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W.P.No.21018 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 14.07.2022

PRONOUNCING ORDERS ON : 18.07.2022

Coram:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.21018 of 2015
and MP.No.1 of 2015

Mr.P.Adhavan Seral

..Petitioner

.Vs.

1. The Tamilnadu Information Commission
Repd. by State Information Commissioner
No.2 Thiyagaraya Salai,
Eldams Road Junction,
Teynampet, Chennai-600 018.
2. The First Appellate Authority
District Employment Office
East Main Road,Tiruvannamalai
Tiruvannamalai District-606 601.
3. The Right to Information Officer
Employment Office,
East Main Road
Tiruvannamalai,
Tiruvannamalai District-606 601.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 19.11.2014 passed by the 1st respondent in Case No. 16278/E/2014 and to quash the same



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and consequently to direct the 3rd respondent to provide exact information sought by the petitioner by the way of RTI Petition dated 27.08.2013 under section 6(1) of RTI Act 2005.

For Petitioner : Mr.P.Balamurugan

For Respondents : Mr.Niranjan Ragagopalan
for R1

Mr.C.Sathish
Government Advocate
for R2 and R3

ORDER

This Writ Petition has been filed against the proceedings of the 1st respondent dated 19.11.2014 and for a direction to the 3rd respondent to provide the information sought for by the petitioner under the Right To Information Act, 2005 (hereinafter referred to as the '**the Act**').

2.The petitioner made an application under the Act, before the 3rd respondent on 27.08.2013 and sought for the following informations:

1. *“The name of the persons registered in the district employment office, Tiruvannamalai, Tiruvannamalai district under the special category of “Inter-Caste Marriage” (ICM) during the months from March 2010 to May, 2010 and their respective registration number?”*

2. *Please furnish the certificates provided by the said persons in the course of their registration?”*



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3.The 3rd respondent provided the information for the first query. Insofar as the 2nd query is concerned, the petitioner was informed that the certificates sought for by the petitioner cannot be given to him.

4.The petitioner filed an appeal before the 1st respondent with respect to the second query for which information was denied to him. The 1st respondent through an Order dated 19.11.2014, dismissed the appeal and confirmed the stand taken by the 3rd respondent. Aggrieved by the same, this Writ Petition has been filed before this Court.

5.Heard Mr.P.Balamurugan, learned counsel for the petitioner, Mr.Niranjan Ragagopalan, learned counsel for R1 and Mr.C.Sathish, learned Government Advocate for R2 and R3.

6.The learned counsel for the petitioner submitted that the petitioner had sought for the copies of the certificates that were submitted by those who have registered themselves under the special category of "Inter-Caste Marriage". The learned counsel submitted that the persons, who come under this category have an upper hand when it comes to public employment and hence, the nature of documents submitted by them must be available in the public domain and only then a person who has been pushed back in public employment can question the authenticity of those certificates produced by the concerned candidates. The learned counsel further submitted that there is no bar under Section 8 (1)(j) of the Act, since



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no personal information is sought for and the documents in question are in the nature of public documents and the same is being used for securing a public employment.

7.Per contra, the learned counsel for the 1st respondent submitted that the exemption provided under Sections 8 (1) (e) and 8 (1) (j) of the Act, will apply in the present case. That apart, the documents sought for by the petitioner tantamount to providing 3rd party information and such information cannot be given without making them as parties and without hearing them as provided under Section 11 of the Act.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.In the present case, the petitioner is seeking for the certificates that were submitted by persons who registered themselves in the District Employment Office under the special category of "Inter-Caste Marriage".

10.The respondents have taken a stand to the effect that the petitioner is seeking for personal information of the candidates, who have registered themselves in the Employment Exchange and the same is exempted under Section 8 (1)(j) of the Act.

11.Insofar as the contention raised by pointing out to Section 8 (1)(e) is concerned, it deals with an information available with the person in his fiduciary relationship with another.



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Information under this head is nothing but, information in trust which but for that relationship, would not have been conveyed or known to the person concerned. This provision may not apply in cases governing public employment and public office. The information that is available in the hands of the 3rd respondent is certainly not in their fiduciary capacity and they hold the information as a public office i.e., as an Employment Exchange. The information sought for by the petitioner certainly does not fall under this exemption.

12.The next ground to be taken into consideration is to see if the information sought for by the petitioner will fall under the exemption under Section 8 (1)(j) of the Act. This provision talks about personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual unless the authority is satisfied that there is a larger public interest that will justify the disclosure of such information.

13.In the present case, the petitioner has sought for the copy of the certificates given by the candidates, who had registered themselves under the special category. These certificates will necessarily involve the community certificate and other certificates revealing the caste and community of the concerned person and also the status of the spous. Based on these certificates, the concerned candidates will get a priority in public employment since they will apply under the special category "Inter-Caste Marriage". A candidate, who participates in the public employment will certainly face the challenge of losing an



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opportunity in getting employment, if the posts are filled up on priority basis. This very often happens in a public employment. Therefore, even though the information sought for is a personal information, it has a direct nexus to a public activity or interest and in the present case, it is the public employment. The personal information that is referred to in this provision does not relate to an information relating to the public authority and a public authority can never claim any information as personal. It always denotes the information of another person that is held by the public authority. Therefore, the first limb of Section 8 (1) (j) of the Act will not stand in the way in securing such an information.

14. Insofar as the second limb of Section 8 (1)(j) of the Act is concerned, it talks about the invasion of privacy of the individual. The right of privacy has been read into Article 21 of the Constitution of India and it has been affirmed by the Hon'ble Supreme Court in ***K.S. Puthuswamy and Another v. Union of India and Others*** reported in **(2017)10 SCC 1**. There cannot be a fixed understanding as to what rights should be brought within the right of privacy, that is dealt with under Section 8 (1)(j) of the Act. It will depend upon the facts and circumstances of each case.

15. In the facts of the present case, providing the copy of the certificates submitted by the candidates, who have registered under the special category, will certainly involve revealing about the caste and name of the spouse to whom the concerned candidate is married. These details certainly hovers very close to private details. It is always possible to make use of these certificates and make a wild-goose chase, which ultimately will touch upon



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the right of privacy. Hence, the respondents were right in denying the copies of the certificates submitted by the candidates to the petitioner. In any event, such certificates are not straight away acted upon by the authorities and those certificates are scrutinised thoroughly to ensure that false certificates are not misused to knock away public office on priority basis.

16.If the copy of the certificates are given by the Public Information Officer, it will tantamount to providing third party information to the petitioner. In view of the sensitiveness of the details that will get into the hands of the petitioner, such information should not be provided without putting those candidates on notice. A candidate would not want the entire world to know the caste or community to which he belongs since, even today, there is a social taboo on the basis of caste and community. Providing the details of the spouse of the candidate is certainly a private information and a candidate may not be willing to provide this information. Under such circumstances, Section 11 of the Act, will certainly come into play. The concerned candidates are not parties to the proceedings and the information touching upon the right of privacy cannot be given to the petitioner without putting them on notice.

17.In view of the above discussion, this Court does not find any ground to interfere with the decision taken by the respondents in denying the issuance of the copy of the certificates of the candidates, who have registered themselves under the "Inter-Caste Marriage" category.



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18.In the result, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

18.07.2022

KP
Internet: Yes
Index: Yes

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To

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No.2 Thiyagaraya Salai
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2. The First Appellate Authority
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N.ANAND VENKATESH. J.,

KP

**Pre-Delivery Order in
W.P.No.21018 of 2015**

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