

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

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

W.P. No. 20191 of 2019

E.M.Sultan

.. Petitioner

-VS-

1. Tamil Nadu Information Commission,
No. 2, Thiyagaraya Road,
Near Allaiamman Koil, Eldams Road Junction,
Teynampet,
Chennai - 600 018.

2. Public Information Officer,
Block Development Officer (Panchayat),
Kalaiyarkovil Panchayat Union,
Sivagangai District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in SA 9688/B/ 2014 dated 22.03.2018 passed by the First Respondent in so far as failing to direct the Second Respondent to compensate the Petitioner and impose penalty on the Second Respondent under Section 19(8)(b) and Section 20(1) and (2) of the Right to Information Act, 2005, and quash the same and consequentially direct the First Respondent to impose penalty on the Second Respondent and adequately compensate the Petitioner as per Section 19(8)(b) and Section 20(1) of the Right to Information Act, 2005, and take necessary disciplinary action against the Second Respondent as per Section 20(2) of the Right to Information Act, 2005.

For Petitioner : Ms. S.Harinyi

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

Mr. D.Sathyaraj,
Special Government Pleader (for R2)

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O R D E R

(through video conference)

Heard Ms. S.Harinyi, Learned Counsel for the Petitioner, Mr. Niranjana Rajagopalan, Learned Standing Counsel for the First Respondent and Mr. D.Sathyaraj, Learned Special Government Pleader appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had made an application dated 27.01.2014 under Section 6(1) of the Right to Information Act, 2005, to the Second Respondent seeking certain information relating to his property. The Second Respondent by Order No. Tha.A.U.Sa. 9/2014 dated 13.02.2014 informed that the said information has to be obtained from the Revenue Department. The Petitioner preferred a complaint under Section 18 of the Act before the First Respondent contending that if the Second Respondent was not the authority for furnishing any information, he ought to have forwarded the application to the concerned Public Information Officer in terms of Section 6(3) of the Act, and his failure to do so amounted to refusal of furnishing of information as per Section 7(2) of the Act. The First Respondent, however, treated the matter as if it was a second appeal under Section 19(3) of the Act and directed the Second Respondent by order dated 27.02.2018 to furnish the required information that had been sought by the Petitioner. According to the Petitioner, thereafter, the Tahsildar of Kalaiyarkoil Panchayat Union by letter dated 13.03.2018 furnished the required information with documents to the Petitioner, which has been recorded in the order dated 22.03.2018 passed by the First Respondent and also disposed that case.

3. The grievance sought to be ventilated by the Petitioner in this Writ Petition challenging the proceedings of the First Respondent is that the First Respondent ought to have further enquired into the matter and adequately compensated the Petitioner under Sections 19(8)(b) of the Act and inflicted penalty against the Second Respondent under Section 20 of the Act.

4. Though it is true, as contended by the Learned Counsel for the First Respondent, that discretion vests on the First Respondent ultimately to award compensation under Section 19(8)(b) of the Act and inflict penalty under Section 20 of the Act,

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it is, however, incumbent upon the First Respondent to specifically address these aspects by assigning reasons for the conclusion arrived in that regard, while disposing the matter. As the aforesaid exercise has not been undertaken by the First Respondent at the time of disposing the matter as reflected in the impugned order, this Court is constrained to interfere with that flawed decision-making process. Accordingly, the case in S.A. No. 9688/B/2014 on the file of the First Respondent is re-opened and the matter shall be listed for hearing before the First Respondent on 03.12.2020, when the Petitioner and the Second Respondents shall appear on that date without fail. If the First Respondent is not in a position to take up the matter for hearing on that date, it shall inform to all parties concerned of the date of hearing to which it is adjourned in the prescribed manner. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or otherwise on the merits of the contentions raised by the Petitioner on his entitlement to the reliefs claimed under Sections 19(8) and 20 of the Act. The First Respondent shall afford full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice and shall pass reasoned orders dealing with each of the contentions raised by the parties on merits and in accordance with law and communicate the decision taken under written acknowledgment.

5. In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt/dm

To

1. The Chief Information Commissioner,
Tamil Nadu Information Commission,
No. 2, Thiyagaraya Road,
Near Allaiamman Koil, Eldams Road Junction,
Teynampet,
Chennai - 600 018.

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2. The Public Information Officer,
Block Development Officer (Panchayat),
Kalaiyarkovil Panchayat Union,
Sivagangai District.

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