



WEB COPY

W.P.No.26764 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM:

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

W.P.No.26764 of 2024

Kulandai Velu

.... Petitioner

Vs

1. The State Information Commissioner (C- Section)
Tamil Nadu Information Commission,
No. 19, Government Farm Village,
Panpet, Nandanam,
Chennai - 600 018.

2. The Assistant Registrar (C- Section),
Tamil Nadu Information Commission,
No. 19, Government Farm Village,
Panpet, Nandanam,
Chennai - 600 018.

3. The First Appellate Authority (RTI Act, 2005),
Tahsildar,
Office of Tahsildar,
JN Road, NH 716,
Tiruvallur - 602 001.

4. The Public Information Officer,
Deputy Tahsildar,
Office of Tahsildar,
JN Road, NH 716
Tiruvallur - 602 001.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus calling for
the entire records connected with impugned order passed by the 2nd
respondent in the checklist dated 05.06.2024 vide C.No.21654/C/2024



and quash the same as it suffers from procedural impropriety and direct the 1st and 2nd respondents to take up the petitioner's second appeal dated 12.04.2024 on their file and direct the 1st and 2nd respondents to dispose it within a time frame fixed by this Court.

For Petitioner : Mr.R.Karthikeyan

For R1 & R2 : Mr.C.Vigneswaran

For R3 & R4 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This Writ Petition has been filed as against the order passed by the second respondent dated 05.06.2024, thereby returned the appeal filed by the petitioner under Section 19(1) of the Right to Information Act, 2005 (hereinafter referred to as "RTI Act") on the ground that the appeal was filed belatedly.

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

3. The learned counsel appearing for the first and second respondents submitted that there was a delay in filing the appeal and as such, the Right to Information Officer filed an application to condone the delay under Section 19(3) of the RTI Act.

4. A perusal of the records reveals that the petitioner filed



an application under RTI Act on 16.10.2023 as contemplated under Section 6(1) of the RTI Act. As per the provision under Section 7 of the RTI Act, the Information Officer should furnish the information as sought for by the petitioner within a period of 30 days from the date of receipt of the application. However, the fourth respondent failed to consider the application submitted by the petitioner. Therefore, the petitioner filed an appeal before the First Appellate Authority on 05.11.2023 and the same was duly received by the Appellate Authority on 29.11.2023. Even after 45 days, the First Appellate Authority did not pass any order and as such the petitioner was constrained to file second appeal on 12.04.2024. However, it was returned on the ground that it was barred by limitation.

5. It is a settled position of law that the First Appellate Authority ought to have furnished the information within 30 days from the date of receipt of the appeal or within such extended period not exceeding a total period of 45 days. The First Appellate Authority did not furnish any information as sought for by the petitioner on or before 13.01.2024. Therefore, the second appeal was filed by the petitioner within the prescribed time limit of 90 days from the date of expiry of 45 days fixed for the First Appellate Authority to furnish information.



Therefore, the appeal filed by the petitioner was in time and the Second Appellate Authority, viz., the second respondent ought not to have returned the appeal filed by the petitioner.

6. In view of the above, the order passed by the second respondent dated 05.06.2024, is liable to be quashed. Accordingly, it is hereby quashed. The first respondent is directed to take the appeal on file forthwith and pass orders on merits and in accordance with law within a period of four weeks thereafter.

7. In the result, this writ petition stands allowed. No costs.

18.09.2024
($\frac{1}{2}$)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp

To

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G.K.ILANTHIRAIYAN. J,

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