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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26062 of 2021

Mrs. M. Rajakumari

.. Petitioner

Vs.

1. The Tamil Nadu State Information Commission,
Represented by its Assistant Registrar,
Block No.19, Government Farm Village,
Saidapet, Chennai-600 015.
2. The Public Information Officer/Town Planning Officer,
Office of the Commissioner,
Tiruvannamalai Municipality,
Tirukovilur Road,
Tiruvannamalai.

.. Respondents

Prayer: Petitioner has filed this petition under 226 of the Indian Constitution to issue a Writ of Certiorarified Mandamus calling for records pertaining to SA No.4806/D/2020 dated 04.02.2021 made by the 1st respondent and quash the same and consequently direct the Second Respondent herein to issue the information sought for by this Petition vide Right to Information Application dated 02.03.2020.

For Petitioner : M/s. S. Vediappan

For R-1 : Mr. C. Vigneshwaran,
Standing Counsel for RTI

For R-2 : Mr. L.P. Maurya

ORDER

The present petition has been filed seeking quashment of the order dated 04.02.2021 passed by the 1st respondent and a direction to the 2nd respondent herein to issue the information sought for by the petitioner vide application dated 02.03.2020.



2. Mr. C. Vigneshwaran, learned Standing Counsel takes notice for the 1st respondent & Mr. L.P. Maurya takes notice for the 2nd respondent.

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3. It is the case of the petitioner pursuant to the order passed by this Court in W.P.No.1033 of 2018 on 01.08.2019 seeking to take action against the Un-authorized Constructions put up by the respondents therein on which no action has been taken, aggrieved by the same, the petitioner had made an enquiry vide application dated 02.03.2020 under RTI Act as what action has been taken against the un-authorized constructions after the disposal of the Writ Petition in W.P.No.1033 of 2018, for which the 2nd respondent had sent a reply dated 16.03.2020 stating that Criminal Prosecution was taken against the persons involved in illegal construction. Against the said order, the petitioner had preferred appeal under the Act before the first Appellate Authority and the same was disposed of stating that the information sought for by the petitioner cannot be furnished pending criminal cases against the persons involved in illegal construction. Aggrieved by the same, the petitioner preferred the Second Appeal before the 1st respondent, pursuant to which the 1st respondent had passed an impugned order dated 04.02.2021. Thereafter, the petitioner made a representation dated 27.08.2021 to the 1st respondent seeking to take action against the 2nd respondent. However, till date, the same has not been considered. Hence, left with no other remedy, the petitioner has come up with the present Writ Petition.

4. Learned Counsel for the petitioner submits that when the petitioner had sought for a particular information under the Right to Information Act, after preferring appeals, an impugned order came to be passed by the 2nd respondent herein. He submits that the order passed by the authority has no relevance to the query made by the petitioner, which exhibits non-application of mind and therefore, the said order is liable to be quashed and a direction may be given to the 2nd respondent herein to provide the information sought for by the petitioner.

5. On the above contentions, heard the learned counsel for respondents and perused the materials available on record.

6. The relevant Section 20(i) and 20(ii) of the Right to Information Act on which reliance has been placed reads as under:

- (i) Where the Central Information Commission
or the State Information Commission, as the



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case may, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Information Officer, as the case may be, has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under Section 7(1) or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each date till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

- (ii) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under Section 7(i) or malafidely denied the request for information or knowingly the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or



the State Public Information Officer, as the case may be, under the service rules applicable to him.

7. A perusal of the impugned order reveals that incorrect information has been provided to the petitioner and the said order has no relevance to the queries raised by the petitioner. However Section 20(i) and 20(ii) of the Right Information Act states that any application filed seeking information from the Central Information Commission or the State Information Commission cannot be refused or malafidely provided with incorrect, incomplete or misleading information and for such act being carried out, a penalty would be imposed and the disciplinary action would be initiated against the Authority concerned.

8. In the case on hand, even a bare perusal of the order in conjunction with the application filed by the petitioner reveals that the order has no merits or relevance to the query raised by the petitioner. The above act of the authorities clearly exhibits non-application of mind and squarely falls with the four contours of Section 20(i) and 20(ii) of the Right to Information Act. Therefore, this Court is of the opinion that the impugned order which came to be passed by the 2nd respondent is liable to be set aside as the irrelevant information has been provided to the petitioner herein which is wholly not sustainable. Accordingly, the impugned order under challenge before this Court is set aside. Further, this Court directs the 1st respondent herein to take action against the 2nd respondent, in terms of Section 20(i) & 21(ii) of the Right to information Act.

9. Accordingly, this Writ Petition allowed with the aforesaid direction. No Costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The Assistant Registrar,
The Tamil Nadu State Information Commission,
Block No.19, Government Farm Village,
Saidapet, Chennai-600 015.



2. The Office of the Commissioner,
The Public Information Officer/Town Planning Officer,
Tiruvannamalai Municipality,
Tirukovilur Road,
Tiruvannamalai.

+1cc to M/s.L.P.Maurya, Advocate, S.R.No.65169

+1cc to M/s.S.Vediappan, Advocate, S.R.No.64928

W.P.No.26062 of 2021

RSI (CO)
SU (25/02/2022)