



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

CORAM:

THE HON'BLE MR. JUSTICE M.S.RAMESH

W.P.No.17883 of 2015
and M.P.No.1 of 2015

K.Kamalakaran

...Petitioner

vs.

1. The State Information Commission,
No.2, Thiyagaraja Salai,
Teynampet, Chennai-18.
2. The Appellate Information Officer,
The District Revenue Officer,
District Collector Office,
Vellore District.
3. The District Collector,
Vellore, Vellore District.

4.Mrs.E.Babyammal

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the order dated 22.04.2015 in Case No.50559/Enquiry/D/2013 (13471/D/2014) passed by the 1st respondent and quash only the penalty of fine of the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) imposed against the petitioner by the 1st respondent by way of order dated 22.04.2015 in Case No.50559/Enquiry/D/2013 (13741/D/2014).

For Petitioner : Mr.S.Arivazhagan

For Respondents : Mr.Niranjan Rajagopalan for R1

Mr.K.V.Sajeevkumar,
Government Advocate for R2 and R3

O R D E R

The petitioner was imposed with a penalty under Section 20 of the Right to Information Act, 2005 [in short "RTI Act"] for



belated furnishing of certain information sought for by the fourth respondent in her application dated 16.06.2013. The only ground on which such a penalty was imposed is that the petitioner had failed to furnish the information within the 30 days prescribed under Section 7 of the RTI Act.

2. Mr.S.Arivazhagan, learned counsel for the petitioner would submit that during the relevant point of time when the fourth respondent has sought for information, he was not the Public Information Officer and that the Deputy Tahsildar was the Public Information Officer and who had also furnished the required information sought for by the fourth respondent in her application under the RTI Act, through her proceedings dated 21.10.2014.

3. The reasoning adopted by the petitioner for non-furnishing of the information is not the defence taken by the petitioner before the State Information Commission. On the other hand, the reply given to the Commission was to the effect that the petitioner was engaged with other responsibilities and duties arising out of regular work and therefore, he was not in a position to furnish the information. While that being so, I am unable to appreciate as to how the State Information Commission could have considered the present defence taken before this Court that he was not the Public Information Officer at the relevant point of time. In this background, I do not find any infirmity in the order passed by the State Information Commission.

4. However, the learned counsel for the petitioner, by pointing to the proceedings of the Deputy Tahsildar, Katpadi, Vellore District dated 21.10.2014, which according to him is the reply given to the queries raised by the fourth respondent in her application dated 16.06.2013, submitted that it is the Deputy Tahsildar, who is the Public Information Officer and who had also furnished the required information and therefore, the petitioner was not obligated to furnish the information.

5. Since the present stand taken by the petitioner was not the ground of defence before the State Information Commission and as rightly pointed out by the learned counsel for the first respondent that the impugned order cannot be found fault with on this aspect, this Court is of the view that the petitioner may be given another opportunity to put forth this new ground raised before this Court, before the State Information Commission. Simultaneously, it would also be appropriate to grant liberty to the State Information Commission to seek for any clarification from the District Collector, Vellore District with regard to the claim made by the petitioner that the concerned Public Information Officer would be the Deputy Tahsildar and not the Tahsildar at the relevant point of time.



6. In the light of above observations, the impugned order of the first respondent in Case No.50559 /Enquiry /D/2013 (13471/D/2014) dated 22.04.2015 is set aside and the matter is remitted back to the first respondent to reconsider. The petitioner is also granted liberty to give a comprehensive fresh written representation raising his objections to the State Information Commission, atleast within a period of 15 days from the date of receipt of a copy of this order and on receipt of representation, if any, the first respondent shall consider the same and pass appropriate orders in accordance with law, atleast within a period of three months from the date of receipt of a copy of this order.

7. The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The State Information Commission,
No.2, Thiyagaraja Salai,
Teynampet, Chennai-18.
2. The Appellate Information Officer,
The District Revenue Officer,
District Collector Office,
Vellore District.
3. The District Collector,
Vellore, Vellore District.

+1cc to Mr.GR.Associates, Advocate, S.R.No.39905
+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.39642
+1cc to the Government Pleader, S.R.No.40079

W.P.No.17883 of 2015

RSV(CO)
CT(14/09/2021)