



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2019

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 21736 of 2018

S.Arumugam

... Petitioner

/Vs./

1.The State Information Commissioner,
Tamil Nadu Information Commission,
No.273, Anna Salai,
Kamathenu Super Market,
Teynampet, Chennai-600 018.

2.The District Collector,
Collectorate,
Ramanathapuram District.

3.The Tahsildar,
Kamudi Taluk,
Ramanathapuram District.

4.The Inspector of Police,
Kamudi Police Station,
Ramanathapuram District.

5.Mrs.A.K.Sikkandar Babitha
The Public Information Officer/
Head Quarters Deputy Tahsildar
Kamudi Taluk, Ramanathapuram District.
Presently serving as
Mrs.A.K.Sikkandar Babitha
The Special Tahsildar (Natham Land Tax Scheme)
Kamudi Taluk, Ramanathapuram District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Gen No.11068/E/2018 dated 28.06.2018 on the file of the respondent No.1 and quash the same as illegal and consequently direction directing the first respondent to re-consider the appeal made by the petitioner dated 07.05.2018 and to issue appropriate orders against the fifth respondent under Section 20 of the Right to Information Act, 2005.



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For Petitioner	: Mr.I.Pinaygash
For Respondents	: Mr.K.K.Senthil (for R1)
	Standing Counsel
	Mr.Aayiram K.Selvakumar
	(for R2 to R4)
	Additional Government Pleader
	Mr.P.Banuprasath (for R5)

ORDER

Mr.I.Pinaygash, learned counsel on record for writ petitioner, Mr.K.K.Senthil, learned Standing Counsel for Tamil Nadu Information Commission on behalf of first respondent, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader for respondents 2 to 4 and Mr.P.Banuprasath, learned counsel for fifth respondent are before this Court.

2.In the light of the submissions made today and in the light of the abridged prayer made before this Court, main writ petition is taken up, heard out and is being disposed of with the consent of all the aforesaid counsel.

3.Subject matter of instant writ petition arises under the 'Right To Information Act, 2005 (20/2005)' (hereinafter referred to as 'RTI Act' for the sake of brevity). The genesis of this matter is a communication dated 06.01.2017 sent by the petitioner to the jurisdictional Tahsildar alleging that the jurisdictional Inspector of Police has taken away his vehicles and no documents have been given to him in this regard. After realizing that the jurisdictional Tahsildar is not the original authority i.e., PIO, writ petitioner sent another representation dated 04.02.2017 to the PIO. This Court is informed that the jurisdictional Deputy Tahsildar is the PIO. Treating this as an application under Section 6 of RTI Act, PIO passed an 'order dated 06.03.2017 bearing reference No.ஓமு(அ1)831/2017' (hereinafter referred to as 'original order' for the sake of brevity). Against this original order, writ petitioner preferred an appeal.

4.To be noted, a representation dated 04.05.2017 has been sent to District Collector. Thereafter, a representation dated 25.10.2017 has been sent to District Collector. The petitioner has preferred an appeal dated 07.05.2018 to the first respondent State Information Commissioner, the Secretary, Revenue Department and District Collector, Ramanathapuram. It is submitted that it was erroneously sent to the District Collector as District Collector is not the appellate authority under Section 19(1) of RTI Act. However, the District Collector has forwarded the appeal dated 07.05.2018 assailing the original order to the jurisdictional appellate authority, namely jurisdictional Tahsildar under cover of communication dated 14.05.2018 bearing ந.க.(அ7)த.அ.உ.ச.மனு



எண்.403/2018. There is no dispute or disagreement that the appellate authority, namely jurisdictional Tahsildar has not passed any orders until this day.

5.However, there is a communication from the jurisdictional Tahsildar, dated 30.06.2018 bearing reference No.டி.மு.அ/4254/2018 to the District Collector saying that the erstwhile jurisdictional Tahsildar has been transferred. This appears to be a response to proceeding sought under Section 20 of RTI Act. It may not be necessary to go into these aspects of the matter as there is no dispute that the appellate authority, namely jurisdictional Tahsildar has not passed any order as of today. Under such circumstances, the writ petitioner carried the matter to the first respondent, namely the 'State Information Commissioner' (hereinafter referred to as 'SIC' for the sake of brevity). The SIC has returned the petitioner's appeal vide communication signed on 27.06.2018, wherein four documents have been sought for. The writ petitioner ideally could have re-presented his papers before the State Information Commission (SIC) and processed/perused the matter further. However, the writ petitioner has chosen to file the instant writ petition as it is well open to the writ petitioner to produce all documents sought for and process the matter.

6.In the aforesaid backdrop, at the hearing, faced with the above situation, learned counsel for petitioner now abridged the prayer as well as the scope of the writ petition and submitted that it would suffice if there is a clarification with regard to one of the four documents sought i.e., that copy of the appeal sent to the appellate authority should be treated as a communication sent by the writ petitioner to the District Collector being communication dated 04.05.2017.

7.In the light of fair request on the part of the learned counsel for writ petitioner after abridging the prayer, instant writ petition is disposed of holding that with regard to one of the four documents sought for by the SIC vide communication dated 27.06.2018, namely copy of the appeal, the communication erroneously sent by the writ petitioner to the District Collector being communication dated 04.05.2017, a copy of the same shall be permitted to be represented.

8.If the aforesaid copy of 04.05.2017 communication is produced by the writ petitioner, the same shall be processed by first respondent SIC on its own merits and in accordance with law. This Court does not express any opinion on the merits of the matter.

9.The learned counsel for the writ petitioner makes a plea that the original impugned order may please be returned for processing the matter further. Registry is directed to return the original impugned order to the petitioner forthwith.



10. Instant Writ Petition is disposed of with the above observations. There shall be no order as to costs.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar(CS)

rmk

To

1. The District Collector,
Collectorate, Ramanathapuram District.
2. The Tahsildar,
Kamudi Taluk, Ramanathapuram District.
3. The Inspector of Police,
Kamudi Police Station,
Ramanathapuram District.

Copy to: The Section Officer, E.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2) (to return the Original I.O to the Petitioner)

- +1 CC to M/s.I.PINAYGASH, Advocate SR-88746.
- +1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate SR-88648.
- +1 CC to GP SR-89020.
- +1 CC to M/s.K.K.SENTHIL, Advocate SR-89316.

Order made in
W.P. (MD) No.21736 of 2018

Dated:
23.09.2019

CS(18.10.2019) 4P 9C