

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8595 of 2017

G.Elumalai

... Petitioner

vs.

1. State Information Commissioner,
The Tamilnadu Information Commission,
No.2, Thiygaraya Salai,
Teynampet,
Chennai - 18.

2. The Public Information Officer,
Block Development Office,
Tirunavalur Panchayat Union,
Ulundurpet Taluk,
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in his order No.S.A.5241/B/2016 dated 01.09.2016 and quash the same and thereby direct the respondents to provide the information to the petitioner as sought by him in his petition dated 29.12.2015 under the Right to Information Act.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.Niranjan Rajagopal for R1

Mr.D.Suriyanarayanan

Additional Government Pleader for R2

O R D E R

The petitioner is aggrieved against the order of the first respondent dated 01.09.2016 wherein and whereby the second appeal preferred by the petitioner before the Commissioner under the Right to Information Act was rejected.

2. Heard, Mr.N.Suresh, learned counsel appearing for the

petitioner, Mr.Niranjan Rajagopal, learned counsel appearing for the first respondent and Mr.D.Suriyanarayanan, learned Additional Government Pleader for the second respondent.

3. The petitioner made an application under Right to Information Act to the second respondent on 29.12.2015 and sought certain information regarding the encroachments made in the government lands and also the lake in the village called Vanniyankuppam Village, Ulundurpet Taluk. He also sought for other informations regarding the amount spent for cement road in Survey No.502/8 and the modern lavatory constructed in Survey No.638. As the second respondent did not provide any information, the petitioner preferred an appeal before the District Collector, Villupuram on 05.12.2016. He also did not pass any order in the appeal. Therefore, the petitioner filed second appeal before the first respondent which came to be rejected through the impugned order.

4. The learned counsel for the petitioner submitted that all the information sought for by the petitioner through his application are information available within the knowledge and at the office of the second respondent and therefore, the first respondent is not justified in rejecting the appeal as if those informations sought for by the petitioner are in relation with administrative action to be taken by the second respondent.

5. The learned counsel for the first respondent fairly submitted that the reasons stated by the first respondent in rejecting the appeal is not correct without considering each of the information sought for by the petitioner and the feasibility of furnishing such information. Therefore, he prayed for remitting the matter back to the first respondent for passing a fresh order.

6. Perusal of the impugned order passed by the first respondent would show that he has chosen to reject the appeal without discussing the nature of information sought for by the petitioner and the feasibility to provide the same. On the other hand, the first respondent has chosen to reject the appeal by vaguely stating that as if the petitioner is seeking for some administrative action through his representation. Therefore, this Court is convinced to set aside the impugned order and remit the matter back to the first respondent to pass fresh order on the appeal filed by the petitioner on merits and in accordance with law.

7. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to pass fresh order on the appeal filed by the petitioner on merits and in accordance with

law within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. State Information Commissioner,
The Tamilnadu Information Commission,
No.2, Thiygaraya Salai,
Teynampet,
Chennai - 18.
2. The Public Information Officer,
Block Development Office,
Tirunavalur Panchayat Union,
Ulundurpet Taluk,
Villupuram District.

+1cc to M/S.G.R.Associates, Advocate sr.no.81989
+1cc to Government Pleader sr.no.82607
+1cc to Mr.N.Suresh, Advocate sr.no.82181

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ca(co)
nr 18/12/2018

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