



W.P(MD)No.4745 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4745 of 2015

and

M.P(MD)No.1 of 2015

K.Dhaspriyan

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu State Information Commission,
No.2, Thiyagaraja Salai,
Tenampet,
Chennai-18.

2.G.Meenakshisundaram

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned proceedings of the first respondent herein in Case No.30138/Maru Visaaranai /B/2013 (44645/B/2013), dated 26.02.2015 and quash the same as far as the portion of imposing penalty to the petitioner under Section 20(1) of the Right to Information Act, 2005.



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For Petitioner : M/s.V.Meenakshisundaram
For R-1 : M/s.K.K.Senthil
For R-2 : No appearance

ORDER

The present Writ Petition has been filed challenging an order passed by the State Information Commission, under which, a penalty of Rs.25,000/- has been imposed upon the writ petitioner for wilfully refusing to divulge the information as sought for by the second respondent herein.

2. The second respondent by his letter, dated 25.02.2013, has sought for information relating to the year 1977. The writ petitioner herein has furnished a reply on 27.02.2013, stating that the information relates to a period between 1904 and 1993 and unless the information seeker provides the file number, he will not be in a position to trace the files and give the information as sought for by the information seeker. Further, the petitioner has informed the information seeker that a new building is under construction for the Tahsildar office and only after the construction is over, the files will be segregated as per the year and there will be a possibility for finding out the said file.



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3. Not being satisfied with the reply given by the writ petitioner, the second respondent herein filed a first appeal. Since there was no response from the first Appellate Authority, the second respondent has moved the State Information Commission by way of a second appeal. The Information Commission has issued a show cause notice to the writ petitioner on 08.01.2015, why penalty should not be imposed upon him for wilfully refusing to divulge the information as sought for by the second respondent herein. The petitioner has submitted his detailed reply on 26.02.2015 pointing out that he was working in the said station as Deputy Tahsildar only for a short period between 03.08.2012 and 25.04.2013. On 27.02.2013, he has furnished the reply to the information sought for by the second respondent herein. Within two months, namely, on 25.04.2013, he has been transferred from the said post. Hence, he cannot be hauled up for not furnishing the information wilfully. However, without properly appreciating the said reply and the detail sought for by the writ petitioner, the State Information Commission has proceeded to impose the penalty. The said order is under challenge in the present writ petition.



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4. According to the learned Counsel for the petitioner, the information sought for by the writ petitioner relates to the period between 1904 and 1993 and the information seeker did not provide the file number. That apart, a new office for the Tahsildar was under construction and only after completion of the construction, the files could be segregated year wise and the information could be provided to the second respondent. Though this information was furnished on 27.02.2013, this has been considered to be wilfully neglecting or refusing to provide information by the State Information Commission. According to the learned Counsel for the petitioner, he was relieved from the said post within two months on 25.04.2013 and hence, he cannot be found fault with.

5. I have carefully considered the submissions made by the writ petitioner and perused the orders of the State Information Commission.

6. It could be seen from the records that the second respondent has sought for information relating to 13 items by his application, dated 25.02.2013. Information has already been furnished to all the items



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except item Nos.4, 11 and 13. That apart, it could be seen from the application that the information sought for relates to the period between 1904 and 1993, which requires some more time for the Public Information Officer to trace and find out. The Public Information Officer, namely, the writ petitioner herein has given proper reasons for not providing the information at that point of time. Within two months of providing the said information, he was transferred from the said post. Hence, the finding of the first respondent State Information Commission that he has wilfully refused to divulge the information is not legally sustainable.

7. In view of the above said facts, the order impugned in the writ petition in relation to the writ petitioner is set aside. The writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

01.11.2022

Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR, J.

btr

To

The Commissioner,
Tamil Nadu State Information Commission,
No.2, Thiyagaraja Salai,
Tenampet,
Chennai-18.

Order made in
W.P(MD)No.4745 of 2015

01.11.2022