

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7441 OF 2011

Shrikant S/o Manoharrao Mangulkar .. Petitioner

Versus

Arun S/o Sopan Wabale and Others .. Respondents

Shri Rajendra S. Deshmukh, Advocate for the Petitioner.
Shri Madhukar G. Kolse Patil, Advocate for the Respondent No.
1.
Shri A. M. Phule, A.G.P. for Respondent Nos. 2 to 4.
The Respondent No. 5 served.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 27TH JANUARY, 2016.

PER COURT :

. The petitioner assails the order dated 05.05.2011 whereby penalty of Rs. 25,000/- was imposed upon the petitioner for not giving required information. Mr. Deshmukh, the learned counsel for the petitioner submits that, the present respondent No. 1 had submitted an application with the office of petitioner dt. 03.09.2009 which was received on 08.09.2009. The information was sought in respect of the suspension and reinstatement of the respondent No. 5. In the application he has specifically stated that, he is not a person below the poverty line. On 14.09.2009, 01.10.2009 and 07.10.2009 the office of the petitioner made

attempts by sending letters to the concerned person to give necessary information so as to supply the same to the respondent No. 1. On 07.10.2009 the petitioner by speed post informed the respondent No. 1 to deposit the amount as per the Right to Information Act, with the office of the Executive Engineer, Public Works Department, so that the document can be supplied. The said letter was issued within 30 days of receipt of the application. The amount was not deposited by the respondent No. 1 as such the information was not supplied. The learned counsel submits that, the appeal was filed directly with the respondent No. 2 who is the Second Appellate Authority, which was not maintainable. It was specifically stated that, the respondent No. 1 had not deposited the amount as such the information was not supplied. Thereafter, on 04.05.2011 the office of the petitioner vide separate letter has informed the State Information Commission along with the relevant documents. The learned counsel submits that, the petitioner has supplied all the necessary documents and even the petitioner possesses the acknowledgement to that effect.

2. Mr. Patil, the learned counsel for the respondent No. 1 submits that, first appeal was filed before the Competent Authority, but no cognizance was taken and thereafter the second appeal was filed. It is not that the respondent No. 1 had not filed the first appeal. In the order, it has been erroneously observed that first appeal was not filed. The learned counsel

submits that, the respondent No. 1 has subsequently received the information, however, he has not received the information within the stipulated period and the second appellate authority has penalized the petitioner, as petitioner has failed to adhere to its duty and supply the information and documents within the stipulated period.

3. We have also heard the learned Assistant Government Pleader.

4. We have considered the submissions, canvassed by the learned counsel for the respective parties. The petition is for the limited purpose i. e. to the extent of the order imposed penalty of Rs. 25,000/-.

5. We have perused the application filed by the respondent No. 1. In the application it has been specifically stated that, the respondent No. 1 is not a person below the poverty line, as such is required to pay the necessary fees for obtaining information and documents as per the provisions of the Right to Information Act. We do not find anything on record showing that the said amount was deposited by the respondent No. 1 within stipulated period. The petitioner has filed on record the communication and the acknowledgment.

6. It appears that within the time frame the information is not supplied by the petitioner. However, the petitioner is not to be solely blamed. The amount also does not seem to be deposited within the stipulated period.

7. In light of the above, the order imposing penalty upon the petitioner does not seem to be proper. We are not entering into the debate as to whether the first appeal was filed by the respondent No. 1 or not, as the same is not germane to decide the present petition.

8. Considering the above, the impugned order to the extent of imposing the penalty upon the petitioner is quashed and set aside. The writ petition is accordingly allowed. No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]