



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1353 of 2021

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S.M.A.Gandhimathi Nathan

... Petitioner

-Vs-

1.The State Information Commissioner,
Tamil Nadu Information Commission,
No.2, Theagaraya Salai,
Near Aalai Amman Kovil,
Teynampet,
Chennai-600 018.

2.The Appellate Authority/The District Collector,
District Collectorate,
Thoothukudi District.

3.The Public Information Officer / Personnel Assistant
for District Collector,
District Collectorate,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to dispose the second appeal preferred by the petitioner dated 23.11.2020 under Section 19(3) of the Right to Information Act, 2005, within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For R1 : Mr.K.K.Senthil

For R2 & R3 : Mr.C.Ramar

Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for the first respondent /State Information Commission and the learned Additional Government Pleader for the respondents 2 & 3.

2.The petitioner had sought details regarding the disciplinary action taken against one Justin Chelladurai. The petitioner has filed the second appeal before the Commission. The petitioner wants this Court to direct the Commission to dispose it of within a time period to be stipulated by this Court.

3.The learned counsel appearing for the petitioner brought to

<https://hcservices.ecourts.gov.in/hcservices/>



my notice the statutory provision which states that the second appeal must be disposed of within thirty days.

4. But as rightly pointed out by the learned Standing Counsel, Section 19(6) of Right to Information Act, 2005, would apply only to first appeal filed under the Act and not to second appeal filed before the Commission.

5. I fully concur with the said submission made by the learned standing counsel. As on date, there appears to be more than 10,000 second appeals pending. Therefore, it would be most unfair on the part of the Court to give a direction to dispose of the recently filed second appeal within a time frame. However, this Court would expect the Commission to dispose it of as early as possible subject to the constraint of its work load.

6. The learned Standing Counsel further contended that the information sought for by the petitioner cannot be provided. In this regard, he would place reliance on the decision of the Hon'ble Supreme Court reported in **1993 AIR 1769 (R.K.Jain Vs. Union of India)**. He placed reliance on Paragraph No.12.

"12. We are in agreement with the CIC and the courts below that the details called for by the petitioner ie., copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of-course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right."

7. A careful reading of the aforesaid para would indicate that it is for the Commission to take a call in the matter by taking into account the larger public interests. Therefore, I am of the view that this is an issue that will have to be decided only by the Commission and it is not for this Court to nonsuit the petitioner at this stage itself.



8. With this observation, the Writ Petition is disposed of. No costs.

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Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The State Information Commissioner,
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3. The Public Information Officer / Personnel Assistant
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District Collectorate,
Thoothukudi District.

+1 CC to M/s.GP (SR-2616[F] dated 01/02/2021)

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-2429[F] dated 29/01/2021)

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29.01.2021

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ARK (CO)

https://hsrvtces2.courts.gov.in/cases/3P_6C