

HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION No. 3453 of 2023

ORDER:

This Writ Petition has been filed under Article 226 of the Constitution of India for the following relief:

“....to issue the writ of Mandamus or any other appropriate Writ, order or direction, declaring the order dated 24.01.2023 passed in Appeal No.17061/SIC/RSR/2022 by the 1st respondent upholding non-furnishing of information by the respondent Nos. 2 and 3, as illegal, arbitrary, violative of provisions of the Right to Information Act, 2005 and the Rules made thereunder and contrary to Articles 14 & 19 of the Constitution of India and consequently direct the 3rd respondent to submit the information pursuant to the petitioner's application dated 08.07.2022.....”

2. The case of the petitioner, in brief, is that, he submitted an application under Section 6(1) of the Right to Information Act, 2005 to the 3rd respondent to furnish the report submitted by One-Man Committee appointed in pursuance of the G.O.Ms.No.185, dated 21.07.2021 by Revenue (Endowment-III) Department. The said application was rejected by the 3rd respondent vide Rejection Order dated 29.07.2022 under Section 8(1)(i) of the Right to Information Act, 2005. Challenging the same, the petitioner preferred an appeal before the 2nd respondent, which was dismissed, upholding the rejection order. Challenging the same, the

petitioner preferred second appeal before the 1st respondent and the same was also dismissed vide orders dated 24.01.2023. Aggrieved thereby, this writ petition has been filed.

3. The respondent Nos. 2 and 3 filed separate counter affidavits, but with similar contents. They, while denying the averments of the petition, inter alia contended that, the Government have appointed a One Man Committee with Hon'ble Justice Dr.B.Siva Sankara Rao, Former Judge, Hon'ble High Court-cum-Judge, Judicial Preview, Andhra Pradesh to examine the service issues involved in the Hereditary Archakatvam of Tirumala Tirupathi Devasthanams and to suggest steps to the Government to carryout effective implementation and any other issues incidental thereto and accordingly One Man Committee Report was submitted and the same is under examination at Government level. The petitioner submitted application under Right to Information Act with a request to furnish copy of the One Man Committee Report and the said application was rejected by the 3rd respondent under Section 8(1)(i) of the Right to Information Act, 2005, on the ground that the cabinet has to take up the matter and till final decision is taken up, the information sought cannot be furnished. The first and second appeals were dismissed upholding the

decision taken by the 3rd respondent. It is further submitted that, One Man Committee report which is material on the basis of which a decision has to be taken by the Council of Ministers, falls within the category of Information exempted from disclosure under Section 8(1)(i) of the RTI Act and the report can be made public only after the Council of Ministers take a policy decision regarding the issue. Accordingly, the 3rd respondent rejected the application submitted by the petitioner and the appellate authorities have also taken the same view. The writ petition is totally misconceived and therefore, is liable to be dismissed.

4. Heard Sri *J.V.Phanidath*, learned counsel for the petitioner, Sri *Sathish Kumar Eerla* learned counsel for the 1st respondent and the learned Government Pleader for Endowments, for respondent Nos.2 and 3.

5. Sri *J.V.Phanidath*, learned counsel for the petitioner, in elaboration would submit that the One Man Committee report is a public document and immediately after submission of the report it must be made accessible to all. The prerogative of the Government either to accept or reject the report is not a ground to refuse furnishing of the report to general public, since the committee was appointed by Government for public purpose and

by utilizing public funds. The information sought does not fall within the ambit of section 8 of the Act, 2005 and hence Sections 2(f), 2(h) and 2(j) of the Act obligates the 3rd respondent to submit the information sought for. However, the 3rd respondent upon erroneous view of the matter rejected the application and the respondent Nos. 1 and 2 in a mechanical way and unmindful of the provisions of the Act, upheld the rejection order passed by the 3rd respondent. Hence, prayed to allow the writ petition.

6. On the other hand, Sri *Sathish Kumar Eerla*, learned counsel for the 1st respondent, and the learned Government Pleader for Endowments representing respondent Nos.2 and 3 would submit that, Section 8(1)(i) of the RTI Act, 2005 exempts disclosure of cabinet papers including records of deliberations of the Council of Ministers, secretaries and other officers till the matter is complete or over. Since the Report submitted by One Man Committee has to be taken up by Cabinet, the request made by the petitioner was rightly rejected by respondent Nos.1 to 3. There are no valid and justifiable grounds either urged or raised in this writ petition warranting interference of this Court. Hence, prayed to dismiss the writ petition.

In support of his contention, the learned counsel have placed reliance on the judgment of High Court of Kerala dated 27.06.2022, between ***Jayachandran & others vs. State of Kerala & others*** (c) No.18529 of 2022.

7. The only issue that falls for consideration in this writ petition is, whether the information sought by the petitioner falls within the purview of section 8 of the RTI Act or not.

8. The application filed by the petitioner is for furnishing copy of the report One Man Committee submitted by Hon'ble Justice Dr.B.Siva Sankara Rao, Former Judge, Hon'ble High Court-cum-Judge, Judicial Preview, Andhra Pradesh regarding the service issues involved in the Hereditary Archakatvam of Tirumala Tirupathi Devasthanams and to suggest steps to the Government to carryout effective implementation and any other issues incidental thereto. According to the respondents, since the said report has to be placed before the Cabinet for taking a decision in the matter, Section 8(1)(i) of the Act exempts the same from being disclosed till the matter is complete or over.

9. Section 8(1)(i) of the Right to Information Act, 2005 is relevant for the purpose of determination of the dispute involved in this writ petition and hence the same is extract hereunder:

“8. Exemption from disclosure of information.

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,--

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed”

10. This Section starts with a non-obstante clause. A non-obstante clause will be added to a provision in order to uphold its enforceability over another provision that is contradictory to it. This clause is used to clarify the intention of the legislature in cases where two provisions appear contradictory. According to this provision, cabinet papers are exempted from being disclosed under the matter is complete or over.

11. In the decision relied by the learned counsel for the respondents referred to supra, it has been held thus:

"The prohibition under Section 8(1)(i) of the Act is absolute. The prohibitory stipulation in Section 8(1)(i) does not permit disclosure of information on the satisfaction of the larger public interest rule. It is to be noted that the exemption under section 8(1)(i) of the Act is for a specific period with an obligation to make information public, after such period. The proviso to Section 8(1)(i) provides that, once the Council of Ministers takes a decision on cases brought before the Council and the matter is complete or over, the exemption from disclosure of information ceases.....

In my considered view, the exemption from disclosure available to cabinet papers referred to in Section 8 (1)(i) will equally apply to potential cabinet papers not brought before the Council. Otherwise, by the time a decision is taken to bring a case before the Council and the material based on which decision has to be taken by the Council of Ministers is made public, the purpose for which exemption from disclosure provided in the Act will get defeated. Therefore, by allowing disclosure of information before it reached the Council, the exemption from disclosure granted under Section 8(1)(i) is defeated.
....."

.....

12. The contents of the writ affidavit nowhere state that there is no requirement for placing the matter before the Cabinet for taking any decision nor the Cabinet had already taken a decision in the matter. It is the only contention raised in the writ petition that since the committee was appointed by the Government for public purpose and by utilizing public funds, the report of the committee would be a public document and thus he is entitled for copy of the same. Thus, it can be safely held that the matter is pending for taking a decision by the Cabinet.

13. Thus the contents of the counter affidavit, the contentions raised by the learned counsel for respondents, coupled with the contents of the writ affidavit, make it clear that the One Man committee report awaits approval of the Cabinet. Thus, the One Man Committee falls within the exemption contained in Section 8(1)(i) of the RTI Act, 2005.

14. In view of the above, this Court finds no procedural irregularity or illegality either in the rejection order passed by the 3rd respondent or the appellate orders passed by respondent Nos.1 and 2. There are no justifiable grounds either raised or urged in this writ petition warranting interference of this Court.

15. Accordingly, the Writ Petition is dismissed. There shall be no orders as to costs.

As sequel thereto, miscellaneous petition, if any, pending shall stand closed. Interim orders, if any, shall stand vacated.

JUSTICE RAVI CHEEMALAPATI

27th June,2023
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HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION No.3453 of 2023

27th June, 2023

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