



W.P(MD)No.9853 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9853 of 2013

and

M.P.(MD)No.1 of 2013

and

W.M.P.(MD)No.2627 of 2020

K.Kannan

... Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Thoothukudi District.

2.The Revenue Divisional Officer,
Thiruchendoor RDO Office,
Thiruchendoor,
Thoothukudi District.

3.The Public Information Officer /
Deputy Thasildar (Head Quarters),
Thiruchendoor Taluk Office,
Thoothukudi District.

4.The Thasildar,
Thiruchendoor Taluk Office,
Thiruchendoor,
Thoothukudi District.

... 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 Certiorarified Mandamus, calling for the records pertaining to the impugned letter Aa3/4015-2012 dated 25/03/2013 on the file of the 3rd respondent and quash the same as illegal and direct the Respondent no.3 to provide the copy of report- R3/DDR1226-2009 dated 03/11/2010 to the petitioner within the stipulated time fixed by this Court.

For Petitioner : Mr.R.Ganesh Prabhu,
For Mr.S.Vanchinathan.

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Mrs.K.Chirsty Theboral,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.The petitioner invoking the provision of the Right to Information Act sought copy of the file pertaining to a peace committee meeting held



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on 03.11.2010. He went right up to the Information Commission. The information commission also directed the third respondent to furnish the petitioner with a copy of the document and report compliance. The grievance of the petitioner is that even thereafter an obstructionist attitude was adopted by the third respondent. The third respondent vide reply dated 25.03.2013 had taken a stand that the information sought for by the petitioner cannot be given because it falls within the exception under Section 2(f) of the Right to Information Act. Challenging the stand of the third respondent, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the third respondent to furnish the information as sought for.

4.When the matter was taken up for hearing on 25.01.2023, the following order was passed:-

“By order dated 16.09.2022, this Court had directed the first respondent to initiate action against the respondents 3 and 4. Pursuant to the said direction, a



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show cause notice has been issued on 07.10.2022 only against the fourth respondent.

2. When the writ petition came up for further hearing on 29.11.2022, it was recorded that the fourth respondent herein had sought time to submit his reply. Again when the matter had come up on 03.01.2023, this Court had directed the first respondent to file an affidavit as to why action has not been initiated against the third respondent as directed by this Court in its order dated 16.09.2022 and also he was directed to file further information by way of an affidavit indicating as to what action has been initiated by him to trace the missing file.

3. Today, the first respondent had filed an affidavit. It is brought to the notice of this Court that the individual, namely Gnanaraj holding the post of the third respondent was promoted as Tahsildar and he was holding the post of the fourth respondent. He would further submit that action has been initiated against the Officer holding the post of the respondents 3 and 4. He would also state in the affidavit that the show cause notice was also issued to one Anbarasu, Record Clerk, who was working in the fourth respondent office at the relevant point of time.



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4.The said statements made in the affidavit are taken on record with regard to the first issue sought to be clarified by this Court in its order dated 03.01.2023. With regard to the second issue, the first respondent in the affidavit had stated that various officials have been deputed to take earnest efforts to trace the said files. But all such efforts have failed and that during the relevant point of time, the officers worked in the office were all retired and one officer had died.

5.The first respondent is directed to conclude the disciplinary proceedings as expeditiously as possible, but within a period of three months from the date of receipt of a copy of this order. The incumbent officer of the fourth respondent shall give a compliant to the Superintendent of Police, Tuticorin on the missing file within a period of two weeks from today and the first respondent shall follow up the same. Since the affidavit has been filed, the appearance of the first respondent is dispensed with.

6.Post the matter on 05.06.2023 'for reporting compliance'.



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5.The District Collector has filed counter affidavit. Paragraph

Nos.6 to 9 of the counter affidavit read as follows:-

“6.In this connection it is submitted that during the course of hearing of the writ petition, this Hon'ble Court on an earlier occasion i.e., on 16.09.2022 directed the 1st respondent to initiate disciplinary action against the respondents 3 and 4 and the same shall be reported to the court on or before 10.10.2022.

7.In the above said circumstances, more fully in view of the orders of this Hon'ble Court, the first respondent herein has initiated disciplinary proceedings against erring officials who sent a reply under Right to Information act that the file was misplaced then issuing show cause notice to one Gnanaraj who is holding the post of Special Tahsildar, Flying Squad, District Supply Office, Thoothukudi formerly Head Quarters Deputy Tahsildar (Public Information Officer of Taluk Office, Tiruchendur) calling for his explanation with regard to the missing of certain files vide proceedings of the first respondent in Na.Ka.A6-208681-4822-2022 dated 07.10.2022 which was received by the 3rd respondent namely Gnanaraj. After receiving the notice, he sought for documents referred in the said show cause notice from the department to furnish his explanation. With regard to said occurrence disciplinary proceedings were also initiated by the 4th respondent against another one person who has not



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properly maintained the said file i.e. the Record Clerk of the 4th respondent office concerned namely Anbarasu vide proceedings in Na Ka Aa2/5334/2019 dated 19.01.2023 and the same are pending.

8.It is submitted that even though the above said file is missing, all the officials and subordinate officers were deputed to the Taluk office, Tiruchendur to make earnest efforts to trace out the said file but all such efforts failed. Further the said files maintained during the relevant point of time by the erstwhile Officers namely Kamatchidasan, Former Tiruchendur Zonal Deputy Tahsildar, L. Kesavan, Revenue Assistant and P Muthukrishnan, Former Tiruchendur Tahsildar were also retired and the above said L. Kamatchidasan died on 29.09.2017.

9.It is further submitted that as stated above in view of certain disputes between the writ petitioner and one Poorna Jeyanand, with regard to title in connection with S.No.237/2, Civil suit was filed by the petitioner before the learned District Munsif Court, Tiruchendur in O.S.No 9/2012 which was dismissed on 24.03.2017.As against which an appeal suits filed in Sub Court, Tiruchendur in A.S.No.369/2017 and A S.No.370/2017 are pending. Taking consideration of such civil disputes and rival claims, the revenue officials did not maintain the records in their names and the lands are waste lands and no prejudice will be caused to anyone. I



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respectfully submit that I am having great respect regard to the orders of this Hon'ble Court and I have never disobeyed any orders. However in view of above submissions, if this Hon'ble Court comes to a conclusion that there are any latches on my part, I sincerely tender my unconditional apologies for the same."

6.In view of the stand now taken by the District Collector, this Court is not in a position to give any further direction in the matter. When the file in question has gone missing, I fail to understand as to how this Court can direct the third respondent to furnish a copy of the same. Since disciplinary action had already taken by the first respondent, this Court expect the first respondent to take the matter to its logical conclusion. If the persons in-charge of the file have either retired or dead, the incumbent of the day cannot be penalized or fastened with liability.

7.However, the order impugned in this writ petition has to be interfered with to an extent. The information sought for by the petitioner does not enjoy any immunity or exception. To this extent, the stand of the third respondent is illegal and incorrect.



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8.If the petitioner has any serious claim over the land in question, the remedy to enforce the same is elsewhere. I feel that the petitioner is barking at the wrong tree. The information sought for pertains to the decision taken in a peace committee meeting. Peace committee meetings lack any statutory force or value. They are not held under any provision of Criminal Procedure Code. By getting the document, I fail to understand as to how the petitioner's case is further advanced. Instead of wasting his time, the petitioner would be well advised to establish his claim before the jurisdictional civil Court. The order impugned in this writ petition is set aside to the extent mentioned above and the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.07.2023

NCC : Yes/No
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G.R.SWAMINATHAN, J.

ias

To:-

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Thiruchendoor,
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