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W.P. No.2268 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.2268 of 2018

and

W.M.P. No.2765 of 2018

Union of India through
The Secretary,
Department of Atomic Energy,
Having office at Anushakti Bhavan,
C.S.M. Marg,
Mumbai – 400 001.

...Petitioner

VS.

1. The Registrar,
Central Information Commission,
August Kranti Bhawan,
Bhikaji Cama Place,
New Delhi – 110 056.

2. Shri Dhanesh Chandra Pandey,
Rohini – 55, Anupuram,
DAE Township,
Kancheepuram District,
Tamil Nadu – 603 127.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order dated 23.06.2016 made by the Information Commissioner on the file of the first respondent herein and quash the same.



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For petitioner : Dr. G. Babu
For respondents : R1 and R2 – No appearance

ORDER

This writ petition has been filed seeking for quashment of the impugned order dated 23.06.2016 on the file of the 1st respondent.

2. It is the case of the petitioner that Bhabha Atomic Research Centre (BARC) is one of R & D Institution / Constituent Unit of DAE based in several parts of the Country. It is further submitted that BARC has a mandate to provide R & D support to nuclear power programme to pursue all activities related to nuclear fuel cycle to operate research reactors across the country. Apart from the above, the said institution also conducts various research programmes viz., applications for isotopes in industries, medicine agriculture and overall it covers the entire spectrum of nuclear science, engineering and related areas. The major activities of the Centre is engaging in development and technology for defence purpose.

3. It is the further case of the petitioner that the 2nd respondent was appointed in BARCF and on completion of training he was deployed at BARCF, Kalpakkam and his profile involves operation and maintenance



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of switchgears and various transformers. While so, the 2nd respondent has made an application under R.T.I. Act, on 16.07.2013 before the authorities requesting for copies of his ACR/APAR during the period from 1999 to 2005. Being unsatisfied with the incomplete information provided by the Public Information Officer, the 2nd respondent has preferred an appeal before the First Appellate Authority. Though the said appeal was disposed of by the First Appellate Authority, by upholding the decision and information provided by the PIO, the 2nd respondent has further preferred a Second Appeal, before the 1st respondent, who in turn passed the order dated 23.06.2016, which is impugned herein. Challenging the impugned order, dated 23.06.2016, wherein, the Second Appellate Authority issued directions to furnish the complete details of APAR as sought by the 2nd respondent, this writ petition has been filed.

4. Dr. G.Babu, learned counsel for the petitioner submits that the Public Information Officer has furnished the copy of APAR pertaining to the 2nd respondent. However, the 2nd respondent preferred appeal and again preferred second appeal stating that the information provided is incomplete. He further submits that information which are strategic in nature could not be disclosed. Hence, considering all these aspects, some portions of APAR of the 2nd respondent have not been provided. Further,



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he submits that the details come under the purview of Section 8(1)(a) of the RTI Act, 2005 are exempted documents. Hence the impugned order passed by the 1st respondent is arbitrary and he prays for allowing of this writ petition.

5. Heard the learned counsel for the petitioner.

6. On perusal of records, it reveals that though the names of the respondents are printed in the cause list, there is no representation on their side, on more than three earlier occasions. Even today, there is no representation for the respondents. Considering the pendency of cases, this writ petition is taken up for.

7. Considering the submissions made by the learned counsel for the petitioner and on a cursory reading of the affidavit filed in support of this writ petition, it is true that the 2nd respondent has made out an application under the R.T.I. Act, seeking details of his ACR/APAR for the period 1999 to 2005. Further, it is averred that being unsatisfied with incomplete details, the 2nd respondent has preferred second appeal before the 1st respondent. Generally, applications made under R.T.I. Act, 2005 have to be responded, within the time stipulated therein. But in the



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instant case, the petitioner has furnished the copies of APAR pertaining to the 2nd respondent. However, details containing strategic and scientific information, which have to be kept confidential were not disclosed to anybody. Moreover certain documents which fall under Section 8(1) (a) of the Act have to be treated as “exempted documents” and as such they are exempted from furnishing. Further, information in respect of any 3rd party or portion of details which will adversely affect the security as well as the national interest shall not be provided. On the said ground, the petitioner has not provided the said details to the 2nd respondent.

8. In such view of the matter, there being no opposition from the respondents, the impugned order, dated 23.06.2016 passed by the 1st respondent is quashed and the writ petition stands allowed. However, the 2nd respondent can make out an application seeking for his APAR details before the authorities, which are not exempted and any such application is made, the petitioner is bound to provide the details to the 2nd respondent so long as it is not exempted. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The stand of the petitioner with regard to the exempted nature of



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the documents is not controverted by the 2nd respondent as the 2nd respondent has not chosen to appear despite grant of opportunity. Such being the case, the only inference that could be drawn by this Court is that the 2nd respondent is not inclined to prosecute the present petition.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To
The Registrar,
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New Delhi – 110 056.

M.DHANDAPANI, J.



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