



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.40600 of 2015
and M.P.Nos.1 & 2 of 2015

The Principal
M.Kumarasamy College of Engineering ... Petitioner

Vs.

1. The Information Commissioner,
Central Information Commission,
Room No.315, B Wing,
August Kranti Bhawan,
Bhikaji Cama Place,
New Delhi 110 066.
2. The Southern Regional Officer,
All India Council for Technical Education,
Shastri Bhavan,
No.26, Hadows Road,
Nungambakkam,
Chennai - 600 006.
3. M.Rajashekar ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records relating to the order of the 1st respondent dated 06.11.2015 in ref.No.CIC/CC/A/2014/001017-SA, CIC/CC/A/ 2014/002101-SA, CIC/CC/A/2014/000960-SA, and quash the same.

For Petitioner : Mr.C.T.Murugappan
for M/s.M.Vellaisamy

For Respondents : No Appearance, for R1 & R2
Mr.E.P.Senniagini, for R3

O R D E R

This petition is filed for issuing a Writ of Certiorari to quash the proceedings of the first respondent dated 06.11.2015.

2. The brief facts that are necessary for disposal of the Writ Petition, are as follows.



3. The petitioner's Institution was started in the year 2000 and it was approved by the second respondent-AICTE. It is not in dispute that the College is affiliated with the Anna University and it is offering various courses. The petitioner claims that the College is known for its outstanding academic records and it was conferred with autonomous status by the University Grants Commission in 2011.

4. It is stated that the third respondent has sent a letter dated 04.07.2014 seeking information under Section 6(1) of the Right to Information Act from the Public Information Officer of the second respondent AICTE with regard to the petitioner's College. In the said letter, the third respondent sought for permission to inspect the petitioner's College and find out the availability of infrastructure in the College and verify the records to find out whether the faculty members have the prescribed qualifications and also sought for certified copies of certain documents. Quite surprisingly, the third respondent requested information relating to the infrastructure and other details, which are required to be furnished by the Institution for the purpose of getting various orders from the authorities of the University and other Statutory authorities. The request of the third respondent to permit him to inspect along with the University authority is not sustainable, as there is no statutory provision in that regard.

5. It is seen that after considering the application preferred by the third respondent, the impugned order was passed by the first respondent on 06.11.2015. The first respondent, after referring to possible deficiencies in infrastructure and other aspects found that the prayer of the third respondent is reasonable.

6. The main issue that is raised by the learned counsel appearing for the petitioner is that no opportunity was given to the petitioner before passing the impugned order. Section 11 (1) of the Right to Information Act 2005 reads as follows:

"11.Third party information-- (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to



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disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party."

7. It is not in dispute that the petitioner was not given an opportunity before the impugned order was passed. Since the mandatory requirement of Section 11 of the Act has not been followed, this Court is unable to sustain the order impugned in this Writ Petition with regard to the nature of information sought for by the third respondent.

8. It is to be seen that the public authorities are bound to exercise their statutory duties and obligations as required. If the third respondent have any grievance against any particular Institution with regard to infrastructure, it is open to the third respondent to peruse the statutory records on the basis of an application and can approach higher authorities for proper action against the Institution. However, requesting the authorities to permit him to accompany the authority at the time of inspection is not authorised by any law. Such request cannot be granted as it is not within the scope of AICTE Act.

9. As a result, the Writ Petition is allowed and the impugned order is set aside. The first respondent is directed to take further action and pass appropriate orders after giving opportunity to the petitioner in accordance with law within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



pvs

To

1. The Information Commissioner,
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Room No.315, B Wing,
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New Delhi 110 066.
2. The Southern Regional Officer,
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No.26, Hadows Road,
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Chennai - 600 006.

+1cc to Mr.E.P.Senniyangiri, Advocate SR.NO.66481
+1cc to MR.M.Vellaisamy, Advocate SR.NO.66840
+1cc to Mrs.AL.Gandhimathi, Advocate SR.NO.66841

KK(CO)

sm:15.11.2018

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