



W.P(MD)No.5626 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.5626 of 2015

and

M.P(MD)No.1 of 2015

The Principal (i/c),
Thiyagarajar College,
No.139 & 140 Kamarajar Salai,
Teppakulam,
Madurai-625 009.

... Petitioner

Vs.

1.The State Information Officer,
Tamil Nadu Information Commission,
No.2, Thyagaraya Salai,
Teynampet, Chennai-600 018.

2.The First Appellate Authority-cum-
Joint Director of Collegiate Education,
Directorate Compound,
Madurai Division,
Madurai-625 020.

3.The Assistant Director of Collegiate Education,
Madurai Division,
Madurai-625 020.

4.M.Balan

... Respondents



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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 first respondent relating to proceedings in Case No. 36984/Enquiry/D/2014, dated 02.02.2015, signed on 13.03.2015 and quash the same.

For Petitioner : M/s.AR.L.Sundaresan
Senior Counsel
for M/s.AL.Gandhimathi

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

For R-2 & R-3 : M/s.V.Om Prakash
Government Advocate

For R-4 : No appearance

ORDER

The present Writ Petition has been filed challenging an order passed by the first respondent Commission, under which, they have issued a show cause notice, why a penalty should not be imposed under Section 20 of the Right to Information Act. Apart from that, under the impugned order, the first respondent Commission has directed the Assistant Director of Collegiate Education, Madurai to inspect the



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College, collect the details and hand it over to the information seeker.

This order is under challenge in the present writ petition.

2. According to the learned Counsel appearing for the petitioner, though originally Principals of all the Aided Colleges were appointed as Public Information Officer, later by an order of this Court in W.P(MD)No.8373 of 2012, dated 16.12.2014, the said order of the Government was quashed by this Court. Hence, the appointment of the Principal as the Public Information Officer itself has been quashed by this Court. Hence, the order impugned in the writ petition seeking to impose penalty upon the Principal is not legally sustainable.

3. The learned Counsel for the petitioner further submitted that the provisions, namely, Section 18(3)(b) of the Right to Information Act relate to requiring the discovery and inspection of documents, is that of a civil Court as contemplated under Section 18(3) of the RTI Act and it does not empower the State Information Commission or anyone of the authorities to seize the documents by entering into the College premises.



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4. Though the information seeker, who is arrayed as a fourth respondent herein has been served, there is no representation.

5. The learned Counsel appearing for the first respondent herein has contended that the information has been sought for, from the Public Information Officer of the petitioner College. The Principal has voluntarily answered to the said queries admitting himself to be the Public Information Officer. Even on a second occasion, the Principal of the College has submitted the reply to the information seeker. Hence, the Principal cannot now turn around and contend that he is no longer a Public Information Officer. He further contended that the Information Commission has got the powers as contemplated under Section 18(3)(b) of the RTI Act to direct the authorities to inspect the premises in question and hand over the information sought for by the information seeker.

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



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7. The impugned show cause notice has been issued to the Principal of the petitioner College on the alleged ground, that he is the Public Information Officer of the Educational Institution. Though originally Principals of the Private Aided Colleges were appointed as Public Information Officers, the very Government order, under which, they were appointed was quashed by this Court in W.P(MD)No.8373 of 2012, dated 16.12.2014. Hence, the appointment of the Principal himself as a Public Information Officer has been quashed and hence, the mere fact that the Principal has chosen to send some reply to the information seeker, cannot be put against the Principal. The State Information Commission is empowered to call for explanation or impose penalty only as against the Public Information Officer. In the present case, the Principal not being a Public Information Officer, the first respondent Commission has no jurisdiction whatsoever to issue a show cause notice, which is impugned in the writ petition.

8. The power conferred upon the Information Commission relating to discovery and inspection of documents is not the power of a criminal Court to order seizure of the documents and hand it over to the



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information seeker. This is only relating to discovery and inspection of the documents, which have already been filed before the competent civil Court. The said provision has been misunderstood by the State Information Commission, as if, it has got powers to order seizure of the documents from the Institution, from which, information is being sought for. Hence, it is clear that the order impugned in the writ petition on both the grounds are not sustainable in the eye of law.

9. The learned Counsel appearing for the petitioner submits that the Office Superintendent of the petitioner College has been appointed as the Public Information Officer. The present Public Information Officer is directed to answer the queries as raised by the third respondent herein, within a period of eight (8) weeks from the date of receipt of a copy of this order. If the fourth respondent is not satisfied with the said reply, he shall pursue his remedy under the RTI Act.



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10. With the above said observations, the impugned order is set aside and the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

10.11.2022

Index : Yes / No
Internet : Yes / No
btr

To

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R.VIJAYAKUMAR, J.

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Order made in
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