



W.P(MD).No.124 of 2012

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.124 of 2012

and

M.P(MD) No. 2 of 2012

S.Senthil Kumar

..... Petitioner

- Vs-

1. The Chief Information Commissioner,
State Information Commission,
No.2, Sir Thiyagaraya Road,
Tenampet, Chennai – 600 018.

2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai – 600 034.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
K.K.Nagar, Madurai – 625 020.

4. S.Ramachandran

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the proceedings of the first respondent made in Case No.16788/enquiry/2010, dated 20.12.2011 and quash the same.

For Petitioner : Mr.K.Govindarajan

For Respondents :Mr.K.K.Senthil (for R-1)

: Mr.R.Ragavendran
Government Advocate
(For R-2 & R-3)

ORDER

The present Writ Petition has been filed to quash the proceedings of the first respondent made in Case No.16788/enquiry/2010, dated 20.12.2011.

2.Heard Mr.K.Govindarajan, learned Counsel appearing for the petitioner, Mr.K.K.Senthil, learned Counsel appearing for the first respondent and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents No.2 and 3.



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3. Notice has been sent to the fourth respondent and the same was returned with an endorsement “No such person”.

4. The petitioner is challenging the penalty imposed by the first respondent for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) on the failure of the petitioner to appear before the first respondent in spite of notice.

5. The fourth respondent herein had filed an application under Right to Information Act, on 31.03.2009 seeking certain information in respect of Arulmigu Kalyana Sundareswarar Temple, in which the petitioner is the Executive Officer. Even in the said application, the fourth respondent had categorically stated that he do not remember the date of the proceedings. Further, he had sought for various orders passed by a particular officer, who was working as a Commissioner. Then the said application has been replied by the petitioner by his communication on 04.05.2009, against which he had preferred the first appeal before the first appellate authority viz., the Additional Commissioner, Hindu Religious and Charitable Endowment department. The said appeal was responded by the Joint Commissioner by



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calling upon the fourth respondent to give further information to process his application. The said communication was challenged by the the fourth respondent before the first respondent.

6.The first respondent had originally issued notice, calling upon the petitioner to appear for enquiry. However, on the fixed date of hearing, the petitioner would not appear before the Commissioner due to excess work load. But, without affording any opportunity, the order of the first respondent had been passed by imposing cost of Rs.25,000/- (Rupees Twenty Five Thousand only) as penalty to the petitioner for not complying with the direction issued by the first respondent. Hence, he seeks to interfere with the order passed by the first respondent.

7.Countering the arguments, the learned Counsel appearing for the first respondent would submit that originally the summons were issued to the petitioner for hearing on 23.04.2010. Even during the said hearing, he was not present and therefore, further communication was issued on 29.04.2010 calling for his explanation for his absence during the said enquiry. The first respondent had also informed the second respondent to



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secure the presence of the petitioner before the Commissioner and the second respondent had also issued communication directing the petitioner to appear for enquiry. In spite of various communications, the petitioner has been refraining from appearing before the first respondent/ the Commissioner and therefore cost of Rs.25,000/- (Rupees Twenty five Thousand only) has been imposed by the petitioner in accordance with Section 21 of the Right to Information Act. Hence, he would submit that no interference is called for in this case.

8.I have considered the submissions made by the learned Counsel appearing on either side.

9.The application of the fourth respondent is seeking certain information of property endowed for carrying out certain rituals in the petition mentioned temple. In my view, the said application is bereft of material facts, namely specific date or period of the proceeding, which are very essential for the authorities to comply with the request made under the Right to Information Act. The fourth respondent by making such an incomplete application is trying to make a roving enquiry as regards various



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communications in respect of the issue that has been sought. The Joint Commissioner, HR & CE, Chennai, who is the first appellate authority, had, in fact, requested the fourth respondent to furnish the relevant details to consider his request. Without responding to the aforesaid communication, an appeal has been preferred before the first respondent and the first respondent had passed the impugned order.

10.A perusal of the impugned order and the counter filed by the first respondent, reveals that the petitioner has not been appearing for any hearings before the first respondent. The reasons assigned by the petitioner, in the writ affidavit that he has been managing too many temples and therefore he could not attend various hearings before the authority. This conduct of the petitioner is not condonable.

11.However, considering the fact that the impugned order has been passed in an appeal against the communication issued by the Joint Commissioner, HR & CE, calling upon the fourth respondent to give particulars, I am inclined to interfere with the impugned order passed by the first respondent and set aside the order of penalty imposed on the petitioner.



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12. Accordingly, this Writ Petition is allowed and the order passed by the first respondent dated 20.12.2011 is set aside. The petitioner is directed to give his utmost co-operation for the enquiry process. The fourth respondent is directed to give relevant particulars as required by the Joint Commissioner, HR & CE, Chennai. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

02.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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No.2, Sir Thiyagaraya Road,
Tenampet, Chennai – 600 018.
2. The Commissioner,
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Nungambakkam High Road,
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3. The Joint Commissioner,
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4. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
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