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W.P.No.8807 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE N.SATHISH KUMAR**

W.P.No.8807 of 2017

N.Latha

... Petitioner

Vs.

1.The Assistant Registrar
Tamilnadu State Information Commission
No.2, Sir Thiyagaraya Salai
Near Alai Aamman Koil Street
Teynampet, Chennai – 18

2.The Appellate Authority
under the Right Information Act
Inspector General of Registration
O/s.Inspector General of Registration
100, Santhome High Road
Chennai 600 028

3.The Public Information Officer
District Registrar (Administration)
District Registrar Office
North Chennai
No.1, Beach Station Road
Chennai 600 001

4.Manjula

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the record pertaining to the order made in Order No.SA.2571/Ma/Tha/Tha/A/2016 dated 17.09.2016 issued by the 1st respondent and quash the same and further directing the 1st respondent to impose the maximum penalty of Rs.25,000/- and to initiate disciplinary proceedings against the 4th respondent under section 20(1) and (2) of Right to Information Act and further to direct the 3rd respondent to provide the petitioner with the correct and complete information.

For Petitioner : Mr.A.Nagarathinam

For Respondents : Mr.Niranjan Rajagopalan
for G.R.Associates for R1

Mr.K.Tippu Sulthan
Govt. Advocate for R2 to R4

ORDER

The Writ Petition is filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the record pertaining to the order made in Order No.SA.2571/Ma/Tha/Tha/A/2016 dated 17.09.2016 issued by the 1st respondent and quash the same and further directing the 1st respondent to impose the maximum penalty of Rs.25,000/- and to initiate disciplinary



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proceedings against the 4th respondent under section 20(1) and (2) of Right to Information Act and further to direct the 3rd respondent to provide the petitioner with the correct and complete information.

2.It is the contention of the learned counsel for the petitioner that she has sought seven informations under Right to Information Act 2005, in respect of the auction conducted by the Chit Company in the month of September 2015, October 2015 and November 2015. Since the 3rd respondent did not furnish some information, the petitioner preferred First Appeal before the 2nd respondent under Section 19(1) of Right to Information Act 2005, the same was forwarded to the Deputy Inspector General, Chennai. The 2nd respondent also did not take any steps to furnish information sought for by the petitioner. However, the petitioner received a letter dated 26.02.2016 from the 3rd respondent alleging that the information sought for in question numbers 3 to 7 could not be furnished and the petitioner received some documents in respect of question number 1 and 2 vide letter dated 10.03.2016. Therefore, the writ petitioner preferred Second Appeal on 18.03.2016 before the 1st



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respondent to take action for non-furnishing the information. Thereafter, the 1st respondent had sent a notice dated 06.07.2016 to the 3rd respondent. Thereafter, the 3rd respondent had sent a letter dated 18.07.2016 with some information. The petitioner appeared for enquiry before the 1st respondent on 20.07.2016 and during the course of enquiry, the 3rd respondent furnished a copy of minute book regarding auctions conducted in 1 to 29 chits with false information. Therefore, the 1st respondent directed the 3rd respondent to furnish the correct information regarding the minute book auctions submitted by M/s.Sriram Chit Company. Thereafter, the petitioner received a letter dated 09.08.2016 from the 3rd respondent that he was not in a position to furnish the information as directed by the 1st respondent for the reason their office has been shifted from the office of District Registrar, North Chennai to Wall Tax Road on 16.02.2016 itself and during the course of shifting, the said document sought for has been misplaced and not traceable. Thereafter, on 26.02.2016, the petitioner was directed to approach the 3rd respondent and to pay the required fee to get the information sought by her. Accordingly, on 08.03.2016, the husband of the petitioner was sent



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to the office of the 3rd respondent situated at District Registrar Office, North Chennai, No.1, Beach Station Road, Chennai 600 001 and paid a sum of Rs.4/- for the purpose of getting information and a receipt was also issued to him on 08.03.2016 to that effect.

3.It is the further contention of the petitioner that the 3rd respondent has provided false information to her without any reasonable cause. Hence, the 1st respondent ought to have imposed penalty on the 3rd respondent. Therefore, the petitioner has challenged the impugned order passed by the 1st respondent for not imposing penalty on the 3rd respondent.

4.Counter has been filed by the 3rd and 4th respondents. In the counter it has been stated that the petitioner under Right to Information Act, 2005 sought information in respect of Chit conducted by M/s.Sriram Chits in Group No.40010/71002/24. The respondents had given reply only in respect of question Nos.1 and 2 and in respect of other queries, the petitioner was directed to contact the concerned chit company.



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However, the petitioner has filed a second appeal before the 1st respondent and on the date of enquiry, the 3rd respondent served the copies of documents called for by the petitioner from procuring it from the records of the concerned chit company, however, the petitioner had disputed that the entries found in the copies of documents supplied to him contains incorrect particulars. Hence opposed the writ petition.

5.It is the main contention of the learned counsel for the respondents that, despite the order of the 1st respondent, information sought for by the petitioner could not be provided mainly on the ground that the office of the 3rd respondent was shifted as early as on 16.02.2016, thereby a letter was sent to the petitioner on 26.02.2016 to approach the 3rd respondent in the same old office to get the information. The learned counsel further submitted that the petitioner relied upon the fees receipt said to have been paid by the petitioner's husband for seeking certain information and it is the contention of the petitioner that it was a wilful and deliberate act of the 3rd respondent in not furnishing the information. According to the 3rd respondent, only on the instructions of the 1st



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respondent, unattested copy of the minute book was served to the petitioner even though the petitioner has sought for the attested copies. Hence, the orders of the 1st respondent in not imposing penalty need not be interfered.

6.Mr.Niranjan Rajagopalan, the learned counsel appearing for the 1st respondent would submit that as far as imposing of penalty is concerned, it is the discretion of the 1st respondent. Only on finding of the fact that was there any wilful default or information has been withheld with an unreasonable cause or such information was withheld due to malafide intention, penalty can be imposed. As the Information Commission did not find any such omission on the part of the respondent, did not impose any penalty. Accordingly, submitted that the writ petition is not maintainable.

7. I perused the entire materials. As rightly pointed out by the learned counsel for the respondent, there was some delay in furnishing the information by the 2nd respondent, since the information sought for by



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the petitioner in respect of question Nos.3 to 7 related to some other chit company, thereby, the petitioner was directed to approach the said chit company. The petitioner also filed Second Appeal before the 1st respondent and during the enquiry by the 1st respondent, it appears that all the information sought for by the petitioner has been provided. The only grievance of the petitioner is that the 3rd respondent has not provided attested copies of the information sought for. According to the petitioner, the 3rd respondent informed her that due to shifting of the office on 16.02.2016, the information could not be furnished on time. Whereas, on 08.03.2016 when the petitioner was called for to pay the fees to get the information, the office was functioning on the same old place. Much reliance have been placed on the so called receipt relating to the fees paid by the petitioner. On a perusal of the receipt, it is seen that the old receipt book was used by the respondents to issue fees receipt which contained the old address but the contention of the petitioner that the office was still functioning in the old place cannot be countenanced. In the receipt designation of the officer was the same. Even though the office was shifted, the designation will not change and it



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cannot be concluded that the office has been shifted much later.

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8.Be that as it may, the information sought for by the petitioner has already been provided and the petitioner has also got the same during the enquiry. The 1st respondent has accepted the delay in furnishing the copies and taking note of the fact that the information related to some other chit company and the 4th respondent also procured them from the office of the other chit company and furnished them to the petitioner, has not imposed penalty on the 3rd respondent.

9.Therefore, this Court is of the view that even though the 1st respondent found that there was a delay in furnishing the information also found that there is no wilful intention on the part of the respondent. According to the 1st respondent, there is no reasonable cause or malafide intention on the part of the 3rd respondent in furnishing the information belatedly to impose penalty. Therefore, this Court is of the view that without any material to show that the 3rd respondent had willfully or malafidely or deliberately acted upon to withhold the information, it is



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not automatic to impose penalty. There must be some specific findings by the information Commission that information sought has been withheld by malafide act of the respondents. As there was no reasonable cause or deliberate intention or material, the 1st respondent has not imposed penalty on the 3rd respondent. Therefore, this Court hold that the impugned order does not suffer from any infirmity.

10.This Writ Petition stands dismissed accordingly. The petitioner requested this Court to direct the 4th respondent to furnish her the attested copy of the minute book. Such view of the matter, the 4th respondent may provide the petitioner the attested copy of the minute book if the same is available. No Costs.

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kas

Index: yes / no
Internet: yes / no
Speaking / Non speaking

To



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