



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.06.2022

ORDER PRONOUNDED ON : 22.06.2022

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CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.10286 of 2012

and

MP(MD) .No. 2 of 2012

S.Mariappan

...Petitioner

Vs

1.The State Information Commissioner
State Information Commission
No.273, New No.378, Anna Salai
Kamadhenu Supermarket 1st Floor
Teynampet, Chennai 18

2.The Director of Panchayats
Kuralagam Chennai 108

3.E.Kavitha

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the first respondent in case No.3758/Enq/C/2012 dated 02.07.2012 and quash the same as it is arbitrary and illegal.

For Petitioner	: Mr.R.Surianarayanan
For R1	: Mr.K.K.Senthil
For R2	: Mr.M.N.Muthuvijayan Special Government Pleader
For R3	: Ms.A.Afritha Fathima For M/s.Ajmal Associates

ORDER

The writ petition has been filed challenging an order passed by the first respondent State Information Commission under which a penalty of Rs.25,000/- has been imposed upon the writ petitioner for allegedly furnishing false information to the State Information Commission.

2.It is contended in the writ petition that the petitioner was working as a Executive Officer at Pannaipuram Town Panchayat between 04.03.2021 to 24.04.2012. During the said period, an application



filed by the third respondent seeking some information on 02.09.2010 was pending before him. According to the writ petitioner, he has furnished the information as requested by the third respondent by a communication dated 06.06.2011. The said communication was also sent to the Tahsildhar and the State Information Commission on the said date.

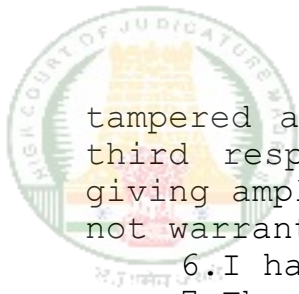
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3.The writ petitioner had further contended that the third respondent has filed an appeal before the State Information Commission on 08.08.2011 contending that she has not received any information from the Town Panchayat. After the said appeal was filed, the information sought by the third respondent was again sent to her on 09.12.2011 by way of registered post. However, in an enquiry conducted on 14.06.2012, the State Information Commission arrived at an erroneous finding that without sending the information on 06.06.2011, a wrong information has been furnished to the State Commission that the information has already been furnished to the third respondent. By an order dated 14.06.2012, the writ petitioner was called upon to show cause why penalty should not be imposed upon him under the Information Act.

4.The petitioner has further contended that after an enquiry on 02.07.2012, the present impugned order has been passed by the State Commission holding that the petitioner being a Public Information Officer of the Town Panchayat has furnished an erroneous information before the State Commission that the information has already been furnished to the third respondent on 06.06.2011. That apart, the despatch records have been tampered with so as to disclose as if the information has been sent on 06.06.2011. According to the learned counsel for the writ petitioner/Information Officer has sent a communication on 06.06.2011 addressing it to the Tahsildhar and marking a copy to the State Information Commission as well as the third respondent herein. He has handed over the said letter to the despatch clerk for forwarding the same. However, the despatch clerk has committed tampering and he is not responsible for the same. He further contended that the said despatch clerk has not been examined by the State Commission and the order is vitiated by not properly conducting an enquiry after giving due opportunity to the parties who are likely to be affected by the order.

5.Per contra, the learned Standing Counsel appearing for the State Information Commission submitted that the petitioner who is the Public Information Officer has really not sent any communication forwarding the information to the third respondent on 06.06.2011. Only because of the said fact, an appeal came to be filed before the State Commission on 08.08.2011. Only after receipt of notice from the State Information Commission, the petitioner has chosen to send the information on 09.12.2011. However, when the petitioner appeared before the State Commission on 14.06.2012, he has produced the records as if the information has already been furnished on 06.06.2011. The Commissioner after going through the original

<https://hsecrecords.gov.in/hsecrecords>



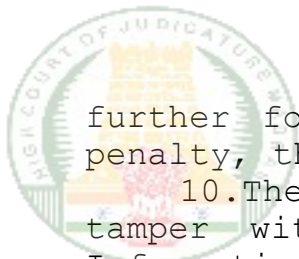
tampered and the information has not been really furnished to the third respondent. The impugned order has been passed only after giving ample opportunities to the writ petitioner and hence, it does not warrant any interference by this Court.

6.I have considered the submissions made on either side.

7.The third respondent has sought for information from the Executive Officer of Pannaipuram Town Panchayat on 02.09.2010. The Executive Officer of the Town Panchayat (Public Information Officer) at that point of time namely one Manoranjitham had not furnished the information during her tenure. The writ petitioner has joined duty on 04.03.2011 and he was the Executive Officer till 24.04.2012. Since the information sought for was not furnished, the third respondent herein has filed an appeal before the State Information Commission on 08.08.2011.

8.Admittedly, the writ petitioner has sent information by a Registered Post on 09.12.2011 and it has been received by the third respondent herein. When the appeal was taken up for hearing on 14.06.2012, the petitioner has produced certain records to the State Information Commission to the effect that the information was furnished to the third respondent as early as on 06.06.2012. As a proof of the same, he has produced certain despatch records. The Commission had found that the said communication dated 06.06.2011 has been addressed to the Tahsildhar, Uthamapalayam and a copy has been marked to the State Information Commission and the third respondent herein. However, none of the addressees have received the said communication dated 06.06.2011. The Commission further found that the despatch register has been tampered with, as if the information has been sent on 06.06.2011 itself. Based upon the said allegation, the State Information Commission issued a show cause to the writ petitioner on 14.06.2012 why the penalty should not be imposed upon him as contemplated under Section 20 of the Information Act.

9.The previous Executive Officer of the Town Panchayat namely Manoranjitham, the writ petitioner and the subsequent Executive Officer of the said Town Panchayat appeared before the State Information Commission on 02.07.2012. According to Manoranjitham (who was the Executive Officer of the Town Panchayat when the application was presented) she had called the disputing parties and arranged for a settlement and the third respondent has agreed to withdraw the application. However, the said settlement could not be recorded. The present Executive Officer of the Panchayat has contended that he was not aware of the tampering that has taken place during the period of writ petitioner. However, the writ petitioner during whose period the said tampering has taken place has contended that he has furnished the information on 06.06.2011 and it was not properly despatched by the despatch clerk. The State Information Commission has arrived at a finding that the writ petitioner while he appeared on 14.06.2012 has specifically contended that the information has already been furnished on 06.06.2011 itself. The said fact was found to be false since none of the addressees have received the communication. The Commission has



further found that in order to escape from the liability of the penalty, the despatch records have been tampered with.

10. There is no necessity whatsoever for the despatch clerk to tamper with the despatch records. The petitioner as a Public Information Officer, is solely responsible for furnishing information in time under the Information Act. If really the petitioner has furnished the information on 06.06.2011, the same would have been received at least by any one of the addressees. Hence, the findings of the State Information Commission that tampering of the despatch records has taken place at the instance of the writ petitioner cannot be found fault with. Moreover, the order of the penalty has been imposed upon the petitioner only after issuing a show cause and conducting a full-fledged enquiry. Charges as against the writ petitioner are serious in nature with regard to tampering of despatch records.

11. In view of the above said discussions, the writ petition is devoid of any merit and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

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/06/2022

Sub Assistant Registrar(CS)

msa

To

1. The Director of Panchayats
Kuralagam
Chennai 108

2. The State Information Commissioner
State Information Commission
No.273, New No.378, Anna Salai
Kamadhenu Supermarket 1st Floor
Teynampet, Chennai 18

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-27615[F] dated 23/06/2022)

+1 CC to M/s.R. SURIYANARAYANAN, Advocate (SR-27488[F] dated 22/06/2022)

+2 CC to M/s.K.K. SENTHIL, Advocate (SR-27665[F] dated 23/06/2022)
W.P. (MD) .No.10286 of 2012

and
MP (MD) .No. 2 of 2012

22.06.2022

MGJ(29.06.2022) 4P 7C

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