

(2009) 01 KAR CK 0073
In the Karnataka High Court
Case No : Writ Petition No. 17375 of 2007

Sri Mario Pires

APPELLANT

Vs

Bruhath Bangalore Mahanagara Palike and Others

RESPONDENT

Date of Decision : 12-01-2009

Acts Referred:

Right to Information Act, 2005 — Section 11

Citation : (2009) ILR (Kar) 1189

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : P. Vivekananda, for the Appellant; Vishwanath Associates for R-1-3, for the Respondent

Final Decision : Allowed

Judgement

B. Sreenivase Gowda, J.—Heard Sri Vivekananda, Learned Counsel appearing for the petitioner, and the Learned Government Advocate appearing for R-1 to 3. The R-4 though was served with the notice of this Writ Petition but remained unrepresented.

2. Brief facts required for disposal of the writ petition are stated as under:

The 4th respondent made an application to respondents-1 to 3 requesting them to furnish him information relating to the service conditions and assets and liability of the petitioner by invoking the provisions of Right to Information Act, 2005 (hereinafter referred to as "the Act" for short).

The petitioner on coming to know the same has filed a representation requesting respondent Nos. 1 to 3 to give him an opportunity of hearing before taking a decision on the application of R-4. The respondent Nos. 1 to 3 ignoring his representation issued an endorsement to the 4th respondent informing him to obtain information by depositing necessary fee. The petitioner aggrieved by the said endorsement has preferred this Writ Petition challenging that it is in contravention of Section 11 of the Act:

Section 11 of the Act reads as under:

Section 11: Third party information (1) where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Information Officer, as the case may be shall within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information.

3. The information sought by respondent-4 from respondent Nos. 1 to 3 is relating to the service conditions and assets and liabilities of the petitioner, and it is a third party information within the meaning of Section 11 of the Act. If respondents 1 to 3 intend to disclose such third party information and if it has been treated as confidential one then they shall issue a written notice to such third party of the request and of the fact that they intend to disclose the information or record or part thereof and invite the third party to make a submission in writing or orally regarding whether the information should be disclosed and such submission of the third party shall be kept on view while taking a decision about disclosure of information as contemplated u/s 11 of the Act.

4. The Learned Counsel appearing for R-1 to R-3 fairly submitted that R-1 to R-3 before issuing endorsement Annexure-D to the 4th respondent informing him to obtain the information by depositing necessary fee has not issued any notice to the petitioner. From this, it is clear that Annexure-D is in violation of the provisions of Section 11 of the Act. Learned Counsel appearing for the petitioner has also brought to my notice that the matter in issue is squarely covered by the decision -of this Court in W.P. No. 10663/06, wherein it has been held that:

The R-3 to the Writ Petition had no right to seek personal information of the petitioner by invoking the provisions of the Act.

5. In this case also the 4th respondent is seeking the information relating to the service conditions, assets and liabilities of the petitioner whether the information sought by the 4th respondent can be furnished or not is an issue required to be decided by Respondent No. 1 to 3 by considering the objections filed by the petitioner and after providing an opportunity to the petitioner to have his say in the matter. If the petitioner appears before R-1 to R-3 and submit that the information sought by R-4 is a confidential one and he does not want the same to be disclosed, the R-1 to R-4 should consider the request of R-4 in the light of

the decision of this Court in W.P. No. 10663/2006.

6. Hence, the following order:

The Writ petition is allowed. The impugned order Annexure-C is quashed with a liberty to Respondent Nos. 1 to 3 to consider the request of the 4th respondent regarding furnishing information relating to the service condition and assets and liabilities of the petitioner only after considering the objection filed by the petitioner and after providing an opportunity of hearing to the petitioner as contemplated u/s 11 of the Right to Information Act, 2005 and in the light of the Judgment of this Court in W.P. No. 10663/2006.

7. No order as to costs.