



W.P.No.19567 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19567 of 2022
and W.M.P.No.18858 of 2022

Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1,Gandhi Irwin Road,
Egmore, Chennai- 600 008,
represented by its Member Secretary.

... Petitioner

Vs

1. The Tamil Nadu State Information Commission,
Represented by its Secretary,
No.19, Government Farm Village,
Pernpet, Nandanam, Chennai- 600 035.

2. V.Murugesh
3. R.Vishkia
4. S.Ganesh
5. B.Prashant
6. Public Information Officer,
Chief Education Officer,
Egmore, Chennai- 600 008.

7. Public Information Officer / Headmaster,
Raja Muthaiah High School,
Raja Annamalaipuram,
Chennai- 600 028.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the first respondent in case No.NC1314/D/2021 in SA 1043/D/2019, SA 1045/D/2019, SA 1046/D/2019 and SA 1054/D/2019 and Quash the order dated 16.06.2022.

For Petitioner	: Mr.R.Sivakumar
For R1	: Mr.C.Vigneswaran Standing Counsel
For R2 to R5	: Mr.P.Muthamizh Selvakumar
For R6	: Mr.N.Naveen Kumar Government Advocate
For R7	: Mr.T.Balaji

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 16.06.2022, thereby directed to pay a sum of Rs.79,08,000/- as compensation and ensured the compliance of the direction issued by the commission.

2. Heard the learned counsel on either side and perused the materials available on record.



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3. The 7th respondent School had applied for planning permission for their proposed construction of High Rise building for commercial purpose consisting of extended double basement floor and ground plus 14 floors for shop, hotel, rooms and office at Thandavarayan Street, DuraisamyDinakaran Road, Rajah Annamalaipuram, Chennai, bearing R.S.No.4277/6, Block No.1, Mylapore Village. The earlier application sought for planning permission was rejected by an order dated 21.11.2013. Aggrieved by the same, the 7th respondent filed an appeal under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 before the Appeal Committee. Pending appeal, KumararajahMuthiah School of Traditional Arts and Crafts Society filed objection for grant of planning permission. It was also forwarded before the Appeal Committee. After due deliberations, the appeal was allowed and it was placed before the Government for its approval. The Government by its order dated 20.05.2020 vide G.O.Ms.No.74, Housing and Urban Development Department, allowed the appeal and directed the petitioner to collect Open Space Reservation charges in lieu of Open



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Space Reservation under provisions of Tamil Nadu Combined Development and Building Rules, 2019.

4. Accordingly, it was placed before the panel for issuance of planning permission. The panel resolved to recommend the issuance of planning permission for the proposed construction subject to the payment of required development charges and relevant No Objection Certificate. The Government by its letter dated 16.06.2020, granted planning permission subject to specific condition that after submission of no objection from Airports Authority of India and Environmental Clearance. Accordingly, the developer submitted the Environmental Clearance certificate dated 23.01.2021. Thereafter, the planning permission was issued on 25.02.2021.

5. While being so, on the appeal submitted by the second respondent, the first respondent issued notice to the petitioner. It was noticed that the 7th respondent failed to erect display board at the construction site, incorporating the details of planning permission. It was



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further alleged that the planning permission must have ensured the erection of display board and directed the petitioner to submit explanation so as to why the compensation should not be awarded to the tune of Rs.79,80,000/- (Rs.1000/- each to 7908 students). On receipt of the said notice, the petitioner conducted an inspection, on 15.06.2022 and noticed that there was display board available at the construction site, but, it was not in the prescribed format. Therefore, the petitioner was issued with a letter dated 15.06.2022, thereby directed the 7th respondent to erect the display board with correct information and also sought for explanation. In response, the 7th respondent submitted an explanation that the display board got displaced few weeks back due to heavy wind and rain and the same was supported by photographs. Without considering the same, the first respondent passed an order that it is the students of the 7th respondent are aggrieved due to non-erection of display board. Therefore, the petitioner, being the authority who supervised the construction is liable to pay compensation of Rs.79,80,000/-, within a period of one month and posted the matter for reporting compliance.



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6. It is seen that the respondents 2 to herein had applied for information under Section 6(1) of the Right to Information Act, 2005 and sought for certain details pertaining to the 7th respondent School including infrastructure, playgrounds, teaching sessions, catering details and play time for the students. However, the said request was refused by the Information Officer, viz., the Headmaster of the 7th respondent School and also stated that the space allotted for the School are being used for another purpose. Aggrieved by the same, an appeal was filed before the first respondent. On the appeal, the first respondent mechanically awarded compensation in favour of the students for not supervising the construction put up by the 7th respondent School and for non insisting the 7th respondent School to put up display board. In fact, the petitioner is not a party to the original application filed by the respondents 2 to 5 before the 7th respondent seeking information under the Right to Information Act. This apart, even in the appeal proceedings, the petitioner is not a party.



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7. The petitioner was never put on notice with regard to the application filed before the 7th respondent and also in the appeal filed before the first respondent. The request made by the respondents 2 to 5 is before the 7th respondent in respect of certain details such as infrastructure, playgrounds, teaching sessions, catering details and play time for the students. Beyond the jurisdiction of the first respondent directed the petitioner to inspect the premises of the 7th respondent and as per the report, impose compensation as against the petitioner. The first respondent has no jurisdiction to order any compensation as against the petitioner.

8. It is relevant to extract the provision under Section 19(8) of the Right to Information Act, 2005 as follows:-

“ 19(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,-

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-

(i) by providing access to information, if so requested, in a particular form;



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(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.”

9. The first respondent is the appellate authority. Any person who, does not receive a decision within the time specified under Section 7(3)(a)(1) of the Right to Information Act or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer as the case may be, may within a period of thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal before the Public Information Officer. As against the decision made by the Public Information Officer, the second appeal shall lie before the Central or State Information Commission. Therefore, the first



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respondent can order compensation to compensate the complaint for any loss or other detriment suffered.

10. In the case on hand, the respondents 2 to 5 herein had applied for certain informations before the 7th respondent. It was rejected and aggrieved by the same, they preferred first appeal before the 6th respondent. For non-compliance of the order passed by the 6th respondent, the respondents 2 to 5 herein preferred an appeal before the first respondent.

11. Admittedly, the petitioner is not a party to both the proceedings before the 7th respondent as well as the 6th respondent. Further, there is absolutely no loss to the information sought for by the respondents 2 to 5 herein and they have not suffered with any action of the petitioner. In fact, as directed by the first respondent, the petitioner caused show cause notice to the 7th respondent and also inspected the premises. Accordingly, the petitioner had taken action as against the 7th respondent. It has nothing to do with the information sought for by the respondents 2 to 5



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herein. It is inter-say dispute between the 7th respondent and the respondents 2 to 5 herein. Further, the planning permission issued in favour of the 7th respondent has nothing to do with the information sought for by the respondents 2 to 5 herein. As per the Government Letter No.78 dated 15.06.2020, the developer of the 7th respondent had applied to the State Level Environment Impact Assessment Authority, Tamil Nadu for environmental clearance to their project, which was considered by that Authority in detail and by their order dated 23.01.2021 issued environmental clearance certificate imposing various conditions to be followed by the developer. Therefore, the conclusion of the first respondent that the students are aggrieved due to Air Pollution in view of the proposed construction is not based upon any material evidence and it is against the certificate issued by the Environment Impact Assessment Authority.

12. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, case No.NC1314/D/2021 in SA 1043/D/2019, SA 1045/D/2019, SA 1046/D/2019 and SA 1054/D/2019 dated 16.06.2022, is hereby quashed.



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13. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

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Internet: Yes
Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Secretary,
The Tamil Nadu State Information Commission,
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Pernpet, Nandanam, Chennai- 600 035.
2. Public Information Officer,
Chief Education Officer,
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