

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.10.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.501 & 502 of 2015

and

M.P(MD)Nos.1 & 1 of 2015

K.Pounraj,
Public Information Appellate Authority /
The Commissioner,
Kulithalai Municipality,
Karur District.

... Petitioner
(In W.P(MD)No.501 of 2015)

Public Information Officer / The Manager,
Kulithalai Municipality,
Karur District.

... Petitioner
(In W.P(MD)No.502 of 2015)

Vs.

1.The Tamil Nadu Information Commissioner,
No.2, Thiyagaraya Salai,
Teynampet, Chennai-600 018.

2.P.Robert Selvaraj

... Respondents
(In Both W.P.s)

PRAYER in both W.P.s : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent

in case No. 42203 / further investigation /D/2013(58591/D/2013), dated 03.12.2014 and quash the same and pass such further or other orders.

(In Both W.P.s)

For Petitioners : M/s.M.Rajarajan

For R-1 : M/s.K.K.Senthil

For R-2 : M/s.S.Jayavel

COMMON ORDER

W.P(MD)No.501 of 2015 has been filed by the appellate authority challenging an order passed by the first respondent herein, under which, the first respondent has issued a show cause notice to the writ petitioner, why departmental proceedings should not be initiated against him for not furnishing information as called for by the information seeker. Under the same impugned order, a fine of Rs.1000/- has been imposed upon the writ petitioner. The Information Commission has further directed the Director of Municipal Administration, Salem to initiate action as against the writ petitioner for non furnishing of the information, despite an order passed by the first respondent herein. The said order is under challenge in the present writ petition.

2. According to the learned Counsel for the petitioner, the information sought for by the second respondent herein was already furnished and the same has been recorded by the first respondent State Information Commission by their order, dated 30.01.2015. The learned Counsel for the second respondent also admits that information sought for by him has already been provided to him. The said fact is recorded. By an order, dated 30.01.2015, the Information Commission has closed the proceedings with regard to paragraph Nos.7(3) and 7(4) of their order, dated 03.12.2014. In view of the interim orders passed by this Court, the Information Commission has kept in abeyance, the orders passed by them in paragraph Nos.7(1) and 7(2) of the order impugned in the writ petition.

3. In view of the narration of the above said facts, it is clear that the information sought for by the second respondent herein has already been furnished to them and hence, the question of issuing show cause notice to the writ petitioner does not arise. A perusal of the information sought for by the second respondent clearly indicates that the petitioner wants the building plan approval for all the buildings located in

Kulithalai Municipality and layout approval granted to all the layouts in the Kulithalai Municipality. The information sought for by the second respondent herein, squarely falls within Section 7(9) of the Right to Information Act. The writ petitioner has chosen to provide the said information and hence, the question of initiating disciplinary proceedings for furnishing the information in a delayed manner is not legally sustainable.

4. In view of Section 7(9) of the RTI Act, the information sought for by the writ petitioner is clearly voluminous in nature and it is certainly intended to disproportionately divert the resources of the public authority. Hence, the first respondent Commission was not right in imposing fine upon the writ petitioner. Hence, I find that the fine imposed upon the writ petitioner is not legally sustainable. However, since the petitioner has already paid the fine, the same shall not be refunded to the writ petitioner. However, the payment of the said penalty by the writ petitioner shall not be put against the writ petitioner for any promotion or other avenues of the writ petitioner.

5. W.P(MD)No.502 of 2015 has been filed by the Public Information Officer. As pointed out by this Court in the previous paragraphs, the information sought for by the second respondent herein squarely falls within Section 7(9) of the RTI Act and hence, the writ petitioner cannot be found fault with, for providing information in a delayed manner. Hence, I find that the order impugned in the writ petition for initiating disciplinary action or imposition of fine is not sustainable in the eye of law. However, since the writ petitioner has already paid the penalty, the same shall not be refunded to the writ petitioner. The payment of penalty amount shall not be put against the writ petitioner for his promotion or other avenues.

6. With the above said observations, both the writ petitions stand allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

28.10.2022

Index : Yes / No
Internet : Yes / No
btr

W.P(MD)Nos.501 & 502 of 2015

R.VIJAYAKUMAR, J.

btr

To

The Tamil Nadu Information Commissioner,
No.2, Thiyagaraya Salai,
Teynampet, Chennai-600 018.

Order made in
W.P(MD)Nos.501 & 502 of 2015

28.10.2022