



WEB COPY



W.P.No.21626 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.21626 of 2017

Vijayakumar G Dhas

.. Petitioner

VS

1.The State Information Commissioner,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,
Teynampet,
Chennai – 600 018.

2.The Public Information Officer,
Officer of Director General of Police,
Mylapore,
Chennai – 600 004.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus after calling for the records of the 1st respondent pertaining to the case No.CP879/F/2015 and quash the order dated 24.02.2017 and consequently directing the 1st respondent to impose fine on the 2nd respondent, apart from issuing direction to the competent authority to take disciplinary action against him for furnishing irrelevant information to the petitioner in violation of the provisions of Right to Information Act.

For Petitioner : Ms.Farjana Praveen
for Mr.P.Sesubalan Raja

For Respondents : Ms.Sowjanya
for Mr.Niranjan Rajagopalan
for R1
Mr.Alagu Gowtham
Government Advocate for R2



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ORDER

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1. The petitioner has challenged an order dated 24.02.2017 passed by the State Information Commissioner on the ground that, in addition to the order passed, R1 ought to have imposed fine on R2 and directed the competent authority to take disciplinary action against him for delay in furnishing of information to the petitioner, in violation of the provisions of the Right to Information Act, 2005 (in short, 'the Act').

2. The petitioner claims to be the owner of a building that is occupied by the Assistant Commissioner of Police, Poonamallee at No. 78, Victoria Road, Poonamallee, Chennai – 600 056 (in short, 'property / property in question'). The vacant site adjoining the property is stated to be utilized by the lessees for parking of their vehicles.

3. The petitioner appears to have been of the view that he was entitled to enhanced rent and thus has been corresponding with the police authorities in this regard. On 04.03.2015, a representation was made to the Director General of Police seeking sanction of enhanced rent which, according to the petitioner, was



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pending till 2001. On 10.04.2015, an application was sent under the provisions of the Act. On 14.05.2015, some information was supplied to the petitioner which, learned counsel for the respondents will concede, was incomplete.

4. An appeal was filed by the petitioner on 23.05.2015 and additionally some information was filed on 08.04.2015 which also did not satisfy the petitioner as it is, according to him also incomplete. To be noted, in the aforesaid order dated 08.04.2015, the information furnished is as follows:-

"Queries	Remarks
1	<i>A copy of letter dated 20.08.2014 of the Joint Commissioner of Police, West Zone, Chennai is enclosed.</i>
2	<i>A copy of letter No.164581/Bldg II(2)/2010, dated 27.09.2014 is enclosed.</i>
3	<i>The above subject is dealt with in the building section of Chief Officer Administrative Officer : Tmt.E.S.Indra, O/o the DGP,Chennai</i>
4 & 5	<i>The said file contains 355 pages. Hence the petitioner is requested to pay Rs.2 per page for providing the information.</i>

2.It is also requested that the above fact may be informed to the petitioner."

5. Dis-satisfied with aforesaid information, a second appeal was filed on 25.06.2015 during the pendency of which information was furnished on 11.06.2015 as follows:-



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Information sought for S.Nos.	Information furnished
2	<i>In this connection, a memo was sent to COP, Greater Chennai on 25.05.2015 requesting to send certain details for sanctioning of rent. On receipt of the reply from the COP, Greater Chennai further action will be taken.</i>
3	<i>A copy of this office memo, dated 25.05.2015 addressed to the COP, Greater Chennai is enclosed.</i>
4	<i>The above subject is dealt with in the building section of Chief Office. Administrative Officer : Tmt. E.S.Indra, O/o the DGP, Chennai.</i>
5	<i>A copy of memo, dated 25.05.2015 addressed to the COP, Greater Chennai is enclosed.</i>
6	<i>A copy of Note filed page No.23 is enclosed.</i>

6. The above information satisfied the petitioner though his submission is that it is grossly belated. Hence according to him, while passing the order impugned in this writ petition, the first respondent ought to have imposed a penalty in terms of Section 20 of the Act.

7. Heard Ms.Farjana Praveen, learned counsel for the petitioner, Ms.Sowjanya, learned counsel for the first respondent and Mr.Alagu Gowtham, learned Government Advocate for the second respondent.

8. The question that arises for determination in this matter is as to whether there is any justification for R1 to have, in addition



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to passing the order as he has on 24.02.2017, considered and imposed penalty under Section 20 of the Act. Section 20 provides for imposition of penalty in the following terms:-

20. Penalties.—(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him."



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9. Thus, the enumerated situations that attract the levy of penalty are the Central / State Public Information Officer, as the case may be, should have, without any reasonable clause (i) refused to receive an application for information, (ii) not furnished information within the time specified under sub-section (1) of Section 7 being 30 days from the date of receipt of the request for information, (iii) malafidely denied the request for information, (iv) knowingly given incorrect / incomplete or misleading information, (v) destroyed information which was the subject matter of the request and (vi) obstructed in any manner furnishing of the information.

10. Though both orally as well as in the affidavit filed in support of the writ petition there is a tentative attempt to justify the invocation of Section 20 stating that *'the delay in furnishing explanation is not justified and that the information furnished till 16.03.2016 was false and irrelevant'*, there is no case made out to show that the ingredients of Section 20 do stand attracted in the present case.

11. No doubt, the respondents will accede to the position that there has been some delay in furnishing of the information.



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However, this delay has been explained by the respondents to the effect that the information sought had to be collated from different units of the police department in orders dated 08.04.2015 and 11.06.2015, I find explanations set out by them sufficient and acceptable.

12. Incidentally, learned Government Advocate has also pointed out that the enhancement of rent sought for by the petitioner has been accepted and the arrears paid over on 16.03.2016, 15.04.2016 and 26.12.2022. A copy of the aforesaid communication is placed on file.

13. With this, this writ petition stands dismissed. No costs.

02.02.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

1.The State Information Commissioner,
Tamil Nadu Information Commission,
No.2, Thyagaraya Road,Teynampet,
Chennai – 600 018.

2.The Public Information Officer,
Officer of Director General of Police,
Mylapore, Chennai – 600 004.



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DR. ANITA SUMANTH,J.

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