



W.P.No.643 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.643 of 2018
and
W.M.P.No.799 of 2018

B.Bharathi

... Petitioner

Vs.

1.The Second Appellate Authority
cum Tamil Nadu Information Commission,
Represented by the Registrar,
No.2, Thiyagaraya Street,
(near Alaiyamman Koil),
Teynampet,
Chennai – 600 018.

2.The First Appellate Authority,
Deputy Secretary,
Department of Personnel and Administrative Reforms (AR. III),
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

3.The State Public Information Officer,
Under Secretary,
Department of Personnel and Administrative Reforms (AR.III),
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the First Respondent/Second Appellate Authority cum Tamil Nadu Information Commission to pass orders in my second appeal and complaint for subjecting the respondent 3 to penal action in accordance with the provisions of Right to Information Act 2005 and subsequently pass order to the first respondent to grant and pay a sum of Rupees Twenty Five Lakhs to the petitioner as compensation for subjecting the petitioner to mental sufferings, humiliation and for gross violation of my rights.

For Petitioners : Mr.R.Bharathi (Party-in-person)

For Respondents : Mr.Niranjana Rajagopalan
for M/s.G.R.Associates [R1]
Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.K.M.D.Muhilan
Additional Government Pleader [R2 & R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the first respondent/Second Appellate Authority cum Tamil Nadu Information Commission to pass orders in my second appeal and complaint for subjecting the third respondent to penal action in accordance with the provisions of Right to Information Act 2005 and subsequently pass order to the first respondent to grant and pay a sum of Rs.25,00,000/- (Rupees



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Twenty Five Lakhs) to the petitioner as compensation for subjecting the petitioner to mental sufferings, humiliation and for gross violation of my rights.

2. The case of the petitioner is that he submitted an application on 12.12.2015 before the third respondent-State Public Information Officer seeking information pertaining to the appointment of then State Chief Information Commissioner. However, the third respondent has not provided the information within the period of 30 days. Thereafter, the third respondent had leisurely passed an order on 16.01.2016 rejecting the petitioner's application on the ground that the appointment of State Chief Information Commissioner was challenged before this Court in W.P.Nos.24354 of 2012, 24972 and 25336 of 2015. Aggrieved by the said order dated 16.01.2016, the petitioner submitted the first appeal before the second respondent-First Appellate Authority on 27.02.2016. However, the First Appellate Authority has not passed any order. Hence, the petitioner made a complaint under Section 18 of the Right to Information Act, 2005 (in short 'RTI Act') before the first respondent-Second Appellate Authority on 27.02.2016. Since no order was passed by the Second Appellate



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Authority, the present writ petition is filed before this Court with the aforesaid prayer.

3. The petitioner (party-in-person) would submit that, during the pendency of this writ petition, the first respondent passed an order on 05.12.2022 rejecting the petitioner's application, which is not sustainable. Earlier, the very same respondent orally passed an order against the petitioner's application. Even though they are the Information Commission, they cannot judge on their own case. Further, no written order was passed, thereby, the present writ petition is filed seeking direction to the first respondent to pass orders on the information sought by the petitioner and payment of adequate compensation of Rs.25,00,000/- to the petitioner. However, the State Public Information Officer and First Appellate Authority including the Second Appellate Authority have not furnished the information sought by the petitioner and they defeated the very purpose of the RTI Act, for which, he is entitled to receive adequate compensation from the Second Appellate Authority. Accordingly, he prayed for appropriate orders.



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4. Mr.Niranjan Rajagopalan, learned Senior Counsel appearing for the first respondent would submit that, admittedly, the petitioner sought information with regard to the appointment of then State Chief Information Commissioner before the third respondent, which was rightly rejected by the third respondent on the ground that the writ petitions are pending before this Court challenging the appointment of State Chief Information Commissioner. When the writ petitions are pending, no information can be furnished to the petitioner. Subsequently, the petitioner preferred the first appeal before the First Appellate Authority and second appeal before the Second Appellate Authority. The Appellate Authorities cannot judge on its own case, thereby, the information is not furnished to the petitioner. If at the petitioner have any further grievance, he has to implead himself in the writ petitions pending before this Court, in which, the appointment of then State Chief Information Commissioner is challenged. Without impleading himself in the writ petitions, filing this writ petition is not maintainable. Subsequently, the then State Chief Information Commissioner tenure is over and after completing the period, new State Chief Information Commissioners were appointed. After the State Chief Information Commissioners assuming the office, they have rejected the petitioner's



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application on 05.12.2022. If at all the petitioner is aggrieved, he has to either challenge the order dated 05.12.2022 or implead himself in the writ petitions pending before this Court. Accordingly, he prayed for dismissal of this writ petition.

5. Mr.P.Kumaresan, learned Additional Advocate General appearing for the respondents 2 and 3 would submit that, the appointment of then State Chief Information Commissioner itself is challenged before this Court in W.P.Nos.24354 of 2012, 24972 and 25336 of 2015 and till date, the same was not disposed by this Court.

6. Heard both sides.

7. The fact in the present case is not in dispute. Admittedly, the petitioner made an application under RTI Act before the third respondent seeking information with regard to appointment of then State Chief Information Commissioner on 12.12.2015. However, the third respondent denied the petitioner's application on 16.01.2016, against which, the petitioner preferred the first appeal before the First Appellate Authority on



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27.02.2016, however, no order was passed. Again, the petitioner filed the second appeal before the Second Appellate Authority on 27.02.2016.

Repeatedly, the enquiry was fixed, however, no order was passed by the appellate authorities. However, during the pendency of this writ petition, the subsequent State Chief Information Commissioners passed an order on 05.12.2022.

8. In view of the above said position, no relief can be granted in favour of the petitioner. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to workout the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

23.03.2023

Index : Yes / No

Speaking order / Nonspeaking order

Netrual Citation Case : Yes / No

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To

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Second Appellate Authority
cum Tamil Nadu Information Commission,
No.2, Thiyagaraya Street,
(near Alaiyamman Koil),
Teynampet, Chennai – 600 018.



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M.DHANDAPANI, J.

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2.The Deputy Secretary,
First Appellate Authority,
Department of Personnel and Administrative Reforms (AR. III),
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

3.The State Public Information Officer,
Under Secretary,
Department of Personnel and Administrative Reforms (AR.III),
Government of Tamil Nadu,
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