



WEB COPY



W.P.No.27829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM:

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

W.P.No.27829 of 2024

KKN Prasad

... Petitioner

-Vs-

1. Central Information Commissioner,
CIC Bhavan, Baba Ganganath Marg,
Munirk, New Delhi- 110 067.
2. First Appellate Authority - Cum-
The Superintending Engineer -II,
Public Works Department, Puducherry- 605 001.
3. Public Information Officer- Cum-
The Executive Engineer,
Public Works Department, Yanam-533 464.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in File No. CIC/UTPON/A/2022/131129 dated 12.06.2024 and quash the same as illegal, incompetent and wholly without jurisdiction and further direct the respondents to furnish the information sought for by the petitioner in his RTI Application dated 15.03.2022.

For Petitioner	: M/s V.Srimathi
For R2 and R3	: Mr.P.S.Kothandaraman
	Government Advocate



W.P.No.27829 of 2024

WEB COPY

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 12.06.2024, thereby dismissed the appeal filed by the petitioner.

2. Heard and perused the materials available on record.

3. The petitioner submitted an application before the third respondent under the Right to Information Act (hereinafter called as “RTI Act”) seeking information related to the permission issued by the conservator of the Godhavari River for the formation of ring bund around the area of Balayodi Nagar, Rajeev Nagar and the bank from Kursampeta to Farampeta. The third respondent rejected the application by an order dated 25.05.2022, on the ground that the information sought for by the petitioner were unable to trace out the records in their office owing to the lapse of 25 years.

4. Aggrieved by the same, the petitioner preferred an appeal under Section 19 of the Right to Information Act before the second respondent. The second respondent directed the third respondent to furnish the copy of the



W.P.No.27829 of 2024

information sought for, on or before 27.05.2022. However, the third respondent did not furnish any document as directed by the second respondent. Therefore, the petitioner filed a second appeal before the first respondent. The first respondent passed an order dated 28.03.2023 directing the third respondent to furnish the particulars sought for within a period of 21 days from the date of receipt of the order. However, once again the third respondent did not furnish any details as sought for by the petitioner.

5. Therefore, the petitioner approached this Court by way of writ petition in W.P.No.23849 of 2023. This Court, by an order dated 07.12.2023 directed the first respondent to pass fresh orders in the appeal filed by the petitioner, after issuance of notice to the petitioner as well as the second and third respondents for their appearance and pass reasoned order on merits and in accordance with law. As directed by this Court, the first respondent conducted a detailed enquiry and rejected the appeal filed by the petitioner. Hence, this writ petition.

6. The learned counsel for the petitioner would submit that the petitioner sought for documents which are public documents and not documents falling



W.P.No.27829 of 2024

under Section 8 of the RTI Act. Further, the reasons stated by the third respondent while rejecting the application is that the regularization is not under the purview of the Public Works Department. Therefore, the information sought for by the petitioner is not available in the office of the Executive Engineer, Public Works Department. It was further stated that the information sought for by the petitioner were executed more than 25 years back. Therefore, furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8 of the RTI Act, 2005. The information which, in normal course, is exempt from disclosure under Section 8(1) of the RTI Act, would cease to be exempted if 20 years have lapsed after the occurrence of the incident to which the information relates. As per Section 4 (b) (xiv) of the RTI Act deals in respect of details in respect of the information, available to or held by it, reduced in an electronic form to be furnished to the applicant.

7. A perusal of records revealed that initially the application submitted by the petitioner was disposed by an order dated 11.04.2022, on the ground that the information sought for by the petitioner is not available in the office of the Executive Engineer, Public Works Department. Aggrieved by the same, the



W.P.No.27829 of 2024

petitioner preferred an appeal as directed by the first appellate authority and the third respondent once again replied that the information sought for by the petitioner is about 25 years back. Therefore, no records available and it were not traceable in the office of the third respondent. That apart, it cannot be furnished due to lapse of more than 25 years. Once again, the petitioner preferred second appeal before the first respondent. It was also dismissed and aggrieved by the same preferred writ petition before this Court. As directed by this Court, by an order dated 07.12.2023, the first respondent issued notice to the second and third respondents and after hearing, passed detailed order and thereby dismissed the appeal filed by the petitioner.

8. A perusal of the order passed by the first respondent also revealed that the directions issued by this Court has been duly complied with by the first respondent viz., after issuance of notice to the second and third respondents and after recording their reply and passed order. That apart, the reasons stated by the third respondent cannot be disputed, since the information sought for by the petitioner is related to the period before 25 years.



W.P.No.27829 of 2024

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

25.09.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
mn

To

1. Central Information Commissioner,
CIC Bhavan, Baba Ganganath Marg,
Munirk, New Delhi- 110 067.
2. First Appellate Authority - Cum-
The Superintending Engineer -II,
Public Works Department, Puducherry- 605 001.
3. Public Information Officer- Cum-
The Executive Engineer,
Public Works Department, Yanam-533 464.



WEB COPY



W.P.No.27829 of 2024

G.K.ILANTHIRAIYAN. J,

mn

W.P.No.27829 of 2024

25.09.2024