



W.P.(MD)No.10264 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.10264 of 2024

R.Mayilsamy

.... Petitioner

/Vs/

1. The State Information Commissioner,
Block No. 19, Government Farm Village,
Commercial Taxes Department Road,
Nandanam,
Chennai 600 035.
2. The Revenue Divisional Officer,
Collectorate Campus,
Madurai 625 020.
3. The Appellate Authority / Tahsildar,
Right to Information Act,
Madurai North Taluk,
Collectorate Campus,
Madurai 625 020.
4. The Public Information Officer,
/ Executive Engineer (Planning),
Madurai Corporation,
Aringnar Anna Maaligai,
Madurai 625 002.



W.P.(MD)No.10264 of 2024

5. The Head Surveyor,,
Madurai North Taluk,
Madurai 625 020.

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 5 to furnish the details sought for by the petitioner by his application dated 16.04.2022.

For Petitioner : Mr. K.K.Senthil
(*Amicus Curiae*)
For R1 : Mr Raguvaran Gopalan
For R2, R3 & R5 : Mrs.S.Jeyapriya
Government Advocate
For R4 : Mr.K.K.Kannan

ORDER

I have heard Mr.K.K.Senthil, Amicus Curiae, appointed to assist the Court in deciding certain grey areas, where the authorities, despite specific directions to issue information under the Right to Information Act, either refuse to furnish information or wash off their hands, contending that the records are either not available in their office or that they are destroyed.



W.P.(MD)No.10264 of 2024

WEB COPY

2. Insofar as the facts of the present case, as rightly contended by Mr.K.K.Senthil, Amicus Curiae appointed for the petitioner, party-in-person, the application of the petitioner has not been finally disposed of by the first respondent. The State Information Commission has only passed an interim order and directed the information to be furnished and also imposed a cost of Rs.5000/- as compensation, for mental agony caused to the petitioner. The Amicus Curiae further contends that as long as the records are permanent records which are sought for by way of Right to Information Act, the authorities cannot deny the information citing that the records are not available or that records are destroyed. He would suggest that the records can be reconstructed and that the requests or directions can be complied with by the authorities.

3. Mr.K.K.Senthil, learned counsel would also place reliance on *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



W.P.(MD)No.10264 of 2024

WEB COPY

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.

4. In fact, the Hon'ble Supreme Court in the above decision has 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, it 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, which 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



W.P.(MD)No.10264 of 2024

WEB COPY

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.

5. In the present matter, admittedly, the information sought for is 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. The petitioner has already given an application on 16.04.2022 directing the respondents 2 to 5 to furnish information on his application. The information that is available with the respondents has already been furnished. However, the grievance of the petitioner is that insofar as the item numbers 1,2,4,5,6 & 8, information has not been furnished.

6. 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



W.P.(MD)No.10264 of 2024

WEB COPY

Information Commissioner shall take expeditious steps to reconstruct the records and furnish the information as sought for by the applicant. The first respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order. The valuable assistance of the Amicus Curiae Mr.K.K.Senthil is appreciated and placed on record. No costs.

Index : Yes / No
NCC : Yes / No
am

25.04.2025



W.P.(MD)No.10264 of 2024

WEB COPY
To

1. The State Information Commissioner,
Block No. 19, Government Farm Village,
Commercial Taxes Department Road,
Nandanam,
Chennai 600 035.
2. The Revenue Divisional Officer,
Collectorate Campus,
Madurai 625 020.
3. The Appellate Authority / Tahsildar,
Right to Information Act,
Madurai North Taluk,
Collectorate Campus,
Madurai 625 020.
4. The Public Information Officer,
/ Executive Engineer (Planning),
Madurai Corporation,
Aringnar Anna Maaligai,
Madurai 625 002.
5. The Head Surveyor,,
Madurai North Taluk,
Madurai 625 020.



WEB COPY



W.P.(MD)No.10264 of 2024

P.B. BALAJI, J.
am

Order made in
W.P.(MD)No.10264 of 2024

Dated:
25.04.2025