

(1)

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

WRIT PETITION NO.4297 OF 2006

Sardar Shikshan Sanstha,
Deopur, Dhule, through its
President

..PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
School Education Department,
Mantralaya, Mumbai
2. The Director of Education,
Maharashtra State, Pune
3. The Deputy Director of Education,
Nashik Division, Nashik
4. The Education Officer (Secondary),
Zilla Parishad, Dhule
5. The Charity Commissioner,
Mumbai, Warli,
Mumbai

..RESPONDENTS

Mr A. S. Shinde, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 22nd June, 2018

ORAL ORDER:

None for the petitioner.

(2)

2. Learned A.G.P. for the respondents states that respondent Nos.1 to 4 are the authorities of State of Maharashtra and respondent No.5 is the Charity Commissioner. He represents all the respondents. It is submitted by the learned A.G.P. that erroneously the name of Mr Shaha, learned Counsel has been shown as representing respondents.

3. Perusal of the order sheet shows that the petition was dismissed on 17th February, 2009, but on the same date the learned Counsel for the petitioner appeared before this Court and prayed for recall of the order restoring the petition. Accordingly, the petition was restored.

4. By an order dated 18th February, 2009, the Division Bench of this Court was pleased to grant Rule and the petition was tagged along with Writ Petition No.3068 of 2006.

5. Today, none appears for the petitioner. As per the office record, Writ Petition No.3068 of 2006 is withdrawn by the petitioner. The present petitioner is an Educational Institution and enjoying the right to administer the education institute. The grievance of the petitioner in the petition is, time and again, by approaching the Information Officer, the unnecessary information was sought for. Notices were issued and on non-compliance, the penalty is imposed upon the petitioner-institute. The submission is, for some ulterior motive, the Maharashtra Right to Information Act, 2002 is

(3)

being misused and abused. With these grievances, it is prayed in the petition that the provisions of Section 12 of the Maharashtra Right to Information Act, 2002 be quashed and set aside, by holding the same being ultra vires. The other prayer is, issue directions to the respondents-authorities to exempt the petitioner-institution from implementation of provisions of the Maharashtra Right to Information Act, 2002 and Rules framed thereunder.

6. It is not in dispute that the Maharashtra Right to Information Act, 2002 is now substituted by the Right to Information Act of 2005 and the field is covered by the new Act, which is in force now. On perusal of the new Act of 2005, it is seen that Section 2 of the Act refers to various definitions. Section 2(j) deals with the word 'right to information' and the definition reads thus:

“right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to” (emphasis supplied)

7. The word public authority is the word defined in very Section i.e. in Section 2(h) and the same reads thus:

“public authority” means any authority or body or institution of self-government established or constituted -

(4)

- (a) by or under the Constitution;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government,
- and includes any -
- (i) body owned, controlled and substantially financed;
 - (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;”

8. Now, in view of these provisions, we are of the opinion that the challenge raised in this petition has lost its efficacy and nothing remains in the petition, so as to be considered by this court. In view of the above referred facts, the petition is disposed of accordingly.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

sjk