

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5061 OF 2015

HEADMISTRESS SMT. JANKIDEVI JAISWAL MADHYAMIK VIDYALAYA, NAGPUR
VS
THE STATE INFORMATION COMMISISONER AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. P. Thakre, Advocate for the petitioners.
Shri R. D. Bhuibhar, Advocate for the respondent no.1.
Ms. Tajwar Khan, AGP for respondent No. 2.
Shri A. Z. Jibhkate, Advocate for respondent No.3.

CORAM : A.S. CHANDURKAR, J.
DATED : JULY 15, 2016.

1. Heard.
2. The challenge in the present petition is to the order dated 22-4-2015 passed by the State Information Commission thereby allowing the appeal filed by the respondent no.3 and setting aside the order dated 1-9-2014 passed by the Public Information Officer.
3. The respondent no.3 had moved an application under the provisions of the Right to Information Act, 2005 (for short, the Act of 2005) seeking information from the petitioner who was the Headmistress of a Secondary School as regards the names of the Assistant Teachers who were appointed between 1-1-2014 and 31-7-2014. The Headmistress informed the respondent no.3 that the said information pertained to the management of the School and hence, the same should be obtained from the Society which

was running the school. Being aggrieved the respondent no.3 filed an appeal and the appellate Authority directed the Headmistress to correspond with the Secretary of the Society and supply the relevant information in that regard. Such communication was issued by the Headmistress to the Secretary of the management. Being aggrieved the respondent No.3 filed a second appeal before the State Information Commission.

4. By the impugned order, the State Information Commission set aside the order dated 1-9-2014 and directed the petitioner to supply the necessary information as required.

5. Shri A. P. Thakre, the learned Counsel for the petitioner submitted that the information sought by the respondent no.3 pertained to the Management of the School and the same was available with the Society which was running the school. He submitted that the information which was available with the Headmistress was duly supplied and, therefore, the State Information Commission was not justified in allowing the said appeal. He submitted that as per the provisions of Section 5 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act 1977, it was the duty of the Management to undertake recruitment and therefore, such information was only available with the Management. He placed reliance upon the judgment of the Hon'ble Supreme Court in *Yunus Ali Sha Vs. Mohamed Abdul Kalam and others* (1991) 3 SCC 676. He also submitted that as the Management was running a minority institution, the entire responsibility in that regard was with the Management.

6. Shri R.D. Bhuihar, learned Counsel for the respondent no.1 and Shri A. Z. Jibhkate, the learned Counsel for the respondent no.3 supported the impugned order. It was submitted that necessary information was available

with the Headmistress inasmuch as she was the Secretary of the School Committee and she was required to maintain records of the recruitment undertaken by the Management. A reference was made to Schedule-A of the Act of 1977 to point out the duties of the Headmistress who was the *ex officio* Secretary of the School Committee. Reliance was also placed on the judgment of the Division Bench in Writ Petition No.5067/2009 (*Shikshan Prasarak Mandal and another Vs. The State Information Commissioner, Nagpur Bench, Nagpur and others*) decided on 10-8-2010 to urge that the impugned order did not call for any interference.

7. Having heard the respective Counsel for the parties, I find that the State Information Commission was justified in allowing the appeal filed by the respondent no.3. The information sought from the petitioner who was the Headmistress of the School was with regard to the appointments made on the post of Assistant Teacher from 1-1-2014 to 31-7-2014. As per Schedule-A to the Act of 1977, the petitioner was the *ex officio* Secretary of the School Committee and she was responsible for keeping records of all the proceedings of the meetings of the School Committee. One of the functions of the School Committee is appointment of employees. Thus, from the records of the School Committee, the aforesaid information was available with the petitioner.

8. Under Section 5 of the Act of 1977, though it is the duty of the Management to undertake recruitment of staff, this has to be done through the School Committee. As the information in that regard is available with the Headmistress, no fault can be found with the order of the State Information Commission directing supply of said information.

The aspect regarding minority status is not very relevant in the present case considering the duties and functions of the School Committee. Hence, the judgment relied upon by the learned Counsel for the petitioner does not support his case. On the contrary, the judgment of the Division Bench relied upon by the learned Counsel for the respondent no.1 supports the conclusion arrived at by the State Information Commission.

9. In view of aforesaid, there is no case made out to interfere in writ jurisdiction. By clarifying that this Court has not examined the correctness of direction no.3 contained in the impugned order in this writ petition, the same is dismissed with no order as to costs.

JUDGE

/MULEY/

C E R T I F I C A T E

“ I certify that this Order uploaded is a true and correct copy of original signed Order.”

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Personal Assistant.

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