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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.04.2018

CORAM:
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.[MD].No.1193 of 2014
and
M.P.(MD)No.1 of 2014
in
W.P.[MD].No.3142 of 2014

Udhaya Sankar

.. Appellant/Petitioner

Vs.

1.The Commissioner,
Tamilnadu State Information Commission,
No.2, Thiyagarajar Road,
Thenampet, Chennai - 18.

2.R.Murugan ... Respondents/Respondents
PRAYER: Appeal is filed under Clause 15 of the Letter Patent Act,
to set aside the common order of the learned single Judge of this
Court, dated 14.07.2014 in W.P.(MD)No.3142 of 2014.

Prayer in WP(MD). 3142/ 2014 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorari, to call for the records of the Impugned Order of the
1st Respondent in Case No. 20983/Enquiry/P/2013 (39054/P/13) dated
10.01.2014 imposing a compensation of Rs.3,000/- payable by the
Petitioner to the 2nd Respondent for the alleged delay in
furnishing the information sought for by the 2nd respondent under
the Right to Information Act,2005 and quash the same.

For Appellant : Mr.V.Perumal

For R1 : Mr.K.K.Senthil

For R2 : Mr.S.Chandrasekaran

JUDGEMENT

[Judgment of the Court was delivered
by K.RAVICHANDRABAABU, J]

The present writ appeal is directed against the order passed
in W.P.(MD)No.3142 of 2014, dated 14.07.2014, in dismissing the
writ petition filed by the appellant herein challenging the order
passed by the Tamil Nadu State Information Commission imposing a



compensation of Rs.3,000/- payable by the appellant to the applicant, who is the second respondent before us, for the delayed furnishing of the information sought for by the second respondent under the Right to Information Act, 2005.

2.The learned Judge passed a common order by dismissing other two writ petitions as well, filed in W.P.(MD)Nos.3143 and 3144 of 2014. In both those cases also, a compensation of Rs.3,000/- and Rs.25,000/- respectively was ordered to be paid by the respective petitioners therein, for the delayed furnishing of the information sought under the Right To Information Act by the respective applicants therein.

3.The learned Judge, after observing that the Commission considered the explanation offered by the petitioners, had found that they did not comply with the directions issued by the Commission, within the time stipulated. The learned Judge, after noticing that the first respondent has afforded full and effective opportunity to the writ petitioners and recorded a clear finding that the writ petitioners have grossly delayed in furnishing the information, dismissed the writ petition.

4.It is brought to our notice that as against the order made in W.P.(MD)No.3144 of 2014, a writ appeal was filed in W.A.(MD) No.994 of 2014 and the same was allowed on 23.01.2018 by the Division Bench of this Court. A copy of the said order is also produced before us. However, it is contended that the facts of each case are different and therefore, this Court can consider the present appeal independently uninfluenced by the order passed in W.A.(MD)No.994 of 2014, dated 23.01.2018.

5.The learned counsel appearing for the appellant submitted that the learned Judge failed to note that, factually there is no delay in furnishing the information and on the other hand, it is only the applicant, refused to receive the information sought to be furnished by the respondent on 02.08.2013, which is well within the time stipulated by the first respondent for furnishing such information. He further submitted that the explanation, offered by the appellant before the first respondent to that effect, dated 05.12.2013, was not at all considered or discussed by the first respondent while passing the impugned order.

6.Per contra, the learned counsel appearing for the second respondent submitted that even though the first respondent has passed the order on 14.06.2013, directing the appellant to issue the information and to send a report on or before 05.08.2013, the very act of the appellant in calling the second respondent to his office on 02.08.2013 to receive the information is a delayed one.

<https://hccaseservices.in/hccaseservices> submitted that the first respondent has rightly imposed penalty on the appellant.



7. We heard both sides and perused the materials placed before us.

8. It is true that the learned Judge dismissed the writ petition by holding that the appellant herein was given sufficient opportunity before the first respondent and that the first respondent has found that the petitioner/appellant herein has grossly delayed in furnishing the information. Perusal of the materials placed before us and the order passed by the first respondent in imposing penalty, on the other hand would disclose that such finding rendered by the learned single Judge is not factually correct for the following reasons.

i) It is true that the first respondent issued a direction to the appellant on 14.06.2013 to furnish the information to the second respondent and consequently, send a report on or before 05.08.2013. The said fact is evident from the proceedings of the first respondent, dated 14.06.2013 issued in order No.20983/B/2013 made available in the typed set of papers.

ii). But perusal of the communication sent by the appellant to the second respondent, dated 02.09.2013 would show that the appellant, in fact, called upon the second respondent to appear and receive the information on 02.08.2013 and that the second respondent, however, refused to receive the same on some reasons. This fact is clearly stated in the explanation given by the appellant before the first respondent, dated 05.12.2013. Therefore, it is evident that before the last date for furnishing such information and sending a report viz., 05.08.2013, to the first respondent, the second respondent herein, was called upon to receive the information on 02.08.2013 and however, the second respondent did not receive the same from the appellant.

9. When such being the facts and circumstances stated by the appellant before the first respondent in the explanation, dated 05.12.2013, in all fairness, the first respondent ought to have discussed those reasons given by the appellant and given a finding as to how such explanation is not acceptable. We do not find any such discussion in the impugned order passed by the first respondent. In fact, the very same reasoning is given by the Division Bench while allowing W.A.(MD)No.994 of 2014 that the response given by the appellant/writ petitioner therein, dated 05.12.2013 before the first respondent has not at all been taken into consideration while passing the impugned order. Therefore, we find that the first respondent was not justified in awarding the compensation in this case as well. Consequently, the order passed in the writ petition in confirming the said award of compensation also cannot be sustained.

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

10. Accordingly, the writ appeal is allowed and the order passed by the learned single Judge as well as the impugned order



of the first respondent, dated 10.01.2014 are set aside. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar (CS-I)

/True copy/

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Sub Assistant Registrar

To

The Commissioner,
Tamilnadu State Information Commission,
No.2, Thiyagarajar Road,
Thenampet, Chennai - 18.

+1cc to Mr.V.PERUMAL, Advocate, SR.No. 63430
+1cc to Mr.K.K.SENTHIL, Advocate, SR.No.63564

W.A. [MD].No.1193 of 2014
25.04.2018

RJ2
KK/RSK/SAR-3/22.05.2018/4P-4C