

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 23130 of 2017

S.Srikumar

...Petitioner

-vs-

1. The Public Information Officer,
Office of the Commissioner, Hindu Religious and Charitable
Endowment,
Nungambakkam High Road,
Chennai - 600 034.
 2. The First Appellate Authority,
Office of the Commissioner, Hindu Religious and Charitable
Endowment,
Nungambakkam High Road,
Chennai - 600 034.
 3. The Tamil Nadu Information Commission,
No. 2, Theagaraya Road,
Teynampet,
Chennai - 600 018.
- ...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 pertaining to the orders passed by the Third Respondent in Second Appeal in S.A. No. 10940/SCIC/2016 dated 19.04.2017 and quash the same and direct the Respondents to furnish the Petitioner with the copies of the conservation reports/notes on temples received by the Hindu Religious and Charitable Endowment Department from the year 2012 to 2016 under the RTI Act.

For Petitioner : Mr. T.S.Vijaya Raghavan
for Mr. SP.Chockalingam
For Respondents: Mr. M.Karthikeyan,
Special Government Pleader (for R1 & R2)
Mr. Niranjan Rajagopalan,
Standing Counsel (for R3)

O R D E R
(through video conference)
(Order of the Court was delivered by P.D. AUDIKESAVALU, J.)

Heard Mr. T.S.Vijaya Raghavan, Learned Counsel for the Petitioner, Mr. M.Karthikeyan, Learned Special Government Pleader appearing for the First and Second Respondents and Mr. Niranjan Rajagopalan, Learned Standing Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner made an application dated 29.04.2016 under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as the 'RTI Act' for short) to the First Respondent seeking copies of conservation reports relating to Temples received by the Hindu Religious and Charitable Endowments Department from the year 2012 to 2016 from different officials/consultants. The First Respondent by an order dated 19.05.2016 rejected that application by pointing out that without mentioning the file number and date of report, it would not be possible to furnish the information sought relying on Section 7(9) of the RTI Act. The First Appeal dated 12.06.2016 preferred by the Petitioner under Section 19(1) of the RTI Act against that order before the Second Respondent was disposed by order dated 27.06.2016 stating that reply has already been given by the First Respondent in his letter dated 19.05.2016. Thereafter, the Petitioner has filed the Second Appeal dated 20.09.2016 under Section 19(3) of the RTI Act, before the Third Respondent, who had after referring to the decisions of the Hon'ble Supreme Court of India in Central Board of Secondary Education -vs- Aditya Bandopadhyay [(2011) 8 SCC 497] and Institute of Chartered Accountants of India -vs- Shaunak H.Satya [(2011) 8 SCC 781], by order in Case No. SA-10940/SCIC/201620871 dated 19.04.2017 disposed the same stating as follows:-

"2. The petitioner /Appellant had asked for copies of Conservation reports received by HR&CE from the year 2012 to 2016 from different officials/ consultants. The Public Information Officer explains that when any renovation (Thirupani) work is proposed in any temple, generally preceding Kumbhabishekam, the report of an official/consultant is called for. Each such work is dealt with in a separate file and the Conservation report is kept in the concerned files relating to that work. During this period, over 300 such Conservation reports were collected and they are kept in over 300 different files. The job of scrutinizing all these files and taking out the relevant Conservation reports will, according to the Public Information Officer involve deployment of additional staff for this

purpose and this would result in unwarranted diversion of the resources of the office. In view of this, the reply given that if a report relating to any particular temple is requested it can be given is considered to be in order....

....

4. No reason has been put forth to show the information sought would advance the cause of accountability of reducing corruption. In the light of this, demanding such voluminous information merely on the grounds of transparency cannot be countenanced. Instead of an omnibus request for all conservation reports spread over five years, the petitioner may seek specific reports as suggested by the Public Information Officer.

5. However, the Commission would make the following recommendations in terms of the requirements under 4 (1) of the RTI Act pro active disclosure:

- (i) One copy of conservation report may be kept in stock file titled Conservation Reports Stock File. These reports could be kept year wise.
- (ii) If any request is made for a copy of the inspection report, it can be made available to the petitioner.
- (iii) However, it is stated that certain information in the reports could be sensitive. Any such sensitive material can be severed under section 10 of the RTI Act and furnished to applicants. It is suggested that the Commissioner HR&CE may examine this and initiate appropriate action."

Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the order passed by the Third Respondent.

3. The First Respondent has filed Counter-Affidavit dated 17.11.2020 confirming that as recommended by the Third Respondent, the conservation reports are kept in stock file and if the Petitioner requests for inspecting any specific report, it would be furnished to the Petitioner under the RTI Act.

4. Having regard to the aforesaid submissions made by the First Respondent and the definition of 'Right to Information' in Section 2(j) (i) and (ii) of the RTI Act includes the right to inspect documents and records and taking notes and extracts of the same, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to that procedure for obtaining the required information. He has also filed a memo dated 18.11.2020 to that effect through e-mail, which is placed on record.

Accordingly, the Writ Petition is dismissed as withdrawn

granting such liberty. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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W.P. No. 23130 of 2017

SR-II (CO)
RV (07/12/2020)

सत्यमेव जयते

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