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W.P. No. 12085 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 12085 of 2021

and

W.M.P. No. 12861 of 2021

Public Information Officer,
Administrator General and Official Trustee of Tamil Nadu
High Court Campus,
Chennai 600 104.

... Petitioner

-VS-

1.Tamil Nadu State Information Commission,
Rep. by its Assistant Registrar,
No.2, Thiayagarayar Road,
Eldams Junction,
Teynampet,
Chennai 600 018.

2.C.Shahul Hameed

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the first respondent in Order No.SA10056/A/2020 dated 21.04.2021 passed by the First Respondent and quash the same as illegal, arbitrary and non-est in law and pass such further order.

For Petitioner

: Mr. B.Vijay

For Respondents

: Mr. Niranjan Rajagopal
for M/s.G.R. Associates (for R1)

Mr. A.Thameem Mohideen (for R2)



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ORDER

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Heard Mr. B.Vijay, Learned Counsel for the Petitioner, Mr. Niranjan Rajagopal, Learned Counsel for First Respondent and Mr. A.Thameem Mohideen, Learned Counsel for Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is the Administrator General and Official Trustee of Tamil Nadu, who is governed by the Official Trustees Act, 1913 and the Administrators-General Act, 1963. In the course of discharge of duties relating to the administration of Trusts under the said laws by the Petitioner, documents of title to their properties and other connected papers are placed in his custody in a fiduciary capacity.

3. The Second Respondent by application dated 06.03.2020 under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act' for short) had sought certain information relating to M.O.P.L. Charities, which is administered by the Petitioner, who declined such request by Proceedings in Dis. No. 916/MOPL/2020 dated 04.07.2020 quoting exemption under Section 8(1)(e) of the RTI Act, and the Appellate Authority under



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Section 19(1) of the RTI Act by Proceedings in R.O.C. No.

43782(FA)/2020/RTI dated 23.09.2020 confirmed it. The Second Respondent then preferred second appeal in Case No. SA10056/A/2020 against the said orders of the Petitioner and the Appellate Authority before the First Respondent under Section 19(3) of the RTI Act in which order dated 21.04.2021 was passed directing the Petitioner to furnish the information sought by the Second Respondent, which is assailed in this Writ Petition.

4. Though it is beyond any pale of doubt that the Petitioner would be a 'public authority' within the meaning of Section 2(h) of the RTI Act, it cannot be said that the information relating to trusts administered by the Petitioner would fall within the public domain so as to be furnished to any person seeking information regarding it. The nature of duties performed by the Petitioner and the consequent responsibilities falling on him are certainly in the nature of fiduciary relationship held by him, which is exempted from disclosure under Section 8(1)(e) of the RTI Act.

5. At the same time, it cannot be lost sight that Section 8(1)(e) of the RTI Act would not be applicable when the competent authority is satisfied that the larger public interest warrants the disclosure of such information. In that event,



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the onus would be on the person seeking information to satisfy the existence of

larger public interest. In the present case, as the said exercise had not been carried out, the matter would have to be normally required to be remitted to the Petitioner to examine the matter from that perspective and to determine the further course of action in that regard. However, Learned Counsel for the Petitioner highlights that the functions carried out by the Petitioner are under the supervision of the High Court and in terms of Sections 25 and 26 of the Official Trustees Act, 1913, an application could be made to the High Court to obtain the information sought by the Second Respondent as pointed out by the Hon'ble Supreme Court of India in ***Committee of Management of Pachaiyappa's Trust -vs- Official Trustee of Madras*** [(1994) 1 SCC 475]. Alternatively, it is pleaded that the information sought by the Second Respondent are proceedings from the relevant records maintained by the Court for which certified copies could be obtained under the procedural rules of the concerned Court. In this context, reliance is placed on the decision of the Hon'ble Supreme Court in ***Chief Information Commissioner -vs- High Court of Gujarat*** [(2020) 4 SCC 702], where it has been held that when a particular statute provides for access to information by prescribing a procedure in that regard, the provisions of the RTI Act shall not be invoked for the same purpose and that the overriding effect in Section 31 of the RTI Act cannot have any



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application in the absence of inherent inconsistency between that enactment and the other law. As such, when the Second Respondent has the remedy to obtain the copies of the required documents from the Court following the prescribed procedure, the same would have to be followed and all other modes (including invocation of the provisions of the RTI Act) for seeking such relief would stand necessarily forbidden.

6. There is substantial force in the aforesaid submissions made by Learned Counsel for the Petitioner, which deserves acceptance, and consequently, the order dated 21.04.2021 in Case No. SA10056/A/2020 passed by the First Respondent, which cannot be sustained, is set aside with a clarification that it would not preclude the Second Respondent from resorting to the said modes to seek the required information.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

08.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

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To

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P.D. AUDIKESAVALU, J.

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