



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 23695 OF 2022 (GM-RES)

BETWEEN:

A S MALLIKARJUNASWAMY,
S/O LATE S SIDDAPPA,
AGED ABOUT 46 YEARS,
LECTURER IN PHYSICS,
MARIMALLAPPAS PU COLLGE,
SEETHA VILASA ROAD,
K R MOHALLA, MYSURU 570 004.

...PETITIONER

(BY SRI. A S MALLIKARJUNASWAMY-PARTY IN PERSON)

AND:

1. STATE INFORMATION COMMISSIONER
KARNATAKA INFORMATION COMMISSION
MAHITI SOUDHA, DEVARAJ URS ROAD,
OPPOSITE TO VIDHAN SOUDHA, WEST GATE. 2,
BENGALURU 560 001.
2. THE DIRECTOR,
DEPARTMENT OF PRE UNIVERISITY EDUCATION,
18TH CROSS, MALLESHWARAM,
BENGALURU 560 012.
3. THE JOINTS DIRECTOR
DEPARTMENT OF PRE UNIVERSITY EDUCATION,
18TH CROSS, MALLESHWARAM,
BENGALURU 560 112.
4. THE DEPUTY DIRECTOR FOR PRE UNIVERSITY EDUCATION,
MYSURU DISTRICT, MYSURU 570 004.

Digitally signed
by SHARADA
VANI

Location: HIGH
COURT OF
KARNATAKA



5. THE PRINCIPAL,
MARIMALLAPAS P. U COLLEGE,
SEETHA VILASA ROAD,
K R MOHALLA, MYSURU 570 004.

...RESPONDENTS

(BY SRI. SHARATH GOWDA G B.,ADVOCATE FOR R1;
SRI. KIRAN KUMAR., HCGP FOR R2 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS AND QUASH THE ORDER OF CASE NO.KIC 15951 APL 2021 FROM THE KARNATAKA INFORMATION COMMISSION, MAHITI SOUDHA, DEVARAJ URS ROAD, OPPOSITE TO VIDHANA SOUDHA, WEST GATE - 2 BENGALURU-560001 AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN B GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner a lecturer in Physics in the 5th respondent-college is knocking at the doors of writ court for assailing the order dated 01.04.2022 passed by the 1st respondent-Commission whereby his RTI application has been negatived quoting the provisions of Sec.8(1)(j) of the Right to Information Act, 2005. The party-in-person argues that he is entitled to know the material particulars of service of the persons indicated in the RTI Application inasmuch as that information provides the substratum for structuring his claims in Service Law such as confirmation,



seniority, promotion & the like. He argues that Sec.8(1)(j) of 2005 Act having been wrongly construed, there is an error apparent on the face of impugned order.

2. The first respondent-Commission has entered appearance through its Sr. Panel Counsel; Respondents 2, 3 & 4 are represented by learned AGA; however the 5th Respondent- Principal of the College has remained unrepresented despite service of notice. Learned Panel Counsel and learned AGA oppose the petition making submission in justification of the impugned order placing reliance on a decision of the Apex Court in **Girish Ramchandra Deshpande vs Central Information Commissioner & Ors, (2013) 1 SCC 212.**

3. Having heard the petitioner-party-in-person and learned Advocates appearing for the Respondents, this court is inclined to grant indulgence in the matter inasmuch as there is no scope for invocation of Sec.8(1)(j) since petitioner is not a stranger to the Respondent-institution, but a Lecturer working therein since years; it



hardly needs to be stated that for working out redressal for the grievances in service, an employee has to have full service particulars of other employees working under the same employer especially when dispute arises relating to confirmation, seniority, promotion or the like. The decision cited by the learned Panel Counsel in GIRISH RAMACHANDRA DESHPANDE *supra* had a different fact matrix and therefore the Apex Court held that personal information cannot be furnished.

4. It hardly needs to be stated that a decision is an authority for the proposition that has been laid down in a given fact matrix of a case and not for all that which logically follows from what has been laid down. Lord Halsbury more than a century ago, in the celebrated case of **Quinn vs. Leathem (1901) A.C. 495, 506** has observed as under:

"Now before discussing the case of Allen v. Flood, (1898) A.C. 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to



the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

5. The petitioner, a party-in-person is justified in contending that unless the service particulars of the persons which he has sought for in the subject RTI application are furnished, he will not be in a position to work out his grievance in the subject service matter. This aspect has not animated the impugned order and therefore there is an error apparent on its face warranting indulgence of this court. He is more than justified in placing reliance on the Government Order dated 02.06.2011 which prescribes certain parameters for granting relaxation of service conditions relating to



reservation. To avail benefit under the said Government Order, the information which the petitioner has sought for, becomes essential. Denying information virtually amounts denying opportunity to the petitioner to avail the benefit of said Government Order.

In view of the above, this petition succeeds; a Writ of Certiorari issues quashing the impugned order of the State Information Commission; petitioner's subject RTI application having been favoured, the 5th respondent is directed to furnish service particulars of the persons concerned and copies of records in that connection within a period of three weeks, failing which for the delay of each day, the 5th respondent shall pay from his pocket a sum of Rs.1,000/- to the petitioner.

The 5th respondent-Principal shall also pay a cost of Rs.5,000/- towards expenses.

Sd/-
JUDGE

Snb/
List No.: 1 Sl No.: 55