

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.20965 of 2017

Palanivel Thiyagarajan ... Petitioner

Vs.

- 1.State of Tamil Nadu
Rep. by its Chief Secretary,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
 - 2.Secretary, Department of Information
and Technology,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
 - 3.State Informatics Officer,
National Informatics Centre - Tamil Nadu
State Centre,, E Wing, First Floor,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 090.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for a Writ of Declaration, declaring that the sudden removal of official phone numbers and email addresses of the Council of Ministers of the Government of Tamil Nadu on the official website i.e www.tn.gov.in is null and void, illegal, whimsical and capricious and consequentially direct the respondents herein to restore the official phone numbers and official email addresses of the Council of Ministers of the Government of Tamil Nadu on the official website i.e.www.tn.gov.in.

For Petitioner : Mr.S.Manuraj

For R1 & R2 : Mr.Vijay Narayan
Advocate General
assisted by Mr.T.N.Rajagopalan
Government Pleader.

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Palanivel Thiyagarajan, a former Member of 15th Legislative Assembly of Tamil Nadu and Secretary, Information Technology Wing, Dravida Munnetra Kazhagam, sought for a Writ of Mandamus, declaring that the removal of official phone numbers and email addresses of the Council of Ministers, Government of Tamil Nadu, from the official website i.e www.tn.gov.in, is null and void, illegal, whimsical and capricious and consequently, for a direction to the respondents herein, to restore the official phone numbers and official email addresses of the Council of Ministers, Government of Tamil Nadu, on the official website i.e.www.tn.gov.in.

2. Supporting the prayer sought for, he has relied on the information in India Today's Portal, which claimed that following Kamal Haasan's tweets, Tamil Nadu Government Official website removed the contact details, of the Council of Ministers.

3. Petitioner has also submitted that, untill 21.07.2017, Tamil Nadu Official Government website www.tn.gov.in, had contained official phone numbers and official email addresses, of the Council of Ministers and subsequently removed.

4. According to the petitioner, removal of official phone numbers and official email addresses, goes against the tenets of transparency, accountability and good governance. Concept of 'proactive disclosure' is sine qua non to the Right to Information, is also pressed into the service.

5. Responding to the notice and inviting the attention of this Court, to the photo copies and the information available in Tamil Nadu Government website "www.tn.gov.in", Mr.Vijay Narayan, learned Advocate General submitted that, the details of the official phone numbers and official email addresses of the Council of Ministers, Government of Tamilnadu, are available in the said website.

6. According to the learned Advocate General, what the petitioner has to do, is to click against the concerned column, 'Council of Ministers' and details are available. Learned Advocate General has further submitted that, even the mobile numbers of the concerned Ministers/MLAs/MPs, representing the respective constituencies, are furnished in the Tamil Nadu Government official website 'www.tn.gov.in'. In this context, he also demonstrated, as to how the details of the Council of Ministers/MLAs/MPs, could be found, if any person clicks the column 'contact directory'. Photo copies of the print outs were produced.

7. Going through the photo copies, print out taken from the Tamil Nadu Government website 'www.tn.gov.in', we are satisfied that the Government have provided all the information, that is required. There is no infraction of any statutory provision of the Right to Information Act, and there is transparency.

8. Though, Mr.S.Manuraj, learned counsel for the petitioner submitted that the information, which is available, under the head of Council of Ministers, can be linked to the Government website 'www.tn.gov.in' and thus, the petitioner can have access to the information, we are not inclined to issue any direction to the respondents. Suffice to direct the Government, to explore the possibility if any, for the development of the official website,

(a) Writ Petition prima facie appears to have been filed, on the basis of news items published in India Today website i.e., Tweet message and screen shot of web page, showing the official phone numbers of Council of Ministers, dated 25.07.2017, and averments have been made claiming removal of certain information, already available.

(b) News paper reports cannot be the basis of Public Interest Litigation. Reference can be made to few decisions,

(i) In Dr.B.Singh Vs. Union of India (UOI) and others reported in 2004 (3) SCC 363, the Hon'ble Apex Court, dealing with a public interest litigation, challenging the propriety of the third respondent therein for being considered for appointment as a Judge, the Supreme Court while expressing its anguish found that:

"the petitioner has nowhere stated that he has personal knowledge of the allegations made against R3. He does not even aver that he made any effort to find out whether the allegations have any basis. He only refers to the representation of Ram Sarup and some other paper cuttings of news items. It is too much to attribute authenticity or creditability to any

information or fact merely because, it found publication in a newspaper or journal or magazine or any other form of communication, as though it is gospel truth. It needs no reiteration that newspaper reports per se do not constitute legally acceptable evidence."

(ii) In the case of Kasturi Radha Krishnan v. President of India, reported in A.I.R. 1990 Mad. 217, a Hon'ble High Court, Madras, while dismissing a public interest litigation filed on the basis of newspaper reports has stated as follows:

As has already been stated, the Governor shall hold office during the pleasure of the President under Article 156 of the Constitution. As such, it is not open to the petitioner to make allegations in an affidavit based on mere newspaper reports and come to this Court as if it is a public interest litigation. Further, before approaching this Court for issuance of a writ of mandamus, there should be definite allegations made in the affidavit. The allegations made in the affidavit are based only on newspaper report and nothing else."

(iii) In A.S.M.Kumar v. State of Tamil Nadu, reported in 2008 (5) MLJ 399, a Hon'ble Division Bench of this Court, to which, one of us, is a party, as to the evidenciary value of newspaper reports, has considered the following judgments,

"8.The question of admissibility of the newspaper reports came up for consideration in Samant N.Balkrishna and another Vs.George Fernandez and other reported in 1969 (3) SCC 238 at paragraph 26, the Apex Court observed that "A newspaper item without any further proof of what had actually happened through witnesses is of no value. It is at best a second hand evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publish it. In this process truth might get perverted or garbled. Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is forcible."

9. In the light of the above decisions and discussion, writ petition is dismissed. No Costs.

10. Mr.S.Manuraj, learned counsel for the petitioner, sought for certificate of leave, from this Court, for an appeal, to the Hon'ble Supreme Court, Article 134-A is reads thus:-

"134-A. Certificate for appeal to the Supreme Court.-Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134,-

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence, determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case."

11. Appeals to the Supreme Court, arises a case involving a substantial question of law as to the interpretation of the Constitution. Article 132 of the Constitution, reads thus:-

"132. Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases - (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, [if the High Court certifies under article 134-A] that the case involves a substantial question of law as to the interpretation of this Constitution.

(3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided."

12. On the facts and circumstances of the case, we are of the view that there is no substantial question of law, to issue any certificate, under Article 134-A of the Constitution of India and hence, request of the petitioner, is rejected.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.Chief Secretary,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.

2.Secretary, Department of Information
and Technology,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.

3.State Informatics Officer,
National Informatics Centre - Tamil Nadu
State Centre,, E Wing, First Floor,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 090.

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srg 10/09/2018



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