IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.3.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE BHARATHA CHAKRAVARTHY

W.A.No.3024 of 2023

R.Vijayan .. Petitioner

Vs

1 The Commercial Tax Officer
O/o. Commercial Tax, Gobald Lane
Rangasamuthiram, Sathyamangalam.

2 The Deputy Commissioner (CT)
O/o. Commercial Tax
Brough Road, Erode.

3 The State Information Commissioner
O/o. State Information Commission
Teynampet, Chennai - 600 018. .. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 26.10.2022 passed in WP No.18300 of 2013 by the learned Single Judge.

For the Appellant	:	Mr.R.Vijayan Party-in-person
For the Respondents	:	Mr.C.Harsharaj Addl Govt Pleader (Taxes) for respondents 1 and 2

: No appearance
for 3rd respondent

JUDGMENT

THE HON'BLE CHIEF JUSTICE

Heard Mr.R.Vijayan, appellant appearing in person; and Mr.C.Harsharaj, learned Additional Government Pleader (Taxes) on behalf of respondents 1 and 2.

2. The present appellant filed W.P.No.18300 of 2013 seeking directions against the first respondent to furnish information sought under the Right to Information Act, 2005 [for brevity, "*the Act of 2005*"] with exemplary costs.

3. The learned Single Judge observed that the appellant is supplied with the information upon filing of the writ petition and the question of payment of compensation does not arise at all. The said order is assailed in the present appeal.

4. The appellant, appearing in person, contended that he had sought information from the first respondent about the yearly statements of Prassana Traders for the financial years 1994-1995, 1995-1996 and 1996-1997. The same was declined. The first appeal filed against the non-supply of information by the first respondent did not yield any result. A second appeal was filed by the appellant before the State Information Commission. The State Information Commission directed the first respondent to furnish the information. According to the appellant, there was enormous delay caused in giving the information and the information furnished earlier was false. Owing to the delay in furnishing the information; supply of false information and the mental agony suffered, the appellant is entitled to compensation.

5. It appears that the appellant filed an application seeking certain information. The first respondent did not furnish the information on the ground that Sections 8(1)(d) and 8(1)(j) of

the Act of 2005 do not permit him to give the information, as it relates to the personal information, the disclosure of which has no relationship to any public activity or interest, and would cause unwarranted invasion of the privacy of the individual, so also relates to commercial confidence.

6. The appellant filed an appeal. The First Appellate Authority dismissed the appeal affirming the view of the first respondent that the information sought by the appellant relates to the trade activities and, hence, the authority is exempted from giving the information under Section 8(1)(d) of the Act of 2005 and, that apart, furnishing of third party's information is also exempted.

7. The appellant thereafter filed a second appeal before the State Information Commission. The State Information Commission, under order dated 7.6.2013, allowed the second appeal filed by the appellant and directed the first respondent to

furnish the information sought by the appellant in his application.

8. It appears that the appellant was given the yearly statements of Prassana Traders for the financial years 1994-1995, 1995-1996 and 1996-1997 vide communication dated 25.6.2013 and the same was received by the appellant on 29.6.2013.

9. It would appear that no delay was caused after the second appeal filed by the appellant was allowed. The Second Appellate Authority had directed the first respondent to supply the information within 15 days from the date of receipt of the said order. The information was supplied within a period of twelve days.

10. The aforesaid dates and events would make it abundantly clear that without any delay the information was supplied by the first respondent upon the order being passed by

the Second Appellate Authority. It appears that the first respondent was under the *bona fide* belief that the said information sought by the appellant is exempted under Sections 8(1)(d) and 8(1)(j) of the Act of 2005. The said view was also upheld by the First Appellate Authority. However, the Second Appellate Authority has reversed the said finding and directed the first respondent to supply the information to the appellant. Thereafter, the information was supplied without any delay.

11. It would appear that the withholding of the information was not with a *mala fide* intention nor any false information was given. The compensation cannot be ordered as a matter of course, moreover, when in the writ petition, the appellant had never sought compensation, but only claimed exemplary costs. If the State Information Commission comes to the conclusion that the information has been withheld by the authority without any reasonable cause and/or denied *mala fidely*, or that knowingly incomplete, incorrect or misleading information was

given or the information was destroyed, then the penalty can be imposed upon the first respondent. The first respondent was under bona fide belief that information cannot be supplied in view of Sections 8(1)(d) and 8(1)(j) of the Act of 2005. In the present case, the State Information Commission has also nowhere observed that the information was withheld with a *mala fide* intention.

For all the aforesaid reasons, the order of the learned Single Judge denying the claim of the appellant for compensation cannot be faulted with. The writ appeal, as such, is dismissed. There shall be no order as to costs.

(S.V.G., CJ.) (D.B.C., J.)
12.03.2024

Index : No
Neutral Citation : No
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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