



W.P.(MD)No.15622 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15622 of 2022

V.Rajeswaran

... Petitioner

Vs.

- 1.The Central Information Commissioner,
Central Information Commission,
Room No.305, II Floor,
B'Wing, August Kranti Bhavan,
Bhikaji Cama Place,
New Delhi-110066.
- 2.The First Appellate Authority,
Deputy Director General,
Unique Identification Authority of India (UIDAI)
3rd Floor, South Wing, Khanija Bhavan,
No.49, Race Course Road,
Bengaluru-560001.
- 3.Central Public Information Officer,
Assistant Director General,
Unique Identification Authority of India (UIDAI)
3rd Floor, South Wing, Khanija Bhavan,
No.49, Race Course Road,
Bengaluru-560001.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to dispose of the petitioner's second appeal dated 29.11.2021 pending before him as accordance with law and on merits, within a time to be fixed by this Court.

For Petitioner : Mr.R.Suriya Narayanan

ORDER

Heard the learned counsel appearing for the petitioner.

2. The petitioner is facing a criminal case. In order to establish his innocence, he requires certain details. Only then, the petitioner can establish his defence that there was impersonation. When he applied to the third respondent, information sought for was not given on the ground that the petitioner's application stood barred under Section 8(1)(J) of the Right to Information Act. Hence, the petitioner moved the first respondent. He wants this Court to direct the Central Information Commissioner to furnish the information sought for by the petitioner.

3. Obviously, before the Central Information Commissioner, there are hundreds of such appeals. It is not proper for this Court to permit the petitioner to jump the queue. At the same time, the petitioner is not left without any remedy.



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4. The petitioner's counsel states that the petitioner has to undergo trial of warrant case before the magistrate Court. In that event, Section 243 of Cr.P.C., would clearly come to his rescue. It reads as follows:-

243. Evidence for defence -

(1) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(2) If the accused, after he had entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or crossexamination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of crossexamining any witness before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice.

(3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.



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5. Section 243 of Cr.P.C. employs expression 'shall'. Therefore, if the petitioner seeks the aforesaid information by filing an application before the magistrate court under the aforesaid Section 243(2) of Cr.P.C, obviously, the petitioner will get the same. Since such an effective remedy is available to the petitioner, I am not inclined to issue the direction sought for.

6. With these observations, the Writ Petition is dismissed. No costs.

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Index : Yes / No
Internet : Yes/ No
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