



W.P.(MD)No.10593 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.10593 of 2014

P.Murugesan

Vs.

... Petitioner

- 1.Government of India,
Through its Secretary,
Department of Personal and
Training,
Ministry of Personal, Public
Grievances and Pension,
New Delhi 110001.
- 2.The Central Information Commission,
August Kranti Bhavan,
Bhikaji Cama Place,
New Delhi-110066.
- 3.Shri Hardeep Singh,
Joint Director General of Foreign Trade
First Appellate Authority,
Directorate of Foreign Trade,
Udyog Bhavan,
New Delhi.
- 4.Shri Dayashankar,
Deputy Director General of Foreign Trade/
CPIO,



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Directorate of Foreign Trade,
Udyog Bhavan, New Delhi.

5. Shri. Vinit K. Verma,
Director (Cooperation)
Department of Agriculture and cooperation,
Krishi Bhavan, New Delhi.

6. Shri. B. Chavan
Deputy Secretary (Ep/Agri) & CPIO,
Department of Commerce,
Udyog Bhavan, New Delhi.

7. Shri. S. M. Narayanan
Nodal Officer/Director,
Department of Agriculture,
Ministry of Agriculture,
Government of India, New Delhi.

8. Shri Chanshyam Thakur,
Under Secretary/CPIO
Department of Agriculture,
Ministry of Agriculture,
Government of India, New Delhi.

9. The Central Information Officer/General Manager,
NAFED, Ashram Chowk,
New Delhi-110014.

10. First Appellate Authority,
NAFED, Ashram Chowk,
New Delhi-110014.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent to make mandatory provision in service rule and use discretionary power vested presently to impose the penalty for not disposing the petition or contravening any section/rule of the Right to information Act and penalise all above Central Public Information Officer and First Appellate Authority for violating the RTI Act and the 2nd respondent be directed to pass always speaking order for not recommending disciplinary action and not imposing fine, when they are passing order against the CPIO/1st Appellate Authority in the 2nd appeal. Consequently, the respondent Nos.6, 7, 8, 9 and 10 be directed to provide the information as sought vide the respective applications.

For Petitioner :Mr.P.Murugesan
(Party in Person)
For Respondents :Mrs.L.Victoria Gowri (ASGI)
for R1, R2 & R9
:No appearance for R4, R6, R8 & R10

ORDER

This writ petition has been filed to direct the 1st respondent to make mandatory provision in service rule and use discretionary power vested presently to impose the penalty for not disposing the petition and contravening provision of the Right to information Act and penalise all



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above Central Public Information Officer and First Appellate Authority for violating the RTI Act and the 2nd respondent be directed to pass always speaking order for not recommending disciplinary action and not imposing fine, when they are passing order against the CPIO/1st Appellate Authority in the 2nd appeal. Consequently, the respondent Nos.6, 7, 8, 9 and 10 be directed to provide the information, as sought vide the respective applications.

2.The complaint of the petitioner is that inspite of the order passed by the 2nd respondent herein, information has not been provided and that the orders of the 2nd respondent have not been implemented by any of the respondents. The 2nd respondent also has not initiated any disciplinary action or imposed fine as per the Right to Information Act.

3.In view of the attitude shown by the respondents, who were directed to provide information, the petitioner is being put to irreparable loss. Hence, he would seek action against the erring respondents, in not complying with the orders of the Public Information Officer under the



provisions of Right to Information Act.

4.Mr.P.Murugesan, party in person, would contend that the provisions under the Right to Information Act, does not empower any authority to take any action as against the erring officials.

5.Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India, would submit that the Right to information Act, 2005 is a complete Code in itself and that Section 20 of the enactment provides for penalties, if there is a violation in the refusal to furnish information as directed or as sought for, it would be always open to the petitioner to approach the authority under the Right to Information Act seeking for penalty.

6.I have considered the rival submissions made by the learned counsel for the petitioner as well as the learned Additional Solicitor General of India appearing for the respondents 1, 2 and 9.



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7.The contention of the petitioner is that the authorities under the Right to Information Act are teeth less. Section 20 of the Right to Information Act, 2005, provides for penalties for better appreciation the same is extracted hereunder:

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 of 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;



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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 the 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



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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.

8.In view of the aforesaid provision, it is always open to the petitioner to bring it to the notice of the 2nd respondent that inspite of the order being passed by the Information Commissioner, the information has not been provided to him. If the authority finds that the information has not been provided without any reasonable case, it can always impose penalties as adumbrated in Section 20 of the Right to Information Act, 2005.

9.In the light of the above observations, the petitioner is granted liberty to approach the 2nd respondent to take action against the erring respondents, as per Section 20 of the Right to Information Act, 2005.



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10. Accordingly, this writ petition stands disposed of. There shall be no order as to costs.

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Index : Yes / No
Speaking Order/Non Speaking Order
sbm

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K.KUMARESH BABU, J.

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