

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.5205 of 2016
and W.MP.No.4587 of 2016

The Public Information Officer,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road, V.O.C.Nagar,
Near Dental College,
Park Town, Chennai - 600 003. ...Petitioner

vs

1. The State Chief Information Commissioner,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,
Teynampet, Chennai - 600 018.

2. Thiru.K.Sasikumar ...Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India petitioner prayed this Court to issue a
Writ of Certiorari to call for the records in case No.SA-
13494/SCIC/2015 dated 08.01.2016 on the file of the 1st
respondent and quash the same.

For Petitioner : Ms.C.N.G.Niraimathi

For Respondents : Mr.Niranjana Rajagopal,
for G.R.Associates for R1
Mr.A.Prabhakaran for R2

ORDER

The show cause notice issued by the Tamil Nadu
Information Commission under the provisions of the Right to
Information Act, is under challenge in this writ petition.

2. The show cause notice was issued by the State
Information Commissioner in proceedings dated 08.01.2016 seeking
explanation from the writ petitioner as to why the disciplinary
action should not be recommended under Section 20(2) of the Act.

The writ petitioner instead of submitting explanation / objections before the 1st respondent has chosen to file a present writ petition challenging the very show cause notice.

3. The learned counsel appearing for the petitioner now states that the information sought for by the persons were already provided. However no explanation in this regard is submitted by the writ petitioner before the 1st respondent.

4. No writ proceedings can be entertained against the show cause notice in a routine manner. Judicial review against the show cause notice is certainly limited. The show cause notice can be challenged in writ proceedings, if the same is issued by an incompetent authority, having no jurisdiction or allegation of malafide are raised or if the same is in violation of the statutory rules. Even in case of raising allegation of malafide, authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these legal ground, no writ can be issued against the show cause notice. The person against whom such a show cause notice is issued has to submit his explanation / objection and only in the event of passing final orders, the petitioner is entitled to approach the competent forum for redressal of his grievances. Contrarily, no writ can be entertained in a routine manner in respect of the show cause notice.

5. Intermittent intervention in statutory proceedings are not preferable by the Constitutional Courts. Such intermittent intervention shall be avoided in view of the fact that the authorities under the Statute must be allowed to complete the proceedings in all respects and take a decision on merits and in accordance with law.

6. Thus, this Court is of a firm opinion that the statutory authorities / quasi judicial authorities must be allowed to exercise their power in all respects under the Statutes and only in the event of conclusion and after passing of a final orders, the aggrieved persons are at liberty to approach both the appellate forum or any other forum prescribed under the Statute. Contrarily, such writ petitions are filed either to prolong the issues or to protract the proceeding. Thus, the constitutional Courts must be cautious, while entertaining such writ petitions filed challenging the show cause notice. In the present case, the Public Information Officer of the Tamil Nadu Public Service Commission filed the present writ petition. The Public Information Officers are duty bound to comply with the provisions of the Act. When they have not provided information to the Information seekers within a time prescribed under the Act, they are liable to fact actions

under the Provisions of the Right to Information Act. The State Information Commission has taken note of the fact that the informations were not provided to the information seekers within a time prescribed under the Act. Sufficient explanations are to be submitted before the State Commission. In stead filing the writ petition challenging the very show cause notice by the writ petitioner is certainly to be deprecated. This Court cannot accept such an action of the Public State Information Officer of the Tamil Nadu Public Service Commission by filing writ petition, challenging the very show cause notice issued by the Tamil Nadu Information Commission instead of submitting explanation / objection on the show cause notice. However, it is for the writ petitioner now to submit his explanations and details before the State Information Commission and on receipt of said explanation, it is for the 1st respondent to consider the materials and the merits and pass orders in accordance with law.

7. The writ petition stands dismissed with the above observation. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

The State Chief Information Commissioner,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,
Teynampet, Chennai - 600 018.

+1cc to Mr.CNG.Nivamathi Advocate, S.R.No. 57027
+1cc to Mr.G.R.Associates, Advocate, S.R.No.57310
+1cc to Mr.A.Prabakaran, Advocate, S.R.No. 57392

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RSK (CO)
GN (07/09/2018)