

(2019) 09 CAL CK 0079
In the Calcutta High Court
Case No : Writ Petition (WP) No. 193 (W) Of 2019

P. Kannan

APPELLANT

Vs

Deputy Commissioner And Others

RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Right To Information Act, 2005 — Section 2(h)
Constitution Of India, 1950 — Article 226

Citation : (2019) 09 CAL CK 0079

Hon'ble Judges : Madhumati Mitra, J

Bench : Single Bench

Advocate : K. Vijay Kumar, S.C. Mishra, Arul Prasanth

Final Decision : Dismissed

Judgement

Madhumati Mitra, J

This is an application under Article 226 of the Constitution of India filed by the petitioner, who is a life time member of the Andaman Tamizhar Sangam since May, 1995. It has been contended that said Andaman Tamizhar Sangam is a society registered under the Joint Stock Companies and Societies Act and is getting financial assistance from the Andaman and Nicobar Administration through the Member of Parliament Local Area Development Funds and as such the said Andaman Tamizhar Sangam comes under the purview of Right to Information Act, 2005.

The grievance of the petitioner is that the petitioner had filed an application under the provisions of Right to Information Act, 2005 on November 15, 2017 addressed to Public Information Officer, Additional District Magistrate, Office of the Deputy Commissioner, South Andaman District, seeking certain information relating to Andaman Tamizhar Sangam. In response to the petitioner's said application, the office of the District Magistrate, South Andaman District issued an order dated November 30, 2017 requesting the President/Secretary Andaman

Tamizhar Sangam, Port Blair to submit the requisite information as sought for by the petitioner. The Secretary Andaman Tamizhar Sangam did not supply the information as sought for by the petitioner. Then the petitioner filed first appeal before the Deputy Commissioner, South Andaman District due to non-supply of information by Respondent Nos. 3 and 4

4. The Deputy Commissioner, South Andaman District passed an order on March 22, 2018 and directed the Assistant Commissioner (Head Quarter/Public Information Officer) to write a letter to the respondent nos. 3 and 4 for supply of the information as sought for by the petitioner directly. In spite of that the respondent nos. 3 and 4 did not comply with the order passed by the Appellate Authority. The petitioner has taken the matter directly with respondent nos. 3 and 4 for compliance with the direction issued by the first Appellate Authority on May 17, 2019. The office of the Deputy Commissioner, South Andaman District issued another letter to the respondent nos. 3 and 4 requesting them to provide the information directly to the petitioner. It has been alleged by the petitioner that for the last one and a half years, they are approaching the respondent nos. 3 and 4 who failed to comply with the order for supply of information sought for by the petitioner in terms of the direction given by the Appellate Authority.

During the course of hearing, a question has been raised by the learned Counsel appearing for the respondent nos. 3 and 4 relating to the maintainability of the present writ petition in its present form and law. It is the specific contention of the learned Counsel appearing for the respondent nos. 3 and 4 that the Andaman Tamizhar Sangam does not come within the purview of Right to Information Act and as such the respondent nos. 3 and 4 have no statutory obligation to supply/furnish the information to the writ petitioner as sought for by him.

On the contrary, the learned Counsel appearing for the petitioner submits that under the provisions of Right to Information Act the respondent nos. 3 and 4 are under the obligation to furnish the information as sought for by the petitioner. It has been specifically contended by him that the society, namely, Andaman Tamizhar Sangam is receiving the financial assistance from the Government and as such it comes within the purview of Right to Information Act. In support of his contention he has submitted certain xerox copies of documents. Though those documents have not been made a part of the writ petition, but at the time of hearing the learned Counsel for the respondent nos. 3 and 4 have not challenged the genuineness and authenticity of those documents. Learned Counsel for the petitioner has invited the attention of the Court to paragraph 4 of the writ petition and submitted that it has been specifically averred in the writ petition that the Andaman Tamizhar Sangam is getting financial assistance from Andaman and Nicobar Administration through Member of Parliament Local Area Development Funds and as such the Andaman Tamizhar Sangam comes under the purview of Right to Information Act. He has also drawn the attention of the Court to Section 2(h) of the Right to Information Act and submitted that the Andaman Tamizhar Sangam is a public authority within the meaning of Section

2(h) of the Act.

Section 2(h) of the Right to Information Act defines the term Public Authority "public authority" means any authority or body or institution of self-government established or constituted,-

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any-

(i) body owned, controlled or substantially financed;

(ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;"

The learned Counsel for the petitioner in support of his contention has cited the decision of Karanthai Tamil Sangam vs. R. Sivaprakasham and another reported in AIR 2011 Madras 13.

On the other hand, the learned Counsel appearing for the respondent nos. 3 and 4 has contended that it is true that on one occasion the Andaman Tamizhar Sangam received financial aid for construction of multipurpose hall from the fund deposited in the MP's Local Area Development Scheme for carrying out the development works. It is the specific contention that receipt of the financial assistance only on one occasion for construction of a multipurpose hall does not mean that the institution is substantially financed by the appropriate Government. As per his contention receipt of funds only on one occasion for a specific purpose from the development fund of the Member of Parliament does not mean that the institution is substantially financed directly or indirectly by the appropriate Government. Learned Counsel for the respondent nos. 3 and 4 has contended that the decision cited on behalf of the petitioner has no bearing with the present case.

At the time of perusal of the materials on record, it appears that the petitioner has sought for certain informations under the provisions of Right to Information Act, 2005 in respect of certain matters in the year 2010. The petitioner has not filed any document wherefrom it can be presumed that the Andaman Tamizhar Sangam received financial aid on regular basis or on several occasions. It received money only on one occasion for the purpose of construction of a multipurpose hall in the year 2003. The information sought for do not relate to the information regarding receipt of the said financial assistance from the fund of MP's Local Area Development Scheme.

In the instant case the petitioner has failed to show that the function of the Andaman Tamizhar Sangam is aided by the Government. If one association or

institution is not aided by the Government, then it would not be amenable to the jurisdiction of the authority under the Right to Information Act. In the present case, the informations sought for by the petitioner do not come within the ambit of the definition of Section 2 (h) of the Right to Information Act and as such the question of furnish of information asked for does not arise.

The decision as cited by the learned Counsel for the petitioner has no manner of application in the present case.

In view of the above, the writ petition is not maintainable. Hence, the same stands dismissed. There will be, however, no order as to costs.