



W.P(MD).No.13181of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13181 of 2013

and

M.P(MD) No.1 of 2013

The Madurai Kamaraj University
Represented by its Registrar,
Palkalai Nagar, Madurai,
Madurai District – 625 021.

... Petitioner

-VS-

1. The State Chief Information Commissioner,
Tamil Nadu Information Commission,
No.2, Sir Thiagaraya Salai,
Adjacent to Alaiyamman Temple,
Tenampet, Chennai – 600 018.

2. The State Information Commissioner,
Tamil Nadu Information Commission,
No.2, Sir Thiagaraya Salai,
Adjacent to Alaiyamman Temple,
Tenampet, Chennai – 600 018.

3. Dr. I.Ismail

.... Respondents



W.P(MD).No.13181of 2013

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the second respondent State Information Commissioner in Case No.31345/enquiry/C/2012, dated 02.05.2013, quash the same so far as it imposes a fine of Rs.25,000/- (Rupees Twenty Five Thousand only) on the petitioner University.

For Petitioners : Mr.J.Mohamed Ashik Jaman
For R-1 & R-2 : Mr.K.K.Senthil
For R-3 : Mr.S.Anwar Sameem

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, under which, a penalty of Rs.25,000/- (Rupees Twenty Five Thousand only) has been imposed upon the Public Information Officer of the petitioner University.

2. According to the learned counsel appearing for the petitioner, the third respondent has made an application on 26.04.2012 seeking certain information about the application made for an appointment of Teaching

2/10



W.P(MD).No.13181of 2013

Faculty in the petitioner University. Since the information was not provided within 30 days time, the third respondent had approached the Registrar of the petitioner University by way of First Appeal, on 26.05.2012. Even the first appellate authority has not responded to the appeal and the third respondent was constrained to approach the State Information Commission. The first respondent, namely, the State Information Commission has issued a direction on 15.09.2012, directing the petitioner University to furnish all the information sought for by the third respondent herein. However, only a portion of the information was furnished to the third respondent herein. Hence, a show cause notice was issued under Section 20(1) of the Right to Information Act, by the first respondent Commission on 14.02.2013 as against the Public Information Officer of the petitioner University calling for explanation why penalty should not be imposed upon him. Only thereafter, the petitioner University has made some attempts to procure the document from the One-Man Enquiry Committee and a portion of the information has been furnished to the third respondent herein. Thereafter, summon was issued by the first respondent Commission on 22.04.2013 directing the Public Information Officer to appear on 02.05.2013 for an

3/10



W.P(MD).No.13181of 2013

enquiry relating to the proceedings under Section 20 of the Right to Information Act.

3. After conducting a detailed enquiry, the first respondent herein has passed an order imposing a penalty of Rs.25,000/- (Rupees Twenty Five Thousand only) on the Public Information Officer of the petitioner University. The first respondent has further directed the petitioner University to recover the said amount from the Public Information Officer and to remit the same to the Government Account. This order is under challenge in the present Writ Petition.

4. The learned counsel for the petitioner has contended that the information sought for by the third respondent herein were seized by the One Man Enquiry Committee and hence, said information could not be furnished in time. After getting permission from One Man Enquiry Committee, a part of the information was furnished and the rest of the information could not be furnished. Hence, there is no delay on the part of the petitioner University in providing the information as sought for by the



W.P(MD).No.13181of 2013

third respondent herein. The learned counsel for the petitioner has further contended that the third respondent herein at every stage has approached the first appellate as well as the second appellate authorities even before the expiry of the time granted under the Right to Information Act for providing information. He further contended that without properly appreciating the reason for the delay in furnishing the information, the first respondent Commission has passed an order impugned in the Writ Petition. Hence, he prayed for allowing this Writ Petition.

5. Per contra, the learned counsel appearing for the third respondent herein had contended that he has made an application seeking information on 26.04.2012, whereas, the One Man Enquiry Committee was appointed only on 03.09.2012. Though the first respondent Commission has directed the petitioner University to furnish the information on 15.09.2012, till notice was issued under Section 20(1) of the Right to Information Act, dated 14.02.2013, the petitioner University has not taken any steps to provide the information. Hence, the order passed by the first respondent Commission cannot be found fault with.



W.P(MD).No.13181of 2013

WEB COPY

6. The learned counsel appearing for the first respondent Commission also pointed out that despite direction issued on 15.09.2012, the petitioner University has not furnished information. He further pointed out that the petitioner University, in his letter, dated 30.04.2013 has categorically informed the first respondent Commission that balance information would be provided to the third respondent within a period of 30 days. However, no such information was provided with the third respondent within May 2013. The present impugned order has been passed only on 02.05.2013. The petitioner University has agreed to furnish the information within a period of 30 days, on 30.04.2013. However, till date, the balance information sought for by the third respondent herein has not been provided by the petitioner University, despite the fact that One Man Enquiry Committee was pleased to permit the University to furnish the said information.

7. The learned counsel for the Commission further pointed out that the order impugned in the Writ petition has been directed only against the Public Information Officer and not against the petitioner University. In fact,



W.P(MD).No.13181of 2013

the petitioner University has been directed to recover the said amount from the Public Information Officer to remit the same in the Government Account. Hence, the petitioner University cannot be considered to be the party aggrieved by the order impugned in the Writ petition. Hence, he prayed for dismissing the Writ petition.

8. I have carefully considered the submissions made on either side.

9. It is clear that the third respondent has sought for information on 26.04.2012 and only a portion of the information has been furnished by the petitioner University even as per the communication, dated 30.04.2013. A perusal of the order impugned in the Writ Petition clearly indicates that the show cause notice has been issued under Section 20(1) of the Right to Information Act on 14.02.2013. Thereafter, the order impugned in the Writ Petition has been passed on 02.05.2013, after providing ample opportunity to the concerned Public Information Officer.



W.P(MD).No.13181of 2013

WEB COPY

10. A Perusal of the impugned order further indicates the order is directed only against the Public Information Officer and not against the petitioner University. In fact, the petitioner University has been directed to recover the amount from the said Public Information Officer. Hence, looking from any angle, the petitioner University cannot be considered to be an aggrieved person by the order impugned in the Writ Petition. The petitioner has no *locus standi* whatsoever, to challenge the order impugned in the Writ Petition and the concerned Public Information Officer has not chosen to challenge the order impugned in the Writ Petition.

11. In such circumstances, I find that the petitioner University has no *locus standi* whatsoever. That apart, the petitioner University is said to be represented by the Registrar of the University who is the first appellate authority under the Right to Information Act. The first appellate authority cannot question the order passed by the State Information Commission which is the next higher authority over the first appellate authority.



W.P(MD).No.13181of 2013

WEB COPY

12. In view of the above said facts, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13 .10.2022

Index : Yes / No

Internet : Yes / No

ebsi

To

1. The State Chief Information Commissioner,
Tamil Nadu Information Commission,
No.2, Sir Thiagaraya Salai,
Adjacent to Alaiyamman Temple,
Tenampet, Chennai – 600 018.
2. The State Information Commissioner,
Tamil Nadu Information Commission,
No.2, Sir Thiagaraya Salai,
Adjacent to Alaiyamman Temple,
Tenampet, Chennai – 600 018.

9/10



WEB COPY



W.P(MD).No.13181of 2013

R.VIJAYAKUMAR,J.

ebsi

W.P.(MD)No.13181 of 2013

13.10.2022

10/10