

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5251 OF 2016

Municipal Corporation of Greater Mumbai ..Petitioner

VS.

Maharashtra State Chief Information
Commissioner & Anr.

..Respondents

Mr. V. Mahadik i/b. Ms U. H. Deshpande for Petitioner.
None for Respondents.**CORAM : M. S. SONAK, J.**
DATE: 10 OCTOBER 2016**P.C :**

- 1] Heard learned counsel for the petitioner.
- 2] This petition, filed by the Municipal Corporation of Greater Mumbai claiming to be aggrieved by the award of costs of Rs.10,000/- imposed upon its Municipal Commissioner, in the matter of delay in furnish of information under the Right to Information Act (RTI).
- 3] Learned counsel for the petitioner submitted that in this case necessary intimation was sent to the respondent no. 2 that the information applied for by him is ready and that the same may be collected by payment of costs. Learned counsel for the petitioner submits that in such a situation, it cannot be said that there was

any delay on the part of the Municipal Commissioner. The Municipal Commissioner cannot be penalised for the fault of the respondent no. 2 in not collecting the information, even though, necessary intimation had been sent to him.

4] Learned counsel for the petitioner, upon the query as to why the Corporation has instituted the present petition when costs have been imposed personally upon the Commissioner, replied that the Commissioner is the highest Officer of the Corporation, he is not involved in furnish of information to the respondent no. 2 and consequently, he is not responsible for the delay in the matter of furnish of information, and therefore the Corporation has instituted the present petition.

5] In the matter where costs have been imposed personally upon the Commissioner, it is not appropriate that the Corporation, using the municipal funds, to institute a petition of this nature. However, assuming that petition of this nature is to be entertained, at least the second appellate authority, upon considering all the material on record, has concluded that there was unreasonable delay in the matter of furnish of information. The appellate authority has also observed that incomplete information was furnished and the respondent no. 2, had to take several efforts in order to

ultimately obtain the information applied for by him. These are matters of fact and normally, unless perversity is demonstrated, there is no reason to interfere with such findings of fact. It is not sufficient for the petitioner to place on record some letter which states that the same was indeed sent to the respondent no. 2 requiring him to collect the information. In this case, because the information applied for was not furnished within time, the respondent no. 2 had to institute a first appeal and ultimately, a second appeal. It appears that it is only after some considerable delay information came to be furnished. Again, the information furnished was also incomplete. On the first occasion, the letter indicates that the Municipal Corporation claimed that it has no information. However, later on the very same information, was furnished, though with considerable delay.

6] Taking into consideration, all the aforesaid circumstances, there is no reason to interfere with the impugned order by which costs have been imposed upon the Municipal Commissioner. This is not a case where the costs will have to be paid through the municipal funds. The Commissioner, himself, does not appear to be aggrieved by the order which is made, since, he has not instituted any petition to question the said order. Even otherwise, on the basis of material on record, it cannot be said that the order suffers from

any jurisdictional error or perversity.

7] Accordingly, this petition is dismissed. Ordinarily, this is a case where the Municipal Corporation ought to be required to pay costs. However, considering that such costs might ultimately be paid from out of the municipal funds itself, this Court refrains from imposing any costs.

(M. S. SONAK, J.)

Chandka