

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.103 OF 2015

Haresh Kumar Sharma .. Petitioner
vs.
S.A. Varadan
Principal & Public Information Officer
Sainik School, Satara .. Respondent

Mr. V.S. Khamkar i/b R.R. Galange for the Petitioner.
None for the Respondents

CORAM : M. S. SONAK, J.
DATE : 10 MARCH, 2015

P.C. :-

1] This petition, which is instituted under the provisions of the Contempt of Courts Act, 1971, alleges contempt of the order made by the Central Information Commissioner, an authority under Right to Information Act, 2005.

2] This Court, in case of *Rajkumar Kishanlal Awasthi vs. Bagve and another* – 2012(2) *Mh.L.J.* 611, has held that “Appellate Authority” under the Right to Information Act, 2005 is not a Court within the meaning of Section 2(b) of the Contempt of Courts Act, 1971.

3] Learned counsel for the Petitioner, however, submits that Central Information Commission is the second Appellate Authority. Further Section 18(3) of the Right to Information Act, 2005 vests in the Central Information Commission, same powers as are vested in a civil Court while trying a suit under the Code of Civil Procedure 1908. For these reasons, learned counsel for the petitioner contends that the Central Information Commission has to be regarded as a '*Court*' within a meaning assigned to this term under Section 2(b) of the Contempt of Courts Act, 1971.

4] It is not possible to accept the contention of the learned counsel for the petitioner. In the first place, there is no qualitative difference between the first and second Appellate Authorities, for the purposes of deciding the question as to whether such Authorities under the Right to Information Act, 2005 qualify to be regarded as '*Court*' under Section 2(b) of the Contempt of Courts Act, 1971. Accordingly, the reasoning in case of *Rajkumar Awasthi (supra)*, which has taken the view that the first Appellate Authority under the Right to Information Act, 2005 is not a '*Court*', will equally apply to the question as to whether the second Appellate Authority, i.e., Central Information Commission is a '*Court*' for purposes of the

Contempt of Courts Act, 1971. Section 19(3) of the Right to Information Act, 2005 provides that a second appeal against the decision under sub-section (1) shall lie to the Central Information Commission or the State Information Commission. Accordingly, the Central Information Commission, in terms of Section 19(3) of the Right to Information Act, 2005 is the second Appellate Authority.

5] The circumstance that certain powers of the civil Court have been vested in the Central Information Commission, by itself, does not render such Authority a '*Court*' for the purposes of the Contempt of Courts Act, 1971. Incidentally, Section 18(3) of the Right to Information Act, 2005 confers such powers only with regard to certain specified matters. Therefore, it is incorrect that all the powers of the civil Court have been vested in the Central Information Commission or the State Information Commission, as the case may be.

6] Therefore, following the decision of this Court in case of *Rajkumar Awasthi (supra)*, it shall have to be held that the Central Information Commission, is not a '*Court*' within the meaning assigned to this terms under Section 2(b) of the Contempt of Courts

Act, 1971. Accordingly, present contempt petition is not maintainable.

7] The contempt petition, being not maintainable, is not entertained.

(M. S. SONAK, J.)

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