ petition is not maintainable. The writ petitioner is duty bound to provide the information under the provisions of the Right to Information Act, to the information seeker. The writ petitioner can not hide the information and by filing the writ petition, they cannot restrain the information seeker from getting the information under the provisions of the Right to Information Act, 2005. Thus, the writ petition is liable to be rejected.

5. This Court is of an opinion that in the provisions of the Right to Information Act, 2005, the word "information" has been defined under Section 2 (f) of the Act, 2005. The word 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. It is provided for the purpose of covering the documents and information to be provided for the information seeker. Public authority is defined under Section 2 (h) of the Act and Section 8 of the Act, deals with the exemption from disclosure of certain information.

6. The learned counsel for the petitioner states that certain information which are all exempted, are also sought by the second respondent. The first respondent without any application of mind insisting the writ petitioner to furnish of those information exempted under the provisions of Section 8 of the Information Act.

7. The learned Government Advocate contented that the first respondent is duty bound to forward the queries made by the information seeker to the institution concerned. In the present case the second respondent, at the first instance, submitted a letter to the writ petitioner seeking information. Since the writ petitioner had not responded to the second respondent, the second respondent sent another representation to the first respondent and it was forwarded to the writ petitioner for the purposes of providing information sought by the second respondent.

8. Be that as it may, the object of the Right to Information Act, 2005, is to ensure transparency in administration and to provide information about the institution at large to the public in General. The statute provide certain exemptions to the persons, who are liable to provide information who can very well refuse to provide the information by stating the relevant provision of the Act.

9. At the out set, if the information is exempted under Section 8 of the Act, then, it is to be decided by the public information officers with reasons and accordingly, refuse to provide the information. Contrarily, the public information officer cannot keep the application pending without answering the queries raised by the information seeker. What is important is that the application submitted by any citizen seeking information to be responded. While providing information, queries have to be answered in the manner known to law. If the particular information is exempted the same also to be mentioned and the reasons also to be furnished to the information seeker.

10. Thus, this Court no doubt is of an opinion that every question or queries raised by the information seeker has to be answered in accordance with the provisions of the Right to Information Act, 2005 and if the information to be provided is exempted reasons to be recorded for not furnishing such information to the information seeker.

11. In this view of the matter the application submitted by the second respondent, which was forwarded by the first respondent is to be responded by the writ petitioner in accordance with the provisions of the Right to Information Act, 2005.

12. Accordingly, the writ petitioner is directed to respond to the application forwarded by the first respondent and provide information to the second respondent in the manner known to law and more specifically, with reference to the provisions of the Right to Information Act, 2005.

13. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nmm/stm

To

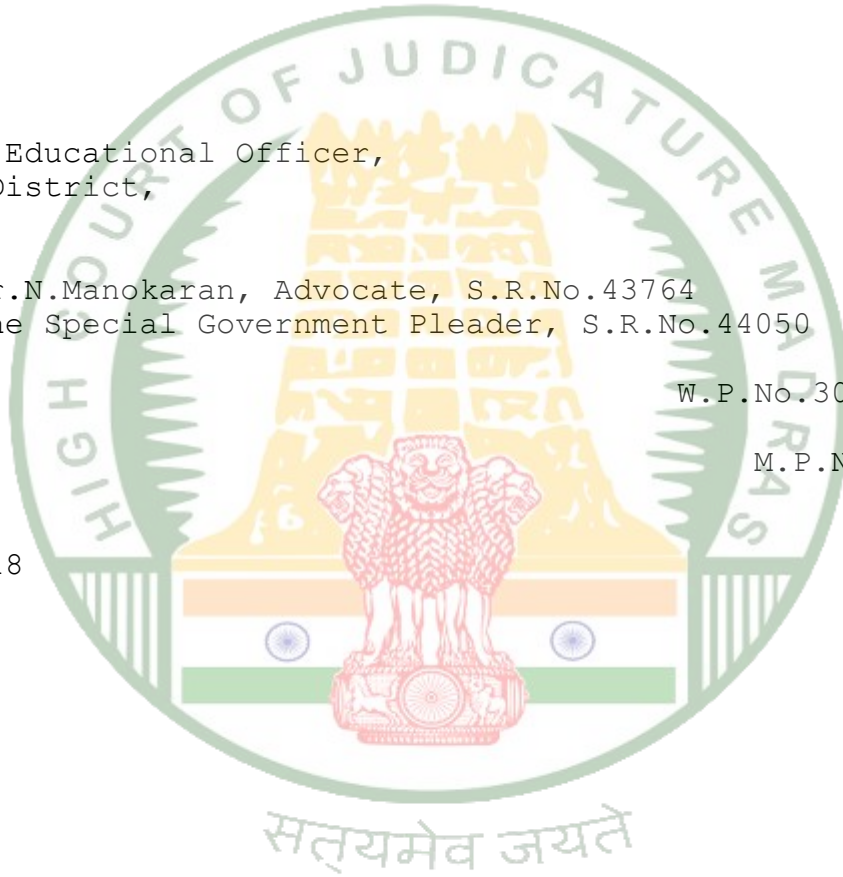
The Chief Educational Officer,
Namakkal District,
Namakkal.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.43764

+1cc to the Special Government Pleader, S.R.No.44050

W.P.No.30213 of 2014
and
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