

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

Writ Petition No. 07560 of 2013

District : Nandurbar

Shri Chudaman Daga Pawar,
Age : 58 years,
Occupation : Suspended / Retired,
Deputy Engineer,
Public Works Department,
Shahada Division, Shahada,
District Nandurbar.

.. Petitioner.

versus

1. The State of Maharashtra
(Through the Secretary,
Public Works Department,
Mantralaya, Mumbai - 400 032).
2. The State Information Commissioner,
Bench at Nashik, Nashik,
Shivneri, Government Rest House,
Golf Club, Nashik.
3. The Executive Engineer,
Public Works Department,
Dhule.
4. Shri Rupesh Ambalal Jadhav,
Age : Major,
Occupation : Press Reporter,
R/o. Vrandhavan Nagar, Shahada,
District Nandurbar.

.. Respondents.

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Mr. Shrikant S. Patil, Advocate, for the petitioner.

*Mr. S.N. Kendre, Asst. Government Pleader, for respondent
nos.01 to 03.*

Mr. Hemant Surve, Advocate, for respondent no.04.

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 12TH JUNE 2017

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith and heard learned advocates for the appearing parties finally with consent.

02. The writ petitioner is before this Court challenging legality, propriety and validity of the order dated 30th May 2013, passed by the State Information Commissioner, Nashik Region, whereunder the petitioner has been imposed with a costs of Rs. 10,000/- for non-compliance of order passed by first appellate authority whereunder the petitioner was directed to supply the information as ordered.

03. Learned Counsel for the petitioner submits that voluminous information had been sought under the application by present respondent no.04. Some of the information was available on the website and it was accordingly communicated. In respect of the information which had been in some other office was requested to be collected from said office with the aid of an official.

04. However, not being satisfied with the same, the matter was taken to first appellate authority by respondent no.04 and thereunder the appellate authority purportedly directed to supply the information sought.

05. According to the learned Counsel, though the information under his control was given to respondent no.04, yet the same apparently could not satisfy respondent no.04. He had taken up the proceedings further before the State Information Commissioner and

the State Information Commissioner under a notice dated 01.04.2013 had sought explanation as to why penalty of Rs. 10,000/- be not imposed for non-compliance of the directions issued.

06. Learned Counsel submits that the explanation could not be tendered as in the interregnum, there have been developments in the form of suspension order having been passed against the petitioner and marriage of his daughter had been scheduled on the scheduled date before the State Information Commissioner. Accordingly, the petitioner had communicated to the State Information Commissioner about the same. Learned Counsel contends that despite aforesaid, the impugned order has been passed without making reference to the communication made by the petitioner.

07. Learned Asst. Government Pleader purports to support the order contending that the requisite information as directed appears to have not been supplied and in the circumstances, the impugned order can seldom be faulted with.

08. Learned Counsel for respondent no.04 supports the submissions of learned Asst. Government Pleader and further clarifies the position by submitting that respondent no.04 does not have any grudge against the petitioner. He, however, purports to point out that the requisite information sought by respondent no.04 is yet awaited.

09. Perusal of the impugned order shows that the communication on behalf of the petitioner about his inability to attend the proceedings before the State Information Commissioner has been disregarded and has not been taken into account,

rendering the order under challenge in breach of noble principles of natural justice. In the circumstances, the impugned order is unsustainable and deserves to be set aside.

10. The impugned order is set aside. The Writ Petition, as such, is allowed in terms of prayer clause "A". It is open for respondent no.04 to request the concerned authority, for the supply of information hitherto not supplied and the same may be considered in accordance with law.

11. Rule made absolute in the above terms. No order as to costs.

(Sunil P. Deshmukh)
JUDGE

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