

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1324 OF 2015

Maharashtra State Electricity
Distribution Company Limited .. Petitioner
vs.
Shri. Nitin Waman Desai & anr. .. Respondents

Mr. Nirav Shah a/w. Mr. Kiran Gandhi i/b Little and Co. for the
Petitioner.
Mr. D.S. Joshi for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 12 MARCH, 2015

P.C. :-

1] Rule. With the consent of and at the request of learned
counsel for the parties, Rule is made returnable forthwith.

2] This petition takes exception to the order dated 30 October
2014 made by the State Information Commissioner, Konkan Division,
imposing fine of Rs.25000/- upon Mr. Balaji R. Dumne, Dy. Executive
Engineer of the petitioner and awards compensation of Rs.5 Lacs
payable by the petitioner to respondent No.1 for furnish of incorrect
information.

3] In order to appreciate the challenge, the reference is required
to be made to the information applied by respondent No.1 and the
response of the petitioner thereto. This is contained in
communication dated 15 September 2012 and therefore, transcribed
below for convenience of reference.

*“1. In which date the transformer is installed on the above
subject plot and on whose instruction & directions in his official
capacity and provide documents to that effect ?*

Ans: Transformer is installed near between year 2000.

2. When and which types of permissions obtained before installation of Transformer on above subject Land, please give me detail information and

Ans: At that time there is no hard & fast rule to take written permission of land owner to installed transformer & electric lines.

3. Whether acquisition proceedings are conducted before installation of transformer & putting fence to the same hence please inform from whom and what type of acquisition proceedings were conducted before installation of transformer on above subject Land ?

Ans: NO, acquisition proceedings are carried out before installation of transformer & putting fence to the same. Papers of the same for installation of transformer on above subject Land.

4. On whose permission transformer was erected on the said land?

Ans: There was no objection from anybody till year 2011.

5. Whether any compensation is paid for acquiring land, if the compensation or acquisition cost was not paid to the land owner, then how the acquisition proceeding was conducted, provide documents in respect of the same?

Ans: No compensation or acquisition cost paid to the land owner.

6. What is the detail procedure to be followed for installing or erecting transformer on private land?

Ans: Installation of transformer & erection of HT/LT lines is done with oral permissions by local authorities and permission from land owners.

This is for your information & further needful please.”

4] It appears that there is some dispute between respondent No.1 and the petitioner, in the matter of a transformer installed in or upon the property of respondent No.1 some time in the year 2000. In

response to query No.6 as aforesaid, that is, the detailed procedure to be followed for installing or erecting the transformer on private land, the answer given by and on behalf of the petitioner was that the installation of transformer is done '*with oral permissions by local authorities and permission from land owners*'. Respondent No.1, alongwith his affidavit-in-reply has annexed communication dated 4 March 2013 issued by the Chief Officer of Kulgaon-Badlapur Nagarparishad, the local authorities concerned to the effect that the petitioner has not obtained any permission for the purposes of installation of transformer upon the property claimed by respondent No.1. This communication dated 4 March 2013 was also produced before the State Information Commissioner, Konkan Division, who has made the impugned order.

5] The impugned order, in the context of response to query No.6 as aforesaid and communication dated 4 March 2013, has recorded a conclusion that the petitioner or its Public Information Officer has furnished false information and on the said basis proceeded to impose fine of Rs.25,000/- upon Public Information Officer Shri. Balaji Dumne by resort to the Section 20(1) of the Right to Information Act, 2005 (RTI Act). Further, the State Information Officer, by resort to the provisions contained in Section 19(8)(b) of the RTI Act has, by way of compensation, directed the petitioner to pay a sum of Rs.5 Lacs to the respondent No.1-complainant.

6] The Public Information Officer, i.e., Shri. Balaji Dumne, has not challenged the impugned order in so far as it imposes a fine of Rs.25,000/- upon him. In fact, the learned counsel for the petitioner

submits that Shri. Balaji Dumne has commenced payment of Rs.5000/- each month towards such fine.

7] In so far as the award of compensation of Rs.5 Lacs is concerned, learned counsel for the petitioner submitted that this is not at all a case where any false information as such was furnished to respondent No.1. In terms of the provisions of Indian Telegraphic Act, 1885, there is no requirement for obtaining any permission from the local authorities for installation of a transformer. Accordingly, by way of reply, it was stated that the procedure followed for installation is the obtaining of oral permission from the local authorities and land owners. The learned counsel, relying upon the decision of the Hon'ble Apex Court in case of *Khanapuram Gandaiah vs. Administrative Officer and ors.-(2010) 2 SCC 1*, submitted that under the RTI Act, the obligation is to furnish only the information, which is possessed by the authority and further there is no obligation to give any reason as to why a particular decision may have been taken.

8] Mr. D.S. Joshi, learned counsel for respondent No.1, submitted that this was a clear case where false and misleading information was supplied to respondent No.1 and the falsity of the information supplied stands exposed by the response dated 4 March 2013 furnished by the local authorities concerned. In this view of the matter, there is no jurisdictional error in making of the impugned order, which consequently ought not to be interfered with by this Court.

9] Having heard learned counsel for the parties and perused the records, in my judgment, the impugned order, to the extent, it awards compensation in an amount of Rs.5 Lacs to respondent No.1 is required to be interfered with. In the first place, there is absolutely no discussion as to the circumstance warranting the award of compensation of such magnitude. Secondly, this cannot be regarded as a case where some false information came to be furnished, with a view to harass or prejudice respondent No.1. It is to be noted that even the queries raised by respondent No.1 were to a certain extent vague. In such circumstances, respondent No.1 cannot complain, if the response is also equally vague.

10] The question in this case, is certainly not whether any permission is required from the local authorities before the petitioner installs a transformer on any private land. The question really is whether the queries raised by respondent No.1, with regard to information were adequately responded to or not. Viewed from such perspective, it cannot be said that some deliberate false information was furnished. At the highest, it can be said that the Public Information Officer was vague and not absolutely candid in the matter. However, that by itself, certainly does not justify the award of compensation to the tune of Rs.5 Lacs to the respondent No.1.

11] As noted earlier, there appears to be some dispute between the petitioner and respondent No.1 in the matter of installation of transformer. The proceedings under the RTI Act, is not an appropriate forum for redressal of such disputes. Under the

provisions of the RTI Act, the public authorities are not obliged to give any reason for their decisions or actions, because such reasons may not constitute information as such contemplated by the RTI Act. All that is required is that the public authority furnishes, with utmost despatch and truthfulness, information, which is available with it. In the present case, the transformer in question is stated to have been installed in the year 2000. The information was applied for in the year 2012 or thereabouts. This is also an aspect which is required to be taken into consideration.

12] Therefore, for all the aforesaid reasons, the impugned order to the extent, it directs payment of compensation of Rs.5 Lacs to the respondent No.1 is set aside. Instead, it is directed that the petitioner pays to the respondent No.1 the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) within a period of six weeks from today. Thereafter, it shall be open for the petitioner to recover such amount by way of installment of Rs.5000/- (Rs. Five Thousand only) each month from the Public Information Officer. In fact, the learned counsel for the petitioner stated that such installments are already being paid by the Public Information Officer Mr. Balaji Dumne to the petitioner.

13] Rule is, accordingly, made absolute to the aforesaid extent. There shall be no order as to costs.

(M. S. SONAK, J.)