

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. No. 8244 of 2023

Between:

Mohd. Viqar Ahmed

... Petitioner

And

The Public Information Officer, DGP Office and others

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

- 1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?**
- 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes**
- 3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes**

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 8244 of 2023

% 05.06.2023

Between:

Mohd. Viqar Ahmed

..... Petitioner

And

**\$ The Public Information Officer, DGP Office and others
... Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner: Mohammed Habeebuddin

^ Counsel for the Respondents: GP for Home

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 8244 of 2023****ORDER:**

Heard the Learned Counsel for the Petitioner and Government Pleader for Home.

2. This Writ Petition is filed to issue a Writ of Mandamus declaring the action of the respondents particularly respondent NoS.1 and 2 herein in not implementing the orders dated 03.09.2022 passed in complaint No.14734/CIC/2021, by the Telangana State Information Commission Hyderabad as illegal, arbitrary and unconstitutional besides in gross violation of the provisions of the Right to Information Act, 2005 consequently direct the respondent no. 1 and 2 herein to provide/furnish the complete information as sought by the petitioner in his RTI application dated 03.04.2018 by implementing the orders dated 03.09.2022 passed in complaint no.14734/CIC/2021, by the Telangana State Information Commission Hyderabad and penalty may be imposed as per section 20 of the Right to Information Act, 2005.

3. The case of the Petitioner, in brief, is as follows:

- a. Petitioner had submitted an RTI application dated 03.04.2018 seeking particular information, to the 1st respondent.
- b. The 1st respondent in response to the RTI application of the Petitioner, issued letter dated 07.05.2018 & 21.05.2018 vide Rc.No.145/ME-RTI/2018 furnishing incomplete or irrelevant information and further stating that similar information has been furnished to the petitioner earlier.
- c. Aggrieved, the petitioner filed the First Appeal dated 15.05.2018 to the 2nd respondent and then the 1st respondent vide Rc.No.208/ME-RTI/Appeal/2018 dated 28.05.2018 had furnished the information.
- d. The Petitioner had preferred 2nd appeal to the Respondent Commission on 14.08.2018 and the Respondent Commission vide order dated 03.10.2019, had passed the orders directing the respondent PIO to furnish the information within 1 (one) week from the date of receipt of the order.
- e. Even after the receipt of the orders of the commission the respondent had not submitted the information and hence the 4th and 5th respondent are to conduct disciplinary

proceedings/departmental proceedings against the 1st and 2nd respondents for their misconduct in not discharging their legitimate duties in accordance to provisions of the Right to Information Act, 2005.

f) When the respondents did not obey the orders of the information of commission even after a lapse of 4 (Four) years, the petitioner then filed an application dated 11.11.2021 to information commission and the same is closed by order dated 03.09.2022 passed in Complaint No. 14734/CIC/2021 directing the PIO to implement the orders passed by information commission on 03.10.2019.

g) Respondents did not furnish the information as sought for by the petitioner which is against the provisions and the objectives of the Right to Information Act, 2005. The respondents should have implemented the orders passed by the Telangana State Information Commission in Appeal dated 03.09.2022 and 03.10.2019. Hence the Writ Petition.

4. The counter filed by the 1st respondent, in brief, is as follows:

a) The petitioner vide representation dated 23.02.1995 had requested to be appointed as RSI at CAR Headquarters, Hyderabad under Sports Quota and the same had been forwarded to the Principal Secretary to Government, Home Department, A.P., and the Government of Andhra Pradesh issued a memo No.27546/Pol.D (A1)/95-1 dated 30.08.1995 to quote similar precedents.

b) The certified copies of Rc.No.747/V3/95 dated 23.06.1995, Government Memo No.No.27546/Pol.D (A1)/95-1 dated 30.08.1995 and letter No.26956/Ser.III/A1/2010 dated 30.11.2010 are not available as they pertain to period prior to 2nd July of 2014.

c) On petitioner's application dated 03.04.2018 & 02.06.2018, available information has been furnished to the petitioner vide Rc.No.145/ME-RTI/2018 dated 21.05.2018 & 07.06.2018 and also against the petitioner's appeal application dated 15.05.2018 & 23.05.2018, available information has been furnished vide Rc.No.208/ME-RTI/Appeal/2018 dated 28.05.2018 under the provisions of Right to Information Act, 2005.

d) In compliance to the notice of the Telangana Information Commission issued vide No.11696/CIC/2018 dated 18.09.2018, the Public Information Officer O/o D.G.P, Telangana, Hyderabad had attended the meeting on 03.10.2019 and submitted the information which had already been furnished to the petitioner vide letter Rc.No.145/ME-RTI/2018 dated 25.09.2019.

e) The Telangana Information Commission had issued orders on Appeal No.11696/CIC/2018 dated 18.09.2019 directing the PIO to verify records and furnish the factual status of the matter to the applicant and the same has been forwarded to the PIO, O/o DGP, A.P. Mangalagiri to verify the records.

f) The PIO, O/o. DGP, A.P., Mangalgiri vide letter No.543/N1-RTI/2019 dated 23.12.2019 had informed that the subject matter had been dealt in the office of DGP, TS Hyderabad vide file No.238/Min.Estt-3/2012.

g) IGP (Personnel) had informed that the request of the petitioner to be appointed as RSI under Sports Quota had been rejected by the Government vide Govt. Memo

No.2013/Ser.III/A-1/2011 dated 25.05.2013 and the same had been informed to the Chairman, SLPRB.

h) Information has been furnished to the petitioner vide Rc.No.145/ME-RTI/2018, dated 18.01.2020 informing, any recruitment under Sports Quota shall be through the recruitment agency but not by any other methods but the said letter has been returned to the sender with "left without instructions returned to sender" by the Indian Postal Department.

i) In relation to the order of the Telangana Information Commission against the complaint no.14737/CIC/2021 dated 03.09.2022, the same had been received by the 1st respondent office on 31.03.2023 and the information has been furnished to the petitioner vide Rc.No.145/ME-RTI/2018 dated 12.04.2023 also marking a copy to the Telangana Information Commission. Hence the Writ Petition is devoid of merits and is liable to be dismissed.

5. PERUSED THE RECORD

i. The order dated 03.9.2022 passed by the Telangana State Information Commission, in Complaint No.14734/CIC/2021, reads as under:

"The Complainant has filed this complaint dated 11.11.2021 which was received by this Commission on 12.11.2021 complaining non-implementation of the orders passed by this Commission in Appeal No.11696/CIC/2018 on 03.10.2019.

The Commission has perused the material papers available on record.

The Commission directs the Public Information Officer to implement the orders passed by this commission on 03.10.2019 immediately, if not already implemented. If the orders of the Commission were implemented, the Public Information Officer shall furnish compliance report to the Commission forthwith by registered post."

ii. Para 12 of the Counter affidavit filed by the 1st Respondent reads as under :

"Finally, it is submitted that TS Information Commission order on Complaint No.14737/CIC/2021 dated 03.09.2022 was obtained from them on 31.03.2023. Basing on the order the information was furnished to the petitioner vide this office letter Rc.No.145/ME-RTI/2018 dated 12.04.2023 and copy marked to the TS Information Commission."

iii. Information furnished by the Public Information Officer, O/o DGP, Telangana, Hyderabad to the Applicant/Petitioner against Applicants, Right to Information application, vide R.C.No.145/ME-RTI/2018, dated 12.04.2023 reads as under :

No.	Information sought	Remarks
1	Please furnish, what is the status of the consequent memo orders dated: 30.08.1995 as on date.	A copy of latest copy of Govt. Memo No.2013/Ser.III/A1/2011, dated 25.05.2013 is enclosed.
2	Furnish the action taken report of erstwhile AP, DGP as per the directions of consequent memo order dated 30.08.1995 or not.	The subject matter pertains to erstwhile Andhra Pradesh and since the matter is old, the information sought is not available in this office.
(a)	The AP DGP was submitted the report along with comparable connected GOs, please give the answer by furnishing the details of the said report together with certifying copies.	The information may be obtained form the O/o DGP, A.P., Mangalagiri.
(b)	Please furnish AP, DGP not submitted the said report please furnish the said reply reasons.	The information may be obtained from the O/o. DGP, A.P., Mangalgiri.

iv. The letter of the Asst. Inspector General of Police (Administration) and Public Information Officer, O/o. Director General of Police, Andhra Pradesh, Mangalagiri, addressed to the Public Information Officer, O/o. Director General of Police, Telangana, Hyderabad, L.Dis.No.543/N1-RTI/2019, dt. 23.12.2019 reads as under:

“The RTI application received vide reference cited, as per the documents submitted by Sri Mohd Viqar Ahmed of Hyderabad, the subject matter regarding appointment of above applicant as RSI/Junior Assistant/Volley Ball Coach or any other suitable post under Sports Quota duly relaxing the relevant rules, is being under dealt in Office of the D.G.P., Telangana State Vide File No.238/Min.Estt- 3/2012

2) As the subject matter pertains to the O/o the Director General of Police, Telangana State, the above RTI application is transferred to the Public Information Officer, O/o the Director General of Police, Telangana State, under Section 6 (3) of Right to Information Act-2005.

3) The Public Information Officer, 6 (3) to the O/o the Director General of Police, Telangana State is requested to furnish suitable reply direct to the applicant within the stipulated time.”

6. DISCUSSION AND CONCLUSION :

i. Petitioner approached this Court seeking implementation of the Orders dt. 03.09.2022 passed in Complaint No.14734/CIC/2021, by the Telangana State Information Commission, Hyderabad. A bare perusal of the said order dt. 03.09.2022 (referred to and extracted above) clearly indicates a direction of Chief Information Commissioner to verify the records and furnish factual status of the matter to the Petitioner within one week. The Petitioner had filed an application dt. 02.04.2013 with the PIO, requesting to furnish information U/s.6(1) of the RTI Act, 2005 on certain points in his application dt. 03.04.2018.

ii. A bare perusal of the contents of the letter Dis.No.543/N1-RTI/2019, dt. 23.12.2019 of the Asst. Inspector General of Police (Administration) and Public Information Officer, O/o. Director General of Police, Andhra Pradesh, Mangalagiri (referred to and extracted above), clearly indicates that the subject matter pertains to the O/o. Director General of Police, Telangana State, and further vide the said letter dt. 23.12.2019 the Public Information Officer, The O/o. Director General of Police, A.P. Mangalagiri,

requested the Public Information Officer, O/o. Director General of Police, Telangana, Hyderabad to furnish suitable reply to the Petitioner. Though the said letter is dt. 23.12.2019 curiously vide R.C.No.145/ME-RTI/2018, dt. 12.04.2023, addressed to the Petitioner herein it is informed to the Petitioner that the subject matter pertains to erstwhile Andhra Pradesh and since the matter is old, the information sought is not available in this Office.

7. This Court opines that the 1st Respondent herein cannot mechanically contend at para 12 of the counter affidavit (referred to and extracted above) that the order of Telangana State Information Commission, dt. 03.09.2022 had been implemented by referring to the Office letter R.C.No.145/ME-RTI/2018, dated 12.04.2023, which only states that the Petitioner needs to obtain information from DGP, AP, Mangalagiri, and the same as borne on record is curiously contrary to the contents of the letter Dis.No.543/N1-RTI/2019, dated 23.12.2019 of the Asst. Inspector General of Police (Administration) and Public Information Officer, O/o. Director General of Police, Andhra Pradesh, Mangalagiri.

8. This Court opines that Sec.3 of RTI Act, which confers on every citizen the Right to Information is manifestation of Fundamental Rights under Article 19(1)(a) of the Constitution of India. Any information as defined Under Section 2(f) r/w 2(i) of RTI Act, needs to be furnished until furnishing of information is barred U/s.8(1) of the RTI Act. By reason of Sec.22 of RTI Act, this Court opines that the provisions of RTI Act, shall have effect notwithstanding anything inconsistent therewith contained in any other law. It only means that even if there is a question of privilege involved RTI Act compels furnishing of information unless and until furnishing of information is barred U/s.8(1) of RTI Act, 2005.

9. Taking into consideration the above referred facts and circumstances of the case and in particular the contents of letter Dis.No.543/N1-RTI/2019, dt. 23.12.2019 of the Asst. Inspector General of Police (Administration) and Public Information Officer, O/o. Director General of Police, Andhra Pradesh, Mangalagiri, this Court opines that the 1st Respondent herein mechanically issued the proceedings dt. 12.04.2023, without application of mind, without making any effort to trace the relevant records, since the subject

information pertains to the office of the 1st Respondent herein i.e., Director General of Police, Telangana State, as per the letter dated 23.12.2019 vide letter Dis.No.543/N1-RTI/2019, of the Public Information Officer, Office of the Director General of Police, Andhra Pradesh, Mangalagiri, and therefore, the Writ Petition is allowed directing the Respondents No.1 & 2 to provide/furnish the complete information as sought for by the Petitioner in his RTI Application dt. 03.04.2018 by implementing the orders dt. 03.09.2022 passed in Complaint No.14734/CIC/2021, passed by the Telangana State Information Commission, Hyderabad, within a period of 4 weeks from the date of receipt of the copy of the order. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 05.06.2023
Note: L.R. copy to be marked
b/o
kvrn