



W.P.(MD)No.2095 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.2095 of 2016

and

W.M.P(MD)Nos.1811 and 1812 of 2016

The Principal
Lady Doak College
Madurai - 625 002,
Madurai District.

... Petitioner

Vs

1.The State Information Commissioner
Tamilnadu Information Commission,
No.2, Theagaraya Salai,
Near Aalai Amman Koil,
Teynampet, Chennai - 600 018.

2.The Public Information Officer /
The Joint Director of Collegiate Education,
Madurai Region, Madurai,
Madurai District - 620 020.

3.A.Kondavellai

... Respondents

Prayer :- Writ Petition is filed under Article 226 of Constitution of India to



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issue a writ of Certiorari calling for the records relating to the impugned proceedings issued by the 1st respondent Information Commissioner in Case No.194/enquiry/D/2015(MP 1365/D/15) dated 16.10.2015, quash the same.

For Petitioners	:	Mr.Isaac Mohanlal Senior Counsel for Mr.T.Cibi Chakraborty
For R1	:	Mr.K.K.Senthil
For R2	:	Mr. V.Om.Prakash Additional Government Pleader
For R3	:	Mr.R.Alagumani

ORDER

The petitioner assails an order dated 16.10.2015 in relation to information requested for by the third respondent on 30.08.2014.

2. Learned senior counsel for the petitioner submits that the third respondent has requested for reasons, explanations and justifications in relation to the incorporation of the "Katie Wilcox Education Association" (KWEA). Therefore, learned senior counsel contended that



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the petitioner is not under an obligation to provide such reasons, explanations or justifications to the third respondent. In support of this contention, learned senior counsel relied upon the judgment of the Hon'ble Supreme Court in *Central Board of Secondary Education v. Aditya Bandopadhyay (CBSE) [(2011) 8 Supreme Court Cases 497]*, particularly paragraphs 63, 65 and 67 thereof. He also relied upon the judgment of the Hon'ble Bombay High Court in *Dr.Celsa Pinto v. Goa State Information Commission (AIR 2008 Bombay 120)*, wherein, at paragraph 8, the Bombay High Court held that questions relating to why actions were carried out do not fall within the purview of information under the Right to Information Act, 2005 (the RTI Act).

3. Learned counsel for the third respondent is unable to controvert the contention that reasons, explanations and justifications were called for from the petitioner.

4. In **CBSE**, the Hon'ble Supreme Court held as under in paragraph 63:



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"63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of "information" and "right to information" under clauses(f) and(j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide "advice" or "opinion" to an applicant, nor required to obtain and furnish any "opinion" or " advice" to an applicant. The reference to "opinion" or " advice" in the definition of "information" in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many



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public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

5. From paragraph 63, it is evident that the right under Section 6 is limited to information which is available and existing. The reasons for undertaking an action do not qualify as information which is available and existing, unless such reasons have already been recorded in a document or record available with the public authority. In this case, the third respondent has failed to establish that the reasons, explanations and justifications called for by him are already existing and available with the college. Indeed, in paragraphs 65 and 67 of **CBSE**, the Hon'ble Supreme Court proceeded to observe that the RTI Act would be rendered counter-productive and adversely impact the efficiency of the public authority if a substantial part of the time and resources of such public authority were to be expended in responding to such requests.



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6. On examining the request letter dated 30.08.2014, I find that the request made under serial numbers 1 and 4 are, undoubtedly, questions as to why and for what reasons or objects KWEA was established. The request at serial number 3 thereof is also a question as to whether KWEA was established to administer the Lady Doak College and, if so, various questions relating to the constitution of KWEA are posed and responses thereto are requested. The request under serial number 5 is also in the form of a question as to which committee decided to start KWEA to administer the Lady Doak College and the third respondent seeks details of the members of such committee. The request at serial number 2 relates to the organisation or entity which administered the College prior to the establishment of KWEA and further details with regard to the said organisation are called for.

7. The impugned order reveals that the third respondent did not attend the hearing. As regards the requests made under serial numbers 2,3 and 5, the first respondent concluded in the impugned order that the information should be provided after excluding details as to caste, religion, telephone



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number and address of the person concerned. As regards the requests under serial numbers 1 and 4, the first respondent directed the petitioner to provide the information, if the information is within its custody or control and, if not, to enclose the byelaws of KWEA and evidence justifying the inability to provide the information along with a sworn affidavit in such regard.

8. Although the petitioner had raised the defence, in its written submission dated 16.10.2015 to the first respondent, that the third respondent requested for opinions and not information under serial numbers 1 and 4 of the communication dated 30.08.2014 and that the petitioner is not under an obligation to provide the same, no findings were recorded by the first respondent on that contention. Likewise, the petitioner stated, in its reply dated 18.10.2014, to the third respondent that the particulars called for under serial numbers 2,3 and 4 relate to KWEA and that the petitioner is not authorised to provide such information, but the first respondent did not record reasons for not accepting the explanation. Both on account of the above reasons and the ratio in **CBSE**, the impugned order dated 16.10.2015



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cannot be sustained and is hereby quashed. Hence, this writ petition is allowed without any order as to costs. Consequently, connected miscellaneous petitions are closed.

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

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SENTHILKUMAR RAMAMOORTHY, J.

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