



W.P.(MD)No.3522 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.3522 of 2025

Vijayakumari

.... Petitioner

/Vs/

1. The State Information Commissioner
Tamil Nadu, Chennai
2. The District Collector
Virudhunagar District, Virudhunagar.
3. The PA to District Collector (General),
Information Officer,
Virudhunagar Taluk, Virudhunagar District.
4. The Deputy Tahsildar
Virudhunagar Taluk,
Virudhunagar District.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 permit the petitioner's representative to inspect and furnish the documents related to the proceedings in File No. 57/76 dated 25.07.1967 within the time stipulated by this Court and also direct the 3rd respondent to pay appropriate Compensation under Section 19(8)(b) of The Right to Information Act 2005 for non-furnishing of information / documents.



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For Petitioner : Mr.M.R.Sreenivasan
For R1 : Mr. Raguvaran Gopalan
Standing Counsel
For R2 to R4 : Mr.B.Saravanan
Additional Government Pleader

ORDER

The petitioner seeks issuance of a Writ of Mandamus, to direct the respondents to permit the petitioner's representative to inspect and furnish the documents related to the proceedings in File No.57/76 dated 25.07.1967 within the time stipulated by this Court.

2. I have heard Mr.M.R.Sreenivasan, learned counsel appearing for the petitioner, Mr.Raguvaran Gopalan, learned Standing Counsel appearing for the first respondent and Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents 2 to 4.

3. The grievance of the petitioner is that he came to know about the assignment of a land one of his relative Kulanthai Tharasu, S/o.Maria Micheal under the proceedings in File Number 57/76 dated 25.07.1967.



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4. According to the petitioner, the information sought from the third respondent was with regard to the said assignment to substantiate the possession and enjoyment of the said lands by one S.Puspham, who was the original assignee under the above said proceedings. The petitioner has filed a first appeal before the District Collector, the second respondent on 20.07.2020, since the Public Information Officer failed to furnish the information under the Right to Information Act. The First Appellate Authority also did not furnish information, constraining the petitioner to file the Second Appeal before the first respondent on 01.02.2021. The Second Appeal also came to be allowed on 16.04.2021 and the first respondent directed the third respondent to permit the petitioner to inspect the documents and also take photo copies.

5. It is the further case of the petitioner that though the third respondent by communication dated 21.12.2023 directed the petitioner to come for inspection on 28.12.2023 and also directed the fourth respondent, who is the custodian of the documents to produce the same on that day. The petitioner was unable to make it on the same because of the health reasons, thereafter, the petitioner has also given an opportunity



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to sent his representative along with authorisation letter and identity proof, so that the said representative inspect the documents and to get the necessary certified copies. The date of hearing was fixed on 14.06.2024. However, on the said date the fourth respondent did not produce the files relating to File No.57/76 and the proceedings were adjourned to 13.08.2024, on which date also the fourth respondent did not produce the records. Therefore, the petitioner has approached this Court.

6. The contention of the learned counsel for the respondents 2 to 4 is that the said records are not available in the office of the fourth respondent and therefore, the third respondent is unable to comply with the orders passed by the first respondent. I had an occasion to decide the same issue where the Public Information Officer / Authority have refused to furnish the information citing non-availability of the documents, in W.P(MD)No.10264 of 2024. In the present case also, the non-availability of the documents cannot be an excuse for the third respondent or even the fourth respondent to deny the information sought for by the writ petitioner.



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7. Considering the fact that the information, which is sought for is relating to land assignment, it is a permanent record which cannot be destroyed at any point of time and therefore, the authorities will have to take expeditious steps to reconstruct the file and issue necessary information as sought for by the petitioner and as directed by the first respondent.

8. The learned counsel for respondents would also place reliance on the judgment of the Hon'ble Suupreme Court in ***Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others***, reported in ***(2011) 8 Supreme Court Cases 497***, where, the Hon'ble Supreme Court has held that the right to access information does not extend beyond the period during which the authorities are expected to retain the records. However, this decision may not apply to the facts of the present case since the information that is sought for by the petitioner are all permanent records, which are expected to be kept intact and not destroyed.

9. In fact, the Hon'ble Supreme Court in the above decision has



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held that if the rules and regulations governing the functioning of the respective public authority require preservation of the information for only a limited period, the applicant for information will be entitled to such information only if he seeks the information when it is available with the public authority. It was further held that the Right to Information Act provides access to all information that is available and existing and from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act would indicate that if a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, would be subject to the exemptions in section 8 of the Act and where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, then the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant.

10. In the present matter, admittedly, the information sought for is



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not any record or information that is required to be kept or maintained only for a limited period. As already discussed, the records are permanent records and therefore, there can be no excuse given by the authorities for not furnishing the same to the writ petitioner.

11. The writ petition is therefore allowed directing the first respondent to pass final orders on the petitioner's application and also specifically indicate that in the event of records not being available, the Information Commissioner shall take expeditious steps to reconstruct the records and furnish the information as sought for by the applicant/petitioner. The first respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
am

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P.B. BALAJI, J.
am

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