

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.A.No.2711 of 2018
and CMP.No.22288 of 2018

G.Devadhas

...Appellant

vs.

1. The Principal Secretary to Government
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009.
2. The Registrar,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,
Teynampet, Chennai-600 018.

...Respondents

Prayer:- Writ Appeal filed under clause 15 of the Letter Patents to set aside the impugned order of the learned Single Judge in WP.No.4277 of 2015 dated 24.09.2018 and consequently to direct the 1st respondent / petitioner to furnish the information sought for by the appellant as ordered by the Tamil Nadu Information Commission in Case No.27031/SCIC/2014 dated 20/11/2014 petition filed under article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the order dated 20/11/2014 made in case No. 27031/SCIC/2014 passed by 2nd respondent herein and quash the same.

For Appellant : Mr.T.Ranganathan

For Respondents : Mr.A.Ansar for R1

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal and disposed of by this order.

2. The appellant while functioning as an Under Secretary in the Tamil Nadu Secretariat Services was visited with disciplinary proceedings as well as criminal prosecution under the provisions of the Prevention of Corruption Act, 1988. The appellant submitted a petition under section 6(1) of Right to Information Act (in short 'RTI Act') on 18.06.2014 to the jurisdictional Public Information Officer requesting them to furnish a copy of the note file and current file in Current No.29054/Q/2008 and it was not furnished and therefore, he filed an appeal under Section 19(1) of the said Act on 02.07.2014 and thereafter, filed a second appeal under Section 19(3) of the RTI Act on 28.07.2014 before the Tamil Nadu Information Commission, which was taken on file in case No.27031/SCIC/2014. The Tamil Nadu Information Commission concluded that the note file sought for by the appellant cannot be granted as there may be divergent views between the officials and however, found that there may not be any impediment to grant copy of the current file sought for by the appellant and accordingly, passed an order dated 20.11.2014, directing the Public Information Officer / Under Secretary to Government, Personnel and Administrative Reforms (Q) Department, Chennai-600 009, to furnish a copy of the same.

3. The Principal Secretary to Government of Personnel and Administrative Reforms Department, aggrieved by the order of the Tamil Nadu Information Commission dated 20.11.2014, referred supra filed WP.No.4277 of 2018, praying for issuance of a Writ of Certiorari to call for the records and quash the said order and it was entertained and the appellant, who was arrayed as 1st respondent in writ petition, has filed his counter affidavit.

4. The learned Judge, after taking into consideration the averments made in the affidavit filed in support of the writ petition and counter affidavit and materials placed, found that the copy of the current file sought for by the appellant, who are arrayed as 1st respondent in the writ petition, cannot be granted and vide impugned order dated 24.09.2018, has allowed the writ petition and challenging the legality of the said order, the present writ appeal is filed.

5. The learned counsel appearing for the appellant / 1st respondent in writ petition, on instructions, would submit that the criminal prosecution launched against him under the provisions of the Prevention of Corruption Act, 1988 had ended in acquittal and the State has filed a appeal in Criminal Appeal No.405 of 2017 and the same is pending on the file of this Court. Insofar as the disciplinary proceedings are concerned, it is the submission of the learned counsel appearing for the appellant that the Enquiry Officer has found that the charges framed against the appellant have not been proved and it is pending consideration before the disciplinary authority and also

invited attention of this Court to Paragraph Nos.8 to 11 of the impugned order and would submit that the learned Judge has travelled beyond the scope of the writ petition and made certain observations which may affect him in the pending disciplinary proceedings and also made a submission that the appellant had already attained the age of superannuation and on account of pendency of the disciplinary proceeding, pending before the disciplinary authority, he is not allowed to retire from service.

6. In sum and substance, it is the submission of the learned counsel appearing for the appellant that the observations made by the learned Judge in the impugned order in Paragraph No.8 to 11, may not be necessary for the purpose of disposal of the writ petition and it may affect him in future and therefore, prays for expunging of the said remedies.

7. Per contra, Mr.A.Ansar, learned Government Advocate, who accepts notice on behalf of the 1st respondent, would submit that the learned Judge has taken note of the non-cooperative attitude on the part of the appellant / 1st respondent in the writ petition and on merits found that the current file sought for by the appellant also cannot be granted and in the absence of any infirmity, this Court may not interfere with the impugned order passed by the learned Single Judge and prays for dismissal of the writ appeal.

8. This Court has carefully considered the rival submission and also perused the materials placed before it.

9. The Note File and Current File are meant for internal circulation and the learned Judge has taken note of the fact and allowed the writ petition and thereby quashed the order of the Tamil Nadu State Information Commission as to the direction to furnish the copy of the current file. However, the learned Judge, while dealing with the merits of the writ petition, has made certain observations, in Paragraph Nos.8 to 11, which in the considered opinion of this Court, are not necessary for dealing with the merits of the writ petition.

10. The fact now remains that the criminal prosecution launched against the appellant had already ended in acquittal and challenging the same, the State has also filed a Criminal Appeal in CrI.A.No.405 of 2017, which is pending on the file of this Court and the disciplinary authority had concluded that the charges framed against him have not been proved and the same is under consideration before the disciplinary authority.

11. This Court on a careful consideration and appreciation of the rival submissions and materials, is of the considered view that for the purpose of allowing the writ petition, the

observations made in Paragraph No.8 to 11 of the impugned order are not at all necessary and that the said observations are to be expunged and accordingly expunged. At the same time, the impugned order quashing the order of the Tamil Nadu State Information Commission, as to the furnishing of the current file, is to be sustained.

12. In the result, the Writ Appeal is dismissed, confirming the order dated 24.09.2018 made in W.P.No.4277 of 2015 subject to above observations. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009.
2. The Registrar,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,
Teynampet, Chennai-600 018.

+1 cc to Mr.T.Ranganathan, Advocate, S.R.No.86007

+1 cc to the Government Pleader, S.R.No.86184

MP(CO)
SSM(21/01/2019)

W.A.No.2711 of 2018

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