



W.P.(MD).No.6915 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.6915 of 2016
and WMP(MD).Nos.5924 & 5925 of 2016**

Thiruvalar Selvi

....Petitioner

Vs

1.The State Information Commissioner
Tamil Nadu State Information Commission
No.2, Thiyagaraya Road
(nearby Alaiamman Koil)
Eldams Road Junction
Thenampettai
Chennai 600 018

2.The Director of School Education
Directorate of School Educations
Chennai 6

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to order dated 15.03.2016 made in Vazhakku Enn.SA 8146, 8147, 8144/Visaranai /D/2015 passed by the first respondent as petitioner is concerned and quash the same as illegal and in the interest of justice and thus render justice.



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For Petitioner : Mr.C.Muthu Saravanan

For Respondents : Mr.P.T.Thiraviyam
Government Advocate

ORDER

The present writ petition has been filed by the First Appellate Authority under Right to Information Act challenging the order passed by the first respondent Commission recommending departmental action as against the writ petitioner.

2.One Mr.Vadivel who is a teacher under suspension had submitted an application under RTI Act on 25.02.2015 before the Headmaster of the said School seeking certain information. On 24.03.2015, the Original Authority had passed an order rejecting the request of the information seeker. Challenging the same, the information seeker had filed an appeal before the writ petitioner/First Appellate Authority on 30.03.2015.

3.The First Appellate Authority by his order dated 29.04.2015 had directed the Original Authority namely the Headmaster of the School to furnish the information to the information seeker immediately and report back to the office. The Original Appellate Authority passed an order on 04.05.2015 again rejecting the request of the information seeker. Challenging the same, the information seeker filed S.A.No.8144 of 2015 before the first respondent Commission on 10.06.2015. In the said appeal, summons were



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issued only to the Original Authority and not to the First Appellate Authority.

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4.The first respondent Commission after hearing the information seeker and the Original Authority, had issued a show cause notice on 02.09.2015 to the Original Authority as well as the First Appellate Authority why disciplinary proceedings cannot be initiated as against them as contemplated under Section 19 of the Right to Information Act 2005.

5.The petitioner herein/First Appellate Authority on receipt of such show cause notice had submitted her explanation on 12.10.2015 to the effect that the only order which she had passed is on 29.04.2015 in which she had directed the Original Authority to furnish the information sought for by the information seeker. However, not being convinced with the said explanation, the first respondent Commission has proceeded to pass the impugned order recommending disciplinary action as against the writ petitioner. Challenging the same, the present writ petition has been filed.

6.According to the learned counsel appearing for the writ petitioner, the petitioner/First Appellate Authority had never refused to furnish the information to the information seeker. Though the writ petitioner was not made as a party before the Commission, he has been issued with the show cause notice, direction for initiating disciplinary proceedings have been issued.



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7.The learned Standing Counsel appearing for the Information Commission had contended that a detailed enquiry ought to have been conducted by the writ petitioner as the First Appellate Authority. Since no such enquiry was conducted, the first respondent has issued a show cause notice and the present impugned order.

8.I have carefully considered the submissions made on either side and perused the material records.

9.In the present case, the information seeker was aggrieved over the rejection of his request by the Original Authority by an order dated 24.03.2015. He had filed an appeal before the writ petitioner on 30.03.2015. Within a period of 30 days as contemplated under RTI Act, the writ petitioner had passed an order on 29.04.2015 accepting the request of the information seeker and directed the Original Authority to furnish all the informations. Thereafter, the information seeker had never approached the First Appellate Authority namely the writ petitioner. The information seeker had directly filed an appeal before the first respondent Commission by impleading only the Original Authority without impleading the writ petitioner herein. The writ petitioner had never refused to furnish the information sought for. The first respondent herein without considering the fact in a proper prospective and without appreciating the facts, had arrived at a finding that the writ petitioner had refused to divulge the information to the



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information seeker. Therefore, the order impugned in the writ petition is liable to be set aside.

10.In view of the above said facts, the impugned order dated 09.03.2016 (date as amended by order dated 15.03.2016) is set aside insofar as the writ petitioner is concerned.

11.Accordingly, the writ petition is allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

19.02.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

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order made in

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