



W.P.No.25883 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.25883 of 2023
and W.M.P.No.25323 of 2023

Kondamuri Kusuma Nagendra Prasad

... Petitioner

Vs.

1.The Information Commissioner,
Central Information Commission,
Baba Gangnath Munirka,
New Delhi-110067

2.The Chief Town Planner-Cum-
First Appellate Authority,
Town and Country Planning Department,
Puducherry-605005.

3.The Public Information Officer-cum
Member Secretary,
Yanam Planning Authority,
Puducherry-605 001.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, directing the first respondent to



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dispose of the second appeal filed on 31.12.2022 and to consequently, direct the respondents to furnish requisite information within the time framed fixed by this Court.

For Petitioner : Mr.Ashwin Prasad
for Ms.V.Srimathi

For Respondents : Mr.K.B.Arul
Additional Central Government
Standing Counsel for R1

Mr.A.Tamilvanan
Additional Government Pleader (Pondy)
for R2 and R3

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is concerned about certain unauthorized constructions in Yanam, which are purportedly deferred by a cabinet decision. When the petitioner intended to probe into the matter through the Right to Information, he was informed about a certain judgment of the Andhra Pradesh High Court and also a cabinet decision of the same.



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3.The petitioner made an application under Section 6 of the Right to Information Act, seeking (a) the order of the Andhra Pradesh High Court, and (b) the cabinet note that stalled the demolition process of unauthorized constructions.

4.Vide proceedings dated 03.11.2022, the Public Information Officer partly allowed the application of the petitioner and except the cabinet notes, other details have been *inter alia* provided. The petitioner approached the second respondent, who confirmed the proceedings of the Public Information Officer, the third respondent herein. Aggrieved by the same, he has approached the second appellate tribunal, the first respondent herein.

5.The learned counsel for the petitioner submitted that sofar as the order of the Andhra Pradesh High Court is concerned, the petitioner only seeks the case details of the order purported to have been relied on by the authorities, so that the petitioner may obtain the certified copy of the said order himself. This is not furnished yet. As for the cabinet notes, the learned counsel submitted that Proviso to Section 8 (i) of the Right to Information Act,



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provides for issuing information regarding cabinet notes.

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6.Mr.K.B.Arul, the learned Additional Central Government Standing Counsel takes notice for the first respondent. Mr.A.Tamilvanan, the learned Additional Government Pleader (Pondy) takes notice for respondents 2 and 3.

7.Heard both sides. Section 8 of the Right to Information Act provides the list of information which are saved from being shared under Section 6 of the Act. Section 8 (i) is contextually relevant and it reads as below:

*"8.Exemption from disclosure of information.--(1)
Notwithstanding anything contained in this Act, there
shall be no obligation to give any citizen.--*

*(i)cabinet papers including records of deliberations
of the Council of Ministers, Secretaries and other
officers;*

*Provided that the decisions of Council of Ministers,
the reasons thereof, and the material on the basis of
which the decisions were taken shall be made public*



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after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;"

8.In terms of the proviso, no one is entitled to obtain a copy of the cabinet notes or deliberations of the cabinet, secretaries and other officers. However, a citizen is entitled to (a) the decision made by the cabinet; (b) the reasons that prompted the cabinet to come to a certain conclusion; and (c) the evidence or other materials which the cabinet might have considered for supporting the reason while arriving at its conclusion. While the cabinet note *per se* cannot be shared, the materials that form the basis for the cabinet decision, along with the decision, can be shared and there is no bar for that.

10.This Court is further informed that it is not even made known whether a decision at all was taken by the cabinet. This is an aspect falls squarely within the first proviso to Section 8 (i) of the Act. Therefore, necessarily the petitioner would be entitled to note the decision taken along with the reasons and the evidentiary material that supports the decision.



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11. Since the petitioner does not appear to have made the right kind of application, this Court merely directs the first respondent to dispose of the appeal, after taking into account whatever that has been spelled out herein above by this Court. The first respondent is further directed to dispose of the second appeal within a period of twelve (12) weeks from the date of receipt of an online copy or the date on which the order is hosted in the official website, whichever is earlier.

12. This writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

07.09.2023

Anu

Index : Yes / No

Neutral Citation : Yes / No



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To.

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N.SESHASAYEE, J.
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