

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.6884 of 2012
and W.P.M.P.No.1 of 2012

Dr.Malliga Chandiran

...Petitioner

Versus

1.Tamilnadu Information Commission,
Rep. by its Assistant Registrar,
No.2, Theagarayar Salai,
Near Aalai Amman Koil,
Teynampet, Chennai - 600 018.

2.Prof.S.Kumar

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records on the file of the first respondent dated 29.12.2011 bearing Order No.43724/c/2011 and dated 05.03.2012 bearing ref: Case No.43724/c/Enquiry/2011 and quash the same.

For Petitioner : Mr.Bharathachakravarthy
for M/s.Sai Bharath

For Respondent - 1 : Mr.Niranjana Rajagopal

Respondent - 2 : Mr.V.Ajay Khose

O R D E R

The relief sought for in the present writ petition is to call for the records on the file of the first respondent dated 29.12.2011 bearing Order No.43724/c/2011 and dated 05.03.2012 bearing ref: Case No.43724/c/Enquiry/2011 and quash the same.

2. The case of the writ petitioner is that while she was working as a Professor and Head of the Department in English in

Pachayappa's College for Women, Kancheepuram, by order dated 16.12.2010, the Pachayappa's Educational Trust appointed her as the Principal in C.Kandasamy Naidu College for Women, Cuddalore.

2.1 While so, on 20.08.2011, the second respondent sent an application addressed the petitioner as Public Information Officer and sought for the information relating to the petitioner's selection. On 24.08.2011, the petitioner forwarded the said application to the Secretary, Pachayappa's Trust, Chennai. Immediately, thereafter, the petitioner was served with the impugned orders passed by the first respondent dated 29.12.2011 & 05.03.2012, respectively. Hence, left with no other alternative, the petitioner has come before this Court with the present writ petition seeking for the relief stated supra.

3. The learned counsel for the petitioner submitted that the petitioner has filed the present writ petition in his individual capacity. He further submitted that the petitioner was a Member of the College at the relevant point of time and he was superannuated from the service. He also submitted that the second respondent has no right to seek the particulars of the petitioner under the Right to Information Act and the impugned order passed by the first respondent is contrary to the provisions of the Right to Information Act.

4. The learned counsel appearing for the respondents 1 & 2 respectively contended that in the present case, the first respondent passed the impugned order directing the petitioner to furnish the particulars sought for by the second respondent which is not bad in law. They also drew the attention of this Court to the case Registrar, Thiagarajar College of Engineering, Madurai Vs. Registrar, Tamilnadu Information Commission, Kamadenu Super Market, Chennai and Anr. reported in (2013) 6 MLJ 669, wherein, this Court has held as follows:

"39. The Division Bench of Kerala High Court in V.S.Lee Vs. State of Kerala represented by Chief Secretary and Others (supra) has answered all the issues, that are raised by the petitioner-college. Thiagarajar College of Engineering, Madurai, is a Government Aided ISO 9001-2000, Certified Autonomous Institution, affiliated to Anna University. The Letter Head produced before the Commission makes it clear that it is aided. Though the College has been given autonomous status, but that does not mean that it need not implement any public policy or decision of the Government. So long as the activity undertaken by an educational institution is a public function or policy

duty, it is bound by the provisions of the Right to Information Act, 2005. Once the College is declared as a Government aided college and when the said fact is also reflected in their own letter head, in the opinion of this Court, there is no need to follow the procedure contemplated under the Act, for summoning and enforcing attendance of persons and to compel them to give oral or written evidence, on oath and to produce documents or things; requiring the discovery and inspection of document; receiving evidence on affidavit, etc., before arriving at the conclusion, as to whether the petitioner-college is a public authority under the Act or not. It would be nothing but a useless formality. The said exercise is required to be undertaken only when there is no substantial or adequate material or evidence available with the Commission. Principles of natural justice is not a straight jacket formula. Facts already available on record need not be reaffirmed by examination of any witness or summoning of documents. An educational institution receiving aid from the Government cannot refuse to divulge any information, which attracts public interest. Considering the own admission of the petitioner-College that it is aided by Government, this Court is of the view that the Commission has not committed any procedural irregularity.

40. In Shivanna Naik Vs. Bangalore University and Another, reported in AIR 2006 NOC 145 (KANT), a learned single Judge of the Karnataka High Court has held that Karnataka University is an authority under Article 12 of the Constitution of India and hence, governed by the provisions of the Right to Information Act. When a University is recognized as an authority, educational institutions affiliated to the University, would also come within the purview and definition, "public authority" and amenable to the provisions of Right to Information Act." सत्यमेव जयते

5. Heard the learned counsels on both sides and perused the materials available on record.

6. From a perusal of the materials, it is seen that the petitioner has not filed the writ petition on the representative capacity of the College, but on her own, individual capacity. It is also seen that the details sought for by the second respondent is only with regard to the selection and appointment of the Principal of the C.K.N.College for Women at Cuddalore by the Management of the said college during the year 2010 and that

the said act of second respondent is permissible in law.

7. In view of the facts and circumstances of the case, this Court is of the opinion that the writ petition is not maintainable and the same is liable to be dismissed since the petitioner's case deserves no merit of consideration. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to approach the C.Kandasamy Naidu College for Women, Cuddalore in regard to the order passed by the first respondent. No costs. Consequently, connected Application is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Registrar,
Tamilnadu Information Commission,
No.2, Theagarayar Salai,
Near Aalai Amman Koil,
Teynampet, Chennai - 600 018.

+1cc to M/s.Sai Bharath, Advocate sr.89468

W.P.No.6884 of 2012

bp(co)
nr 02/01/2020

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