

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

WRIT PETITION NO.6159/2015

Shri Devanand Ruprao Athawale

...Versus...

The Deputy Secretariat, Chief Ministers' Secretariat, Mantralaya, Mumbai and others

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

Court's or Judge's orders

Petitioner-in-person
Shri A.M. Kadukar, AGP for respondents – State

**CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.**

DATE : 26.10.2016

By this petition, the petitioner seeks a direction against the respondent no.3 – Collector, Amravati to furnish the information as per the order of the State Information Commissioner, dated 23.3.2009.

Since the petitioner had levelled reckless allegations against his Counsel, the Legal aid that was granted to him, was withdrawn by the Legal Aid Sub-Committee due to his misconduct. Hence, the petitioner appears in person.

It appears that the petitioner suffers from a physical disability and therefore, he had made applications to various authorities for his appointment on a Class-IV post. It is not the case of the petitioner that the petitioner had applied in pursuance of any advertisement. According to the petitioner, the Hon'ble Chief Minister had vide communication dated 7.2.2005 asked the

respondent no.3 - Collector to recommend the case of the petitioner for appointment on a Class-IV post meant for the physically challenged. It is stated that since the respondent no.3 did not appoint the petitioner on a Class-IV post, the petitioner sought the information from the Information Officer in regard to the Inward Register in the office of the Collector from 1.3.2005 to 10.3.2005. According to the petitioner, since the Information Officer did not supply the information, the petitioner filed an appeal before the first appellate authority under the Right to Information Act. Since the petitioner did not succeed in the first appeal, the petitioner filed a second appeal before the Chief Information Commissioner. According to the petitioner, though the Chief Information Commissioner had by the order, dated 23.3.2009 directed the respondent no.3 – Collector to supply the necessary information to the petitioner, if available and inform the petitioner if it is not available, the respondents have neither supplied the information nor have communicated to the petitioner that a part of the information is not available. It is stated that a direction be issued against the respondent no.3 to supply the information by complying with the order of the Information Commissioner, dated 23.3.2009.

On hearing the petitioner, who appears in person and the learned Assistant Government Pleader for the respondents – State, it appears that the relief sought by the petitioner cannot be granted. By filing the writ petition on 3.9.2015, the petitioner has sought the implementation of the order passed by the Information Commissioner on 23.3.2009. The Chief Information Commissioner had not issued an unconditional direction against the respondent no.3 to supply the information and as per the said order, the respondent no.3 is directed to supply the information only if it is

available and if it is not, to inform the petitioner that it is not available. It appears from the affidavit-in-reply filed on behalf of the respondents that after the State Information Commissioner passed the order, the petitioner was informed that some of the information was not available and the information that was available was supplied to the petitioner. A copy of the communication is annexed to the affidavit-in-reply to point out that the communication was issued to the petitioner on 21.5.2009 informing him that the document, dated 3.3.2005 is not available. A communication was also issued to the petitioner on 17.6.2009 informing him that no communication was received from the Hon'ble, the Chief Minister for appointing the petitioner on a Class-IV post and hence, the same could not be supplied to him. By the communication, dated 26.11.2010, the petitioner was informed that the documents at serial nos.1 to 8 in the said communication were already supplied to the petitioner, but still on his request the same are supplied to him again. It is stated that since certain information was not available, it could not be supplied. It is, thus, apparent from the affidavit-in-reply filed on behalf of the respondents that certain information was supplied to the petitioner and some information was not supplied as there was no such communication, as sought by the petitioner. Since the Chief Information Commissioner had directed the Collector to only supply the information that was available and inform the petitioner about the information that was unavailable, it appears that the order of the Chief Information Commissioner stands complied with. The order of the Chief Information Commissioner, that is, sought to be implemented stands implemented, as could be seen from the affidavit-in-reply filed on behalf of the respondents. It appears that the petitioner was only seeking the information with a view to find out whether the

Hon'ble, the Chief Minister had in the year 2005 really written to the respondent no.3 – Collector to grant appointment to the petitioner on a Class-IV post meant for the physically challenged person.

Since the order of the Chief Information Commissioner appears to have been complied with, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar