

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 398 of 2020

and

W.M.P. No. 457 of 2020

The Central Public Information Officer,
Employees' Provident Fund Organisation,
Regional Office,
S-1, TNHB, Phase III, Sathuvachari,
Vellore - 632 009. ... Petitioner

-vs-

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

2.V.Nandhagopal
S/o.Veerassamy
No.5, Sengundar Second Street
Kaspa-A, Ambur - 635 802
Vellore District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the First Respondent and quash the
proceedings in CP 149/F/2019 and the consequent order dated
05.12.2019 pending on the file of the First Respondent.

For Petitioner : Mr. K.Ramu

For Respondents: Mr. Niranjan Rajagopalan (For R1),
Standing Counsel

No Appearance (For R2)

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O R D E R

(through video conference)

Heard Mr. K.Ramu, Learned Counsel for the Petitioner and Mr. Niranjan Rajagopalan, Learned Standing Counsel for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent had made an application dated 25.02.2019 under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act' for short) seeking certain information from the Petitioner. According to the Petitioner, a reply dated 14.03.2019 had been sent to the Second Respondent by speed post, which has been returned with postal endorsement 'left without instructions'. It appears that thereafter the Second Respondent made a complaint dated 27.04.2019 under Section 18 of the Act before the First Respondent as if the Petitioner had not furnished the required information. The First Respondent had sent a notice dated 19.11.2019 calling upon the Petitioner to appear for the enquiry on 05.12.2019 in the matter. The Petitioner claims to have sent a reply No. TN/VL/RTI No. RTI/318/2019/PID 9455 dated 28.11.2019 to the First Respondent contending that any complaint against the Petitioner under the Act lies with the jurisdiction of the Central Information Commission only, and that the information sought by the Second Respondent had also been furnished to him, which has been returned unserved. The proof of delivery of the same on 02.12.2019 to the First Respondent through speed post by way of postal track consignment from the Postal Department has been produced for that letter sent by the Petitioner. However, as the Petitioner had not personally appeared for hearing fixed on 05.12.2019, the First Respondent by order dated 05.12.2019 called upon the Petitioner to show cause within a period of 7 days from the date of receipt of that order as to why the action should be taken against him under the provisions of the Act for his non-appearance on that hearing and also directed that a sum of Rs. 5,000/- shall be paid as costs towards compensation under Section 19(8)(b) of the Act to the Second Respondent who had attended that hearing and whose case could not be disposed due to the non-appearance of the Petitioner on that date. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the aforesaid order passed by the First Respondent.

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3. During the hearing before this Court, when it was pointed out that the Petitioner ought to have personally attended enquiry before the First Respondent on the date fixed and could not remain contended by merely having sent a reply raising objections regarding jurisdiction and furnishing the information, an affidavit dated 18.09.2020 has been filed by one P.Subramani, who was functioning as the Central Public Information Officer (CPIO) of the Petitioner at the relevant point of time, stating as follows:-

"3. I state that the non-appearance before the State Information Commission was inadvertent as I firmly and bonafidely believed that the written response of the Petitioner would be taken on record and the appeal would be disposed of, also considering that the RTI query had been replied to by this CPIO within the specified time-limit. Thus, the non-appearance before the Respondent Commissioner was totally unintentional, purely borne out of a genuine question on the point of jurisdiction.

4. It is however regretted with an assurance that, as always, this Petitioner, will follow due procedures and attend the statutory proceedings without default. There is no reason for this Employees' Provident Fund Organisation engaged in the implementation of social security schemes to the workers, to show disrespect to any other statutory authority, and is having unshakable faith in the rule of law and the due process of law."

It is also placed on record that a fresh reply dated 21.09.2020 has been sent by the Petitioner to the Second Respondent giving better details of information that had been sought by the Second Respondent in his letter dated 25.02.2019 along with proof of its delivery on 23.09.2020 by track consignment from the Postal Department.

4. Though the Second Respondent has been served in this Writ Petition, he has not entered appearance before this Court in person or through Counsel, till date. Having due regard to the subsequent events after the filing of the Writ Petition as mentioned supra, no useful purpose would be served by the continuance of the proceedings before the First Respondent, which shall have to be treated as closed, and the impugned order dated 05.12.2019 shall also stand set aside. At the same time, if the Second Respondent is still not satisfied with the reply dated 21.09.2020 sent by the Petitioner for the information sought by him, he is not precluded from working out his remedies for necessary relief before the proper forum in the manner recognized by law.

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5. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya/dm

To

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

Copy to

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Vellore - 632 009.

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KK(CO)
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