

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.7868 of 2012

M.P.Murugesan

.. Petitioner

Vs.

1.The Tamil Nadu Information Commission,
No.2, Sir Thiagaraya Salai,
Near Aalayamman Kovil,
Tenampet, Chennai - 600 018.

2.The Appellate Authority,
Regional Transport Officer,
Chengalpattu, Kancheepuram District.

3.The Public Information Officer,
Regional Transport Office,
Chengalpattu,
Kancheepuram District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to take necessary action against the second and third respondents under Sections 19(3) and 20 of the Right to Information Act, 2005 on the petitioner application dated 09.05.2011.

For Petitioner : Mr.A.Ramesh Manikandan

For Respondents : Mr.L.P.Maurya

For M/s.G.R.Associates for R1

Mr.K.S.Suresh

Government Advocate for R2 & R3

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O R D E R

Heard Mr.A.Ramesh Manikandan, learned counsel for the petitioner; Mr.L.P.Maurya, learned counsel, representing M/s.G.R.Associates, learned counsel on record for the first respondent; Mr.K.S.Suresh, learned Government Advocate for the respondents 2 and 3 and perused the materials available on record.

2. The petitioner has come forward with this Writ Petition for issuance of Writ of Mandamus, directing the first respondent to take necessary action against the respondents 2 and 3 under Sections 19(3) and 20 of the Right to Information Act, 2005.

3. It seems that the petitioner made an application dated 09.05.2011 seeking certain set of documents from the second respondent. Though the third respondent dismissed the application, which was confirmed by the Appellate Authority, the second respondent herein, however, the first respondent directed the respondents 2 and 3 to issue the information as sought for by the petitioner.

4. The learned counsel for the petitioner submitted that though in the second appeal, the petitioner could succeed, but so far, he was not furnished with the information and hence, the present Writ Petition.

5. The learned counsel for the respondents submitted that if the information is not furnished as per the order of the first respondent, a complaint under Section 18 of the Right to Information Act has to be filed, that would be entertained by the first respondent.

6. Section 18 of the Right to Information Act would run thus:-

"18. Powers and functions of Information Commission.-

(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person,-

(a) who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or Senior Officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds."

7. A plain reading of the above Section would reveal that if any information sought for by the petitioner is not furnished as per the order of the first respondent, the petitioner has to submit a complaint before the first respondent under Section 18 of the Right to Information Act. Since the petitioner bypassed the procedure, the present Writ Petition is disposed of with a

direction to the petitioner to approach the first respondent for redressal of his grievance, if he is so advised. There is no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The Tamil Nadu Information Commission,
No.2, Sir Thiyagaraya Salai,
Near Aalayamman Kovil,
Tenampet, Chennai - 600 018.
- 2.The Appellate Authority,
Regional Transport Officer,
Chengalpattu, Kancheepuram District.
- 3.The Public Information Officer,
Regional Transport Office,
Chengalpattu,
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+1cc to M/s.G.R.Associates, Advocate sr.no.63019

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