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W.P. No. 30138 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 30138 of 2022

and

W.M.P. No. 29572 of 2022

The Public Information Officer/
Administrator General and
Official Trustee of Tamil Nadu
High Court Campus, Chennai-600104.

... Petitioner

-VS-

1. A.Charles Darwin

2. Tamil Nadu Information Commission
Rep. by its Registrar
No. 19, Nandanam
Chennai – 600035.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the impugned order passed by the Tamil Nadu Information Commission /Second Respondent dated 20.09.2022 in Case. No. SA/12876/A/2021 and quash the same.

For Petitioner : Mr. M.R.Jothimanian

For Respondents : Mr. C.Vigneswaran (for R2)

Mr. Balaji (for R1)



W.P. No. 30138 of 2022

ORDER

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Heard Mr. M.R.Jothimanian, Learned Counsel for the Petitioner, Mr. Balaji, Learned Counsel for the First Respondent and Mr. C.Vigneswaran, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is the Administrator General and Official Trustee of Tamil Nadu, who is governed by the Official Trustees Act, 1913 and the Administrators-General Act, 1963. In the course of discharge of duties relating to the administration of Trusts under the said laws by the Petitioner, documents of title to their properties and other connected papers are placed in his custody in a fiduciary capacity.

3. The First Respondent by application dated 30.11.2019 under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act' for short) had sought certain information relating to Trust Estate of C.Kandasamy Naidu, which is administered by the Petitioner, who declined such request by Proceedings in Dis. No. 2490/RTI/S7/2019 dated 27.12.2019



W.P. No. 30138 of 2022

quoting exemption under Section 8(1)(e) of the RTI Act, and the Appellate Authority under Section 19(1) of the RTI Act by Proceedings in R.O.C. No. 5300 (FA)/2020/RTI dated 26.02.2020 confirmed it. The First Respondent then preferred second appeal in Case No. SA12876/A/2021 against the said orders of the Petitioner and the Appellate Authority before the Second Respondent under Section 19(3) of the RTI Act in which order dated 20.09.2022 was passed directing the Petitioner to furnish the information sought by the First Respondent, which is assailed in this Writ Petition.

4. Though it is beyond any pale of doubt that the Petitioner would be a 'public authority' within the meaning of Section 2(h) of the RTI Act, it cannot be said that the information relating to trusts administered by the Petitioner would fall within the public domain so as to be furnished to any person seeking information regarding it. The nature of duties performed by the Petitioner and the consequent responsibilities falling on him are certainly in the nature of fiduciary relationship held by him, which is exempted from disclosure under Section 8(1)(e) of the RTI Act.

5. At the same time, it cannot be lost sight that Section 8(1)(e) of the RTI Act would not be applicable when the competent authority is satisfied that the



W.P. No. 30138 of 2022

larger public interest warrants the disclosure of such information. In that event,

the onus would be on the person seeking information to satisfy the existence of larger public interest. In the present case, as the said exercise had not been carried out, the matter would have to be normally required to be remitted to the Petitioner to examine the matter from that perspective and to determine the further course of action in that regard. However, Learned Counsel for the Petitioner highlights that the functions carried out by the Petitioner are under the supervision of the High Court and in terms of Sections 25 and 26 of the Official Trustees Act, 1913, an application to the High Court to obtain the information sought by the First Respondent as pointed out by the Hon'ble Supreme Court of India in ***Committee of Management of Pachaiyappa's Trust -vs- Official Trustee of Madras*** [(1994) 1 SCC 475]. As such, when the First Respondent has the remedy to obtain the copies of the required documents from the Court following the prescribed procedure, the same would have to be followed and all other modes (including invocation of the provisions of the RTI Act) for seeking such relief would stand necessarily forbidden.

6. There is substantial force in the aforesaid submissions made by Learned Counsel for the Petitioner, which deserves acceptance, and consequently, the order dated 20.09.2022 in Case No. SA12876/A/2021 passed by the Second



W.P. No. 30138 of 2022

Respondent, which cannot be sustained, is set aside with a clarification that it would not preclude the First Respondent from resorting to the said mode to seek the required information.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

Maya

To

1. The Registrar,
Tamil Nadu Information Commission,
No. 19, Nandanam,
Chennai – 600035.
2. The Public Information Officer/
Administrator General and Official Trustee of Tamil Nadu
High Court Campus,
Chennai-600104.



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W.P. No. 30138 of 2022

P.D. AUDIKESAVALU, J.

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W.P. No. 30138 of 2022

26.03.2024