



W.P.No.4909 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 14.07.2022

PRONOUNCING ORDERS ON : 18.07.2022

Coram:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.4909 of 2015
and MP.No.2 of 2015

S.Krishnan

..Petitioner

.Vs.

1. The State Information Commissioner
Tamil Nadu Information Commission
2 Thiagaraya Salai
Near Alaiamman Koil Street
Teynampet Chennai-18.
2. The District Collector
Erode District.
3. C.Gunsasekaran

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the first respondent in his proceedings Case No.49250/Enquiry/ B/2012 (42179/B/2013) dated 29.1.15 and to quash the same.



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For Petitioner : Mr.S.Vijayakumar
For Respondents : Mr.Niranjana Rajagopalan
for M/s.G.R.Associates
for R1

Mr.Tippusulthan
Government Advocate
for R2

Mr.MA.P.Thangavel
for R3

ORDER

This Writ Petition has been filed challenging the Order passed by the 1st respondent through proceedings dated 29.01.2015, wherein the 1st respondent has directed for initiation of departmental proceedings against the petitioner in exercise of its jurisdiction under Section 20 (2) of the Right To Information Act (hereinafter referred to as '**the Act**').

2.The 3rd respondent submitted a petition on 10.03.2012, seeking for certain information. There was a delay in providing the information. Hence, penalty proceedings were initiated against the petitioner under Section 20 of the Act. An explanation was sought for from the petitioner and the petitioner also submitted his explanation on 02.01.2015. On receipt of the same, the 1st respondent passed the impugned Order dated 29.01.2015, directing initiation of departmental proceedings against the petitioner in exercise of his jurisdiction under Section 20 (2) of the Act. Aggrieved by the same, the present Writ Petition has been filed before this Court.



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3.Heard Mr.S.Vijayakumar, learned counsel for the petitioner, Mr.Niranjan Rajagopalan, learned counsel for R1, Mr.Tippusulthan, learned Government Advocate for R2 and Mr.MA.P.Thangavel, learned counsel for R3.

4.The main ground on which proceedings were initiated against the petitioner was that the information was not provided for nearly two years. The petitioner, on receipt of the notice from the 1st respondent, gave his explanation. In the said explanation, he had stated that he joined the post only on 15.05.2012, much after the petition was submitted by the 3rd respondent. The petitioner had further stated that he held the position of a Public Information Officer only till 13.05.2013. The petitioner received the Order passed by the 1st respondent only on 8.01.2013 and immediately thereafter, the information was provided to the 3rd respondent on 28.01.2013. This was also informed to the 1st respondent on 29.01.2013.

5.On carefully going through the Order passed by the 1st respondent, it can be seen that the 1st respondent has not assigned any reasons to come to a conclusion that departmental proceedings must be initiated against the petitioner. Section 20(2) of the Act, provides for various contingencies where such a direction can be given by the 1st respondent. Directing to initiate departmental proceedings has very serious civil consequences and hence before passing such an Order, the explanation given by the concerned Officer must be dealt with and reasons must be assigned by the State Commission.



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6. In the present case, the 1st respondent has merely stated in the impugned Order that the explanation given by the petitioner is not acceptable and hence, disciplinary action was directed to be initiated against him. The Order passed by the 1st respondent is bereft of reasons and that by itself is a ground for this Court to interfere with the same. While imposing a penalty within Section 20 (2) of the Act, apart from affording opportunity to the delinquent person, reasons must also be assigned in the Order after considering the explanation given by the concerned person. The action initiated under Section 20 (2) is severe than the penalty imposed under Section 20 (1) of the Act and hence, such Orders cannot be passed without assigning reasons. Such Orders will have a very serious impact on the service record of a public servant and hence, such Orders cannot be passed as a matter of routine.

7. In view of the above discussion, this Court is inclined to interfere with the impugned Order dated 29.01.2015, passed by the 1st respondent and accordingly, the same is hereby quashed. The matter is remanded back to the file of the 1st respondent. The petitioner is directed to make a representation along with a copy of the explanation given on 02.01.2015, accompanied with a copy of this Order. This shall be done by the petitioner, within a period of **15 days** from the date of receipt of copy of this Order. The 1st respondent shall thereafter consider the explanation given by the petitioner and pass orders assigning proper reasons.



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8. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes
Index: Yes
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To

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Near Alaiamman Koil Street
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2. The District Collector
Erode District.



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N.ANAND VENKATESH. J.,

KP

**Pre-Delivery Order in
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