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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1117 of 2022
and W.M.P.No.1172 of 2022

M.Sivakumar

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Information Commission,
No.2, Thiyagarayar Salai, (Eldams Road Junction)
Teynampet, Chennai 600 018.

2. G.Karthikeyan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent in SA. No.5383/ D/ 2017 dated 24.01.2020 and quash the same and consequently direct the 1st respondent to conduct the fresh enquiry by giving opportunity to the petitioner.

For Petitioner : Mr.M.Thamizhavel

For RR1 : Mr.Niranjan Rajagopalan

O R D E R

The petitioner has filed this petition for issuance of writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent in SA. No.5383/ D/ 2017 dated 24.01.2020 and quash the same and consequently direct the 1st respondent to conduct the fresh enquiry by giving opportunity to the petitioner.

2. The petitioner is working as a Head Master in the Thangam Government Aided Middle School, Keelatheru, Nallamaangudi,



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Nannillam, Tiruvarur District. The 2nd respondent herein has filed an appeal before the 1st respondent by alleging that the petitioner had not furnished proper particulars in respect of petition dated 18.02.2017, sent under the Right to Information Act and further the 2nd respondent alleged in the appeal that the petitioner herein furnished the details on 21.03.2017 in an incomplete manner. The petitioner has further alleged that the 2nd respondent herein sent the appeal dated 19.04.2017 under RTI Act to the appellate authority of petitioner School and in spite of appeal to the appellate authority of the petitioner School, no proper response was received and hence the 2nd respondent herein preferred appeal dated 11.07.2017 before the 1st respondent, who sent the summons to the petitioner to appear before the 1st respondent on 24.01.2020. In response to the said summons, the petitioner had sent the letter dated 22.01.2020, expressed his inability to appear before the 1st respondent on 24.01.2020 and the 1st respondent without considering the same has passed the exparte order against the petitioner. Challenging the same, the present petition is filed.

3. The learned counsel for the petitioner submits that though the petitioner have no serious objection for furnishing the information sought for by the 2nd respondent, however, due to COVID 19 pandemic situation, the petitioner was not able to appear before the Commissioner and furnish the information and further the 1st respondent without issuing any notice, has passed the exparte order, which is not sustainable one and hence prays for appropriate orders.

4. The learned Standing Counsel appearing for the 1st respondent submitted that though summons were issued for appearance of the petitioner, he did not appear and furnish the details as sought for by the petitioner and hence the impugned order has been passed in accordance with law.

5. This Court after considering the available materials is of the view that admittedly the allegation against the petitioner is that he has not furnished the information sought for by the petitioner. However this Court considering the submission made by the learned counsel for the petitioner, is inclined to pass the following orders.

6. The petitioner is directed to furnish the information and appear before the 1st respondent Commission within a period of one week from the date of receipt of a copy of this order along with appropriate affidavit explaining the reasons as to why not furnishing the information to the 2nd respondent. If the 1st respondent feels that the explanation given by the petitioner is reasonable, he may consider the same and pass orders in accordance with law and the said exercise is to be completed



within a period of six weeks thereafter. No costs. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Chairman,
Tamil Nadu Information Commission,
No.2, Thiyagarayar Salai, (Eldams Road Junction)
Teynampet, Chennai 600 018.

+1cc to Mr.M.Thamizhavel, Advocate, S.R.No.5465

W.P.No.1117 of 2022

GPL (CO)
CT(02/03/2022)