

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5815 of 2010

and

M.P.No.1 of 2010

Tamil Nadu Road Development Company
rep. by its Managing Director,
Sindur Panthion Plaza, 2nd Floor,
346, antheon Road,
Egmore, Chennai-600 008.

.... Petitioner

Vs.

1.Tamil Nadu Information Commission,
Kamadhenu Super Market I Floor,
Old No.273/New No.378, Anna Salai,
Teynampet, Chennai-600 018.

2.Thiru K.P.Karunanidhi,
Reporter, Dinamani,
S.19-A, Ponnambalam Salai,
K.K.Nagar, Chennai-600 078.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorified Mandamus, calling for the records comprised in the proceedings of the first Respondent-Commission in Case No.1262/I 1/2009 dated 13-10-2009 as confirmed by its subsequent order dated 05-03-2010 in Direction No.19616/Q/09 on its file and to quash the same and consequently forbear the First Respondent-Commission from applying the provisions of Right to Information Act, 2005 against the Petitioner-Company.

For Petitioner : Mr. M.Sivavarthanan
For R1 : Mr.Niranjan Rajagopal
for M/s.GR. Associaties
For R2 : No Appearance

O R D E R

Challenging the order dated 05.03.2010 passed by the first respondent in Direction No.19616/Q/09, confirming its earlier order dated 13.10.2009 in Case No.1262/I1/2009, the petitioner has come up with the present writ petition.

2. The case of the petitioner is that the first respondent, by its order dated 13.10.2009, directed the petitioner to furnish certain information sought for by the second respondent, relating to the works in Thiru Vi.Ka.Industrial Estate, Phase II, Guindy undertaken by the petitioner as the Management Associate to M/s.Guindy Industrial Estate Infrastructure Upgradation Company Ltd. Aggrieved against the said order, the petitioner filed a petition, which was rejected by the first respondent, by order dated 05.03.2010. Hence, this writ petition.

3. When the matter was taken up for consideration, the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent submitted that subsequent to the filing of this writ petition, the Hon'ble Supreme Court in Civil Appeal No.8281 of 2014, vide order dated 26.08.2014, considered the issue as to whether the petitioner is a public authority under Section 2(h) of 2005 Act and held that it was kept open. The learned counsel further submitted that the first respondent, in similar circumstances, in Case No.9465/F/2014 by order dated 22.03.2017, held as follows:-

"15. From the above facts, the Commission is of the opinion that TNRDC is a Government Company with more than 51% of share capital controlled and monitored by empowered committee and substantially financed directed or indirectly by clearing cheques thereby funding for the projects.

16. The Commission therefore conclude that TNRDC is the Public Authority as defined in 2(h) of RTI Act and is coming under the purview of RTI Act. Under these circumstances, the Public Information Officer of TNRDC is directed to provide the information sought by the petitioner/appellant within two weeks from the date of receipt of this order by RPAD in accordance to the provision of RTI Act and should be reported to the Commission along with the acknowledgement obtained."

Therefore, the learned counsel prayed that the matter may be remanded back to the first respondent, for fresh consideration.

4. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court finds it appropriate to remand the matter back to the first respondent, for passing orders afresh.

5. Accordingly, this writ petition is allowed by setting aside the order dated 05.03.2010 passed by the first respondent in Direction No.19616/Q/09. Confirming its earlier order dated 13.10.2009 in Case No.1262/I1/2009. Consequently, the case is remanded back to the first respondent, which shall consider the same and pass appropriate orders on merits and in accordance with law and also in the light of the order dated 22.03.2017 in Case No.9465/F/2014. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

dm

To

1.Tamil Nadu Information Commission,
Kamadhenu Super Market I Floor,
Old No.273/New No.378, Anna Salai,
Teynampet, Chennai-600 018.

+1cc to Mr.M.SIVAVARTHANAN, Advocate, S.R.No. 45818

+1cc to Mr.G.R.ASSO. Advocate, S.R.No.45184

सत्यमेव जयते

W.P.No.5815 of 2010
and
M.P.No.1 of 2010

(CO)
TR(26/07/2018)

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