

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.Nos.5375 of 2011
MP.Nos.1 and 2 of 2011

1.The Public Information Officer/
Deputy Commissioner of Police,
Flower Bazaar District, Chennai. 600 001.

2.Inspector of Police (Law & Order),
B-1, North Beach Police Station,
Chennai-600 001

....Petitioners

Vs.

1.Mnikandan Vathan Chettiar, Advocate,
263, Additional Law Chambers, High Court
Chennai 600104

2.The Assistant Registrar,
Tamil Nadu Information Commission,
No.273, Anna Salai, Chennai-600 018

...Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order dated 24.08.2010, made in Case No.16906 of 2009, on the file of the Tamil Nadu Information Commission, Chennai and quash the same.

For Petitioners : Mr.Aravind Pandiyan, AAG for
Mr.M.Karthikeyan, AGP

For Respondents : No Appearance-R1
Mr.Niranjan Raja Gopalan for
M/s.G.R.Associates-R2

ORDER

The prayer in this Writ Petition is to quash the order, dated 24.08.2010, made in Case No.16906 of 2009, on the file of the Tamil Nadu Information Commission, Chennai, imposing penalty.

2. The case of the Petitioners is that the 1st Respondent had filed a Petition, dated 16.09.2009 to the 2nd Respondent, under the Right to Information Act, seeking certain documents and raising 22 questions and on receipt of a communication, dated 26.09.2009 from the 2nd Petitioner, the 1st Respondent had approached the 2nd Respondent, by filing a complaint, dated 30.09.2009, stating that the information furnished by the 2nd Petitioner, in the reply, dated 26.09.2009 was false and incomplete and misleading and the said Petition was numbered as Case No.16906 of 2009 on the file of the 2nd Respondent. The 2nd Respondent, by its letter dated, 22.10.2009, had summoned the Petitioners to appear in person before the 2nd Respondent on 04.11.2009, on which date, after hearing the parties, the 2nd Respondent directed the Commissioner of Police to take necessary action and send a report within four weeks and to reply to the said queries. After hearing, the 2nd Respondent directed the Public Information Officer, Chennai, Deputy Commissioner of Police, Flower Bazaar, Chennai and the Inspector of Police (L&O), North Beach Police Station, to appear before the 2nd Respondent on 24.08.2010 and accordingly, they appeared on 24.08.2010 and the Deputy Commissioner of Police, Flower Bazaar, Chennai, had submitted a report, stating that the information sought for by the 1st Respondent was furnished to him and receipt of the same had been acknowledged by one Balamurugan. Without considering the submissions made by the Petitioners, the 2nd Respondent had passed the impugned order, imposing penalty. Aggrieved by the same, this Writ Petition has been filed, seeking the reliefs, as stated above.

3. The learned Additional Advocate General appearing for the Petitioners would submit that the impugned order had been passed, without application of mind and without considering all the aspects of the case. He would further submit that the impugned order, imposing penalty to the Police Authorities will affect the administration and that the information as required by the 1st Respondent was also furnished to one Balamurugan, Advocate, Chennai and that the explanation submitted by them was not taken note of at the time of passing of the impugned order. Further, the document sought for by the 1st Respondent is a confidential record and the same cannot be supplied to a third person. Hence, the impugned order is illegal, perverse and without jurisdiction and is liable to be quashed.

4. The learned counsel for the 2nd Respondent would submit that the 2nd Respondent had passed the impugned order, imposing penalty, by following the provisions of the Right to Information Act and since there was no valid explanation for non compliance of the provisions of the Right to Information Act.

5. This court heard the learned counsel on either side and also perused the materials placed on record.

6. On perusal of the materials on record, it is seen that the 1st Respondent had sought certain documents, namely, Service Register and the General Diary of the Police. It is specifically averred in the affidavit that the information sought for by the 1st Respondent was furnished to one Balamurugan, Advocate, Chennai. The said submissions made by the Petitioners were not duly considered by the 2nd Respondent and without considering the aforesaid facts, the 2nd Respondent had passed the impugned order. Therefore, this Court has no hesitation in quashing the impugned order and remitting the matter back to the 2nd Respondent to pass orders, afresh.

7. Accordingly, the impugned order is quashed and the matter is remitted back to the 2nd Respondent, who shall consider afresh and pass orders, after affording opportunity to the parties concerned, on merits and in accordance with law, within a period of twelve weeks, from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Srcm
To

1.The Assistant Registrar,
Tamil Nadu Information Commission,
Chennai-600 018.

2.The Public Information Officer/
Deputy Commissioner of Police,
Flower Bazaar District, Chennai. 600 001.

3. Inspector of Police (Law & Order),
B-1, North Beach Police Station,
Chennai-600 001

+1cc to Mr.G.R.Associates, Advocate, S.R.No.2819

+1cc to the Government Pleader, S.R.No.3257

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AK (CO)
GSP (20/02/2019)



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