

(2014) 09 KAR CK 0173

In the Karnataka High Court

Case No : Writ Petition Nos. 10403 and 11000 of 2012 (GM-RES)

Dharmarathnakara Rai Bahaddur Arcot Narainswamy
Mudaliar Educational Charities

APPELLANT

Vs

Karnataka Information Commission

RESPONDENT

Date of Decision : 23-09-2014

Acts Referred:

Right to Information Act, 2005 — Section 19, 19(1), 6

Citation : (2015) 2 AKR 193 : (2014) 6 KarLJ 471

Hon'ble Judges : A.N. Venugopal Gowda, J

Bench : Single Bench

Advocate : M.P. Srikanth, Advocate for the Appellant; Kiran Kumar, Additional Government Advocate and G.B. Sharath Gowda, Advocate for the Respondent

Judgement

A.N. Venugopala Gowda, J.—An application filed under Section 6 of the Right to Information Act, 2005 (for short, "the Act"), vide Annexure-A, having not been considered, an appeal under Section 19(1) of the Act vide Annexure-B was filed. The First Appellate Authority having passed an order as at Annexure-C, these writ petitions were filed on 31-3-2012, to quash the order as at Annexure-C and grant consequential reliefs. Sri G.B. Sharath Gowda, learned Advocate appearing for respondent 1 contended that these writ petitions are not maintainable on account of the non-exhaustion of the alternative and statutory remedy provided under sub-section (3) of Section 19 of the Act. He submitted that, without even approaching the 1st respondent, these writ petitions have been filed by impleading the 1st respondent.

2. Sri M.P. Srikanth, learned Advocate appearing for the petitioners submitted that there being violation of principles of natural justice, in the matter of passing of the order at Annexure-C, without even putting the petitioners on notice, these writ petitions were filed. He submitted that in the facts and circumstances of the case, the petitioners may be permitted to bypass the statutory remedy provided under sub-section (3) of Section 19 of the Act.

3. Having heard the learned Advocates on both sides and perused the writ record, in my view, the order impugned in these writ petitions, as at Annexure-C, being liable to be questioned under sub-section (3) of Section 19 of the Act, the petitioners ought to have approached the 1st respondent for relief. The statute having provided the mechanism, the petitioners cannot bypass the statutory mechanism, inasmuch as, the order at Annexure-C was passed in exercise of the power under sub-section (2) of Section 19. Against the order as at Annexure-C, appeal under sub-section (3) of Section 19 of the Act can be filed.

In view of the above, these writ petitions are disposed of as not maintainable by reserving liberty to the petitioners to question the order at Annexure-C before the 1st respondent-Commission, in an appeal under sub-section (3) of Section 19 of the Act. If the appeal is filed before 10-10-2014, the 1st respondent-Commission shall decide the same on its merit and in accordance with, law without going to the question of limitation, since the petitioners were bona fide prosecuting these petitions from 31-3-2012. If the 3rd respondent has filed an appeal and is seeking any relief in the matter against the petitioners, needless to observe that the appeal/s of the petitioners and the 3rd respondent shall have to be taken up together for consideration and decision.

The interim order passed in these writ petitions shall operate till 10-10-2014 or the date of filing of the appeal, whichever is earlier.