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A.S.No.480 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

Coram

THE HON'BLE MR JUSTICE D. KRISHNAKUMAR  
AND  
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.A.No. 1584 of 2013  
and M.P. No. 1 of 2013

&

W.P.Nos. 9626 of 2010 & 3996 of 2013  
and M.P.Nos. 1 of 2010 and 1 & 2 of 2013

The Registrar,  
Thiagarajar College of Engineering,  
Madurai - 625015.

... Appellant/Writ petitioner in  
both WPs

Vs.

1. The Registrar,  
Tamil Nadu Information Commission,  
Kamadhenu Super Market, 1<sup>st</sup> Floor,  
Old No. 273, New No. 375, Anna Salai,  
Chennai - 600018.

..1<sup>st</sup> Respondent / 1<sup>st</sup> respondent  
in both WPs

2.T.K.Ravindranath

..2<sup>nd</sup> Respondent

3.G.C.Manoharan

..Respondent/2<sup>nd</sup> respondent  
in W.P.No. 9626 of 2010

3.P.Raman

..Respondent/2<sup>nd</sup> respondent  
in W.P.No. 3996 of 2013

**Prayer in W.A.No. 1584 of 2013 :** This Appeal has been filed under Clause 15 of Letters Patent to set aside the order dated 30.04.2013 in W.P.No. 1253 of 2010 and allow the writ appeal.



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**Prayer in W.P.No. 9626 of 2010 :** Writ petition is filed under Article 226 of Constitution of India to issue a writ of certiorari, calling for the records relating to the order dated 08.03.2010 made in Case No. 27118/04/09 on the file of the first respondent and quash the same.

**Prayer in W.P.No. 3996 of 2013 :** Writ petition is filed under Article 226 of Constitution of India to issue a writ of certiorari, calling for the records relating to the proceedings viz., order dated 24.01.2013 in Case No. 33518.Enquiry/C/2012 of the 1<sup>st</sup> respondent and subsequent notice dated 05.02.2013 in Case No.33518/C/2012 of the first respondent and quash the same.

For Appellant : Mrs.a.L.Ganthimathi, Senior Counsel  
and for writ petitioner

For 1<sup>st</sup> respondent : Mr.Niranjan Rajagopal, Standing  
in Writ Appeal and Counsel  
in both WPs

For 2<sup>nd</sup> respondent in  
Writ Appeal and  
in W.P.No. 9626 of 2010 : Mr. B.Ravi

No Appearance for R2 in W.P.No. 3996 of 2013

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### COMMON JUDGMENT

[Judgement of the Court was made by *D.KRISHNAKUMAR,J.*]

Since the issue involved in the instant writ appeal and writ petitions are same, they are clubbed together and taken up for final hearing and orders passed by way of common judgment.



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2. Challenging the order passed by the 1<sup>st</sup> respondent in Case No. 20402/Enquiry/2009, dated 22.12.2009, the appellant herein has filed a writ petition in W.P.No. 1253 of 2010 before this Court, which came to be dismissed by order dated 30.04.2013 directing the writ petitioner/appellant to provide information as sought for by the 2<sup>nd</sup> respondent. Challenging the above said order in the writ petition, the appellant is before this Court by way of writ appeal.

3. The primordial ground raised by the appellant in the writ petition is that whether the private educational institutions which receive financial aid from the State Government will come under the purview of Right To Information Act 2005 and the Rules framed by the State Government under Right to Information Rules 2012.

4. Mrs.A.L.Ganthimathi, learned senior counsel appearing for the appellant/writ petitioners would submit that the 2<sup>nd</sup> respondent has sought for certain information under RTI Act with regard to the fees collected from the students from the year 2002 to 2009 by the appellant College. According to the learned senior counsel for the appellant, the appellant College is not a public authority under the definition under Section 2(h)(d)



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of the Act, therefore the appellant college cannot come under the purview of the Right to Information Act to provide the information as sought for by the 2<sup>nd</sup> respondent under RTI Act.

5. The learned senior counsel appearing for the appellant/petitioners would further submit that the the total grant received by the appellant College is only about 31% in average which is not a substantial financed. As such the college will not come within the definition of Section 2(h) of the Right to Information Act. Further, the 1<sup>st</sup> respondent -Commission has not provided opportunity to the appellant to establish that they do not come under the purview of RTI Act. The learned Judge based on the various decisions this Court as well as the Hon'ble Supreme Court held that the appellant-college will come under the purview of RTI Act.

6. The learned senior counsel for the appellant, in support of her contentions has also relied upon the recent decision of the Hon'ble Supreme Court viz., 1. *The case of DAV College True and Management Society & Others Vs. Director of Public Instructions & Others in Civil Appeal Nos. 9844 to 9857 of 2013 & 9860 of 2013, dated 17.19.2019* and 2. *The case of Thalappalam Ser.Coop.Bank & others Vs. State of Kerala and others in Civil Appeal Nos. 9020. 9029 & 9023 of 2013, dated 07.10.2013.*



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7. In the aforesaid ***DAV College and Management Society's Case***,

the Hon'ble Supreme Court in para 32 of the judgment held that ***“the society which runs various colleges/schools but each has an identity of its own and, in our view, each of the college/school is a public authority within the meaning of the Act. It has been urged that these colleges/schools are not being substantially financed by the Government in as much as that they do not receive more than 50% of the finance from the Government.”***

8. The learned senior counsel for the appellant strongly argued that as per Section 2 (h) of the Right to Information Act, any non government organisation substantially financed, directly or indirectly by the funds provided by the appropriate Government will be a public authority. The appellant herein is not substantially financed, therefore as per the recent decision of the Hon'ble Supreme Court cited supra, the said provisions of the RTI Act will not be applicable to the appellant College.

9. Mr.Niranjan Rajagopalan, learned standing counsel appearing for the 1<sup>st</sup> respondent Commission fairly submitted before this Court that the aforesaid two judgments of the Hon'ble Supreme Court relied by the learned counsel for the appellant came to be passed subsequent to the order passed



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in the writ petition by the learned Single Judge. The learned standing counsel appearing for the 1<sup>st</sup> respondent -Commission also agreed that as per the aforesaid decisions of the Hon'ble Supreme Court, the 1<sup>st</sup> respondent-commission shall pass orders after granting sufficient opportunities to the appellant-College.

10. The learned counsel appearing for the 2<sup>nd</sup> respondent would submit that in event of passing orders by this Court for fresh consideration by the appellant-college in the light of the directions of the Hon'ble Supreme Court, he may permitted to file file additional typed set of papers to substantiate his case.

11. Heard both sides and perused the documents available on record.

12. Admittedly, the aforesaid two decisions of the Hon'ble Supreme Court are subsequent to the order passed by the learned Single Judge in W.P.No. 1253 of 2010 which is under challenge in the instant writ appeal. The learned senior counsel for the appellant also prayed for a direction to place all the legal submissions as well as factual matrix before the 1<sup>st</sup> respondent-Commission and to take appropriate decision by the 1<sup>st</sup> respondent-Commission.



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13. The learned counsel appearing for the parties concerned fairly agreed to remand the matter to the 1<sup>st</sup> respondent Commission to consider afresh in the light of decisions rendered by the Hon'ble Supreme Court cited supra.

14. Considering the facts and circumstances of the case and in the light of the aforesaid decisions of the Hon'ble Supreme Court, We are of the considered view that the issue requires detailed consideration by the 1<sup>st</sup> respondent Commission. Accordingly, the following order is passed;

- i. The Impugned order passed by the learned single judge in W.P.No.1253 of 2010 dated 30.04.2013 as well as orders passed by the 1<sup>st</sup> respondent in Case No. 20402/Enquiry/2009, dated 22.12.2009 and the impugned orders passed by the 1<sup>st</sup> respondent in Case No. 33518/Enquiry/C/2012, dated 24.01.2013 and in Case No. 27118/04/09, dated 08.03.2010 in W.P.Nos. 3996 of 2013 and 9626 of 2010 respectively are set aside.
- ii. It is needless to say that the appellant shall furnish all the particulars to the 1<sup>st</sup> respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such particulars, the 1<sup>st</sup> respondent shall complete entire process and pass final orders in the light of the decision of the Hon'ble Supreme Court cited supra, within period of four months thereafter.



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iii. It is made clear that parties concerned shall raise all the queries before the 1<sup>st</sup> respondent and submit additional particulars to the 1<sup>st</sup> respondent if any and the same shall be considered in accordance with relevant Rules.

15. With the above, the instant Writ Appeal and the Writ Petitions are partly allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

[D.K.K.J.]

[K.G.T.J.]

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Speaking/Non Speaking Judgment

Index: Yes/No

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