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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24447 of 2021

A.G.Perarivalan @ Arivu

... Petitioner

Vs.

1. The State Information Commission,
No.2, Thiyagaraya Salai, Near Aalai Amman Koil,
Teynampet, Chennai 600 018.
2. The Deputy Secretary to Government,
First Appellate Authority under RTI Act,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
3. The State Public Information Officer,
Section Officer,
Home (Prison-IV) Department,
Secretariat, Chennai 600 009.

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to consider and decide on the petitioner's appeal and the complaint dated 15.06.2020 within a stipulated time as may be fixed by this Court.

For Petitioner : Mr.S.Saravanan

For Respondents: Mr.C.Vigneswaran
Standing Counsel for R1

Mr.U.Baranidharan
Addl.Government Pleader for R2 & R3

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the first respondent to consider and decide on the petitioner's appeal and the complaint



dated 15.06.2020, within a stipulated time as may be fixed by this Court.

2. In view of the limited relief sought for in this petition, On the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner has filed a mercy petition under Article 161 of the Constitution of India with His Excellency the Governor of Tamil Nadu on 30.12.2015, seeking grant of mercy by way of pardons or reprieves or remissions of punishment or suspend and the same was not processed by the State Council of Ministers for about three years. In this background, the petitioner has filed an application on 25.06.2019 before the 3rd respondent under Section 6(1) r/w 7(1) (Life and Liberty Clause) of the Right to Information Act, 2005, through the Superintendent of Prisons, Puzhal Central Prison I, Chennai, seeking certain information. Since there was no information, the petitioner preferred an appeal before the designated First Appellate Authority / 2nd respondent under Section 19(1) of the Right to Information Act, 2005, seeking the information as sought for before the 3rd respondent, whereby, he received reply letters from the said authority. However in the said reply, the information as sought by the petitioner was not provided. Therefore, the petitioner had filed both Second Appeal under Section 19(3) and a complaint under Section 20(1) and (2) r/w Section 19(8) of the Right to Information Act, 2005, on 15.06.2020 before the State Information Commission, Chennai / 1st respondent, however, till date, the petitioner did not receive any communication from the State Information Commission. In the meanwhile, the Hon'ble Supreme Court in SLP (Crl.) No.10039-10040 of 2016, filed by the petitioner, issued notice in an interlocutory application, seeking to release the petitioner forthwith. Therefore, the information sought by the petitioner is very much essential to argue the case before the Hon'ble Supreme Court and furthermore, the petitioner sent a reminder letter dated 16.04.2021 to the first respondent for early hearing, inspite of that no action was taken. Hence the petitioner is constrained to approach this Court by filing this Writ Petition.

4. The learned counsel appearing for the petitioner submitted that this it would suffice if this Court issues direction to the 1st respondent to consider the petitioner's second appeal under Section 19(3) and a complaint under Section 20(1) and (2) read with Section 19(8) of the Right to Information Act, 2005, on 15.06.2020 and pass orders on the same within a particular time frame fixed by this Court.



5. The learned Government Advocate has no objection for said order being passed and further submitted that the appeal will be taken up for hearing based on the seniority and will be given disposal as expeditiously as possible.

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6. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case directs the 1st respondent to consider the petitioner's second appeal under Section 19(3) and a complaint under Section 20(1) and (2) read with Section 19(8) of the Right to Information Act, 2005, on 15.06.2020, on merits and in accordance with law and pass appropriate orders, as expeditiously as possible, as per the seniority assigned therein. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The State Information Commission,
No.2, Thiyagaraya Salai, Near Aalai Amman Koil,
Teynampet, Chennai 600 018.
2. The Deputy Secretary to Government,
First Appellate Authority under RTI Act,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
3. The State Public Information Officer,
Section Officer,
Home (Prison-IV) Department,
Secretariat, Chennai 600 009.

+1cc to the Government Pleader, S.R.No.62217

W.P.No.24447 of 2021

GPL (CO)
SU(16/12/2021)