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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.10 of 2018

and

C.M.P(MD)No.113 of 2018

against WP(MD)No. 20621/ 2016

The Principal,
St. Xavier's College (Autonomous),
Palayamkottai - 627 002,
Tirunelveli District.

.. Appellant/
Petitioner

Vs.

1.The State Chief Information Commissioner,
Tamil Nadu Information Commission,
No.2, Theagaraya Salai,
Near Aalai Amman Koil,
Teynampet, Chennai - 600 018.

2.T.Bhaskar

.. Respondents/
Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 25.10.2016, made in W.P(MD)No.20621 of 2016, by the learned Single Judge.

Prayer in WP(MD). 20621/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned proceedings issued by the 1st respondent Commission vide Case No.11396/D/2008 dated 29.07.2016, quash the same in so far as it directs the petitioner to pay a sum of Rs.4,500/- to the 2nd respondent herein as compensation.

For Appellant : Mr.T.Cibi Chakraborty

For Respondent No.1 : Mr.K.K.Senthil,
Standing Counsel.

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent No.2 : Mr.J.Jeyakumaram

J U D G M E N T

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

By consent, this writ appeal is taken up for final disposal.

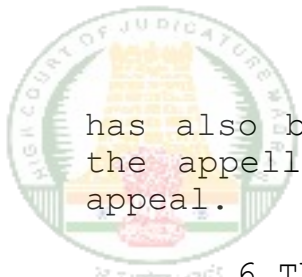
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2.The appellant institution made a challenge to the order, dated 25.10.2016, made in W.P(MD)No.20621 of 2016, in and by which, the order of the first respondent in directing them, to pay a sum of Rs.4,500/-, to the second respondent to meet out the travel and related expenses, has been confirmed.

3.The learned counsel appearing for the appellant would submit that the appellant/writ petitioner had availed the statutory remedies and fully complied with the directives of the first respondent and insofar as the award of compensation of Rs.4,500/- to the second respondent, in lieu of travel and related expenses in connection with attending the enquiries in the said second appeal, it cannot be blamed for the reasons that the case was listed for enquiry, before the first respondent, on 21.07.2016 and the lawyer appeared and since the Public Information Officer was not present, he was directed to appear and accordingly, on the next day, i.e., on 22.07.2016, Dr.A.Lourdsamy, Associate Professor, as the Public Information Officer, appeared and prayed for some time to prepare his response and the matter was listed, on 29.07.2016 and an order came to be passed on the same day itself and as such, the appellant/writ petitioner cannot be blamed and as such, the award of compensation towards travel and related expenses is *per se* unsustainable and prays for interference.

4.The learned standing counsel appearing for the first respondent would contend that in terms of the Right to Information Act, 2005 and the Rules framed thereunder, it is obligatory on the part of the Public Information Officer, to appear before the Commission and when the matter was listed on 21.07.2016, he did not appear and therefore, his presence was insisted and accordingly, he appeared on that day and the second respondent has travelled all the way from Tirunelveli to Chennai to attend the enquiry and taking note of the same, the first respondent Commission has rightly awarded the said sum.

5.The learned counsel appearing for the second respondent would submit that the proceedings under the Right to Information Act started as early as in the year 2005 and ultimately reached the office of the first respondent Commission in the year 2008 and during that year, the second respondent was made to run from pillar to post and ultimately in compliance of the said order only, some of informations sought for by him, have been furnished and to attend the hearing before the first respondent Commission, he has travelled all the way from Tirunelveli to Chennai and taking note of the same, the first respondent Commission has rightly awarded a sum of Rs.4,500/- towards travel and related expenses and the said order



has also been confirmed, by dismissing the writ petition filed by the appellant herein and hence, prays for dismissal of this writ appeal.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. The appeal was posted for enquiry before the first respondent Commission on 21.07.2016 and since the Public Information Officer did not appear, it was adjourned to very next day and on that day, Dr.A.Lourdsamy, Associate Professor of the appellant College, was present and took time for response and it was adjourned to 29.07.2016 and on hearing his response, an order came to be passed on the very same day and according to the learned counsel appearing for the appellant, the order passed by the first respondent Commission has also been complied with. It is also not clear from the orders that after the matter was adjourned to 22.07.2016, whether the second respondent has gone back and come again on 22.07.2016, so also on 29.07.2016. It is also pertinent to point out, at this juncture, that at the time of pronouncement of the orders, whether the presence of the parties also insisted upon or not. However, the fact remains that the orders were pronounced on 29.07.2016 and it has also been complied with by the appellant. In the light of the above facts and circumstances, this Court is of the view that awarding of a sum of Rs.4,500/- in favour of the second respondent, towards travel and related expenses, warrants interference.

8. The learned counsel appearing for the appellant would also submit that suitable and necessary advice would be given to the appellant College to adhere the provisions of the Right to Information Act.

9. In the result, the writ appeal is allowed and the order, dated 25.10.2016, made in W.P(MD)No.20621 of 2016, is set aside and as a consequence, the portion of the order dated 29.07.2016, passed by the first respondent, in awarding a sum of Rs.4,500/-, is also set aside. However, in the circumstances of the case, there shall be no order as to cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

+One cc to M/s.T.Cibi Ckakraorthy, Advocate, SR.No.44489

+One cc to M/s.J.Jeyakumaran, Advocate, SR.No.44472

+One cc to M/s.K.K.Senthil, Advocate, SR.No.44416

smn

RL/4C/3P/KK/SAR1/14/2/2018

JUDGMENT MADE IN

W.A(MD)No.10 of 2018

and

C.M.P (MD) No.113 of 2018

25.01.2018