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W.P. No. 24626 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

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

**W.P. No. 24626 of 2021
and
W.M.P. No. 25901 of 2021**

The Commissioner,
Chidambaram Municipality,
Chidambaram,
Cuddalore District.

... Petitioner

-vs-

1. The Tamil Nadu Information Commission,
Represented by its Registrar,
No. 19, Government Farm Village,
Pernpet, Nandanam,
Chennai – 600035.

2. R.Senthilkumar

... 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 dated 13.09.2021 pertaining to Case No. NC. 1323/D/2020 & NC. 1124/D/2021 (SA 11640/D/2020 & SA 11644/D/2020) & (SA 5080/D/2019) and quash the same.

For Petitioner : Mr. P.Srinivas

For Respondents : Mr. Niranjan Rajagopal,
Standing Counsel (for R1)

Mr. A.E.Ravi Chandran (for R2)

ORDER



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Heard Mr. P.Srinivas, Learned Counsel for the Petitioner, Mr. Niranjan Rajagopal, Learned Standing Counsel for the First Respondent and Mr. A.E.Ravi Chandran, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioner, several applications seeking information regarding one P.Anbarasan, who is working as Typist in the services of the Municipality of the Petitioner, were made by the Second Respondent, and information to the extent permissible under law was furnished to him, and in terms of Section 8 read with Section 11 of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act' for short), prohibited information was declined against which the Second Respondent had preferred second appeals under Section 19(3) of the RTI Act, which were disposed by order dated 23.10.2019 in Case Nos. SA 5080/D/2019 and by common order dated 23.04.2021 in SA 11640/D/2020 and SA 11644/D/2020 by the First Respondent directing the Petitioner to initiate disciplinary proceedings against the said P.Anbarasan. Though the Petitioner claims to have initiated disciplinary proceedings against the said P.Anbarasan, but had exonerated him of the charges after due enquiry, the First Respondent at the behest of the Second



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Respondent has awarded compensation of Rs. 10,000/- payable by the Petitioner to him in the exercise of powers under 19(8) of the RTI Act by Proceedings in Case No. NC. 1323/D/2020 & NC. 1124/D/2021 (SA 11640/D/2020 & SA 11644/D/2020) & (SA 5080/D/2019) dated 13.09.2021, which is assailed in this Writ Petition.

3. There is substantial force in the contention of Learned Counsel for the Petitioner that the First Respondent has exceeded the powers conferred under the RTI Act by directing initiation of disciplinary proceedings against the said P.Anbarasan and faulting the Petitioner for not complying with the same. It is beyond any pale of doubt that the First Respondent, viz., Tamil Nadu State Information Commission, is empowered to direct initiation of disciplinary proceedings only against the 'Public Information Officer' or the 'Appellate Authority' of the 'Public Authority' for failure or refusal to furnish information or when incorrect or incomplete information is furnished by them, and the said power cannot be extended to direct taking of disciplinary action against other employees of the Public Authority merely because information regarding them has been sought, as in this case. The consequential order of awarding compensation to the Second Respondent for not inflicting any punishment on the said P.Anbarasan is apparently erroneous, which cannot be sustained in law.



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As rightly pointed out by Learned Counsel for the Petitioner from the materials borne out of the record, the Second Respondent has abused the machinery of the RTI Act under the guise of seeking information from the Petitioner to settle his personal scores against the said P.Anbarasan, which cannot be countenanced.

4. In that view of the matter, the impugned Proceedings in Case No. NC. 1323/D/2020 & NC. 1124/D/2021 (SA 11640/D/2020 & SA 11644/D/2020) & (SA 5080/D/2019) dated 13.09.2021 passed by the First Respondent is set aside.

In the result, the Writ Petition is ordered. Consequently, the connected Miscellaneous Petition is closed. No costs.

08.12.2023

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Index: Yes/No

Note: Issue order copy by 22.05.2024.

To

The Registrar,
The Tamil Nadu Information Commission,
No. 19, Government Farm Village,
Pernpet, Nandanam,
Chennai – 600035.



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P.D. AUDIKESAVALU, J.

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