

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

20. WRIT PETITION No. 13247 OF 2018

Devidas Pundalik Kale ... Petitioner
Versus
The State of Maharashtra and others ... Respondents

Mr. S.P. Brahme, Advocate for petitioner

Mr. S.W. Munde, Asstt. Govt. Pleader for respondents No.1 & 2

Coram : N.M. Jamdar, J.

Date : 3 December 2018.

ORAL ORDER :

1. By this petition, the petitioner has challenged the orders passed by the respondent No.2 the State Information Commissioner dated 30th August 2018 and 31st October 2017. By the impugned order, the petitioner is directed to supply the information to respondent No.4/applicant and penalty of Rs. 1000/- is imposed pursuant to the section 20 of the Right to Information Act.

2. The petitioner is working as Head Master in Eklavya Prathamik Vidya Mandir, Jamner District Jalgaon. Respondent No.4

made an application on 13 July 2015 seeking information regarding the approval granted to the petitioner for the post of Head Master by the State Government. As the information was not given, respondent No.4 filed an appeal. Respondent No.3 passed an order on 14 September 2015 directing the petitioner to supply the information as sought by respondent No.4. The petitioner did not supply the information. Thereafter another appeal was filed by respondent No.4. The respondent No.2 passed an order on 30 October 2017 directing to give information. Thereafter, on 30 August 2018 respondent No.2 imposed penalty of Rs. 1000/-.

3. As regards the imposition of the penalty is concerned, when the order of penalty was passed on 30 August 2018, the earlier order directing the petitioner to supply the information was not challenged further by the petitioner. In response to the show cause notice the petitioner sent a laconic one line reply that earlier explanation of 31 January 2018 be taken into consideration. In this explanation of 31 January 2018, the petitioner has taken various grounds on law and has stated that just to honour the order, the information is given to respondent No.4.

4. As regards the order directing the petitioner to supply the

information, reliance is placed by the learned Counsel for the petitioner on the decision of the Apex Court in the case of *Girish Ramchandra Deshpande Versus Central Information Commissioner and others*¹ to contend that the personal information relating to service could not be supplied, unless there is over riding public interest.

5. The Right to Information Act has been enacted with an avowed purpose of setting out a practical regime of right to information for citizens to secure access to information to promote transparency and accountability in the functioning. The Act mandates the constitution of certain authorities, such as, the Information Officer at the first instance and the Appellate Authority and ultimate power is vested with the State Information Commission. The Section 20 of the Act states that if the Information Commissioner comes to the conclusion during the proceedings that the conduct of the Information Officer showed that supply of certain information was deliberately withheld, then penalty can be imposed as per the provisions contained therein.

6. The petitioner is the Head Master of the school, who himself was the Information Officer. Information regarding his

¹ 2013(1) SCC 212

approval was sought. He took a stand that the information regarding the approval being of a personal nature, cannot be given. This was entirely incorrect. Approval for the post of Head Master is given by the State grant as extended is on certain conditions. The school is a aided school. The approval by the State authorities is necessary for the State grant and information regarding approval cannot be considered as only information of personal nature. The approval by the State Government is a condition for releasing the grant out of public funds. Instead of giving this information, being the Head Master and the Information Officer, the petitioner took out various objections. Even the tenor of the reply is not of performing the duty as per the Act, but the petitioner has stated that he was doing so merely to honour the order. The State Information Commission, before imposing the penalty had given show cause notice to the petitioner but the petitioner did not tender any apology having withheld the information concerning himself.

7. Section 20 of the Act has been brought on the statute book to empower the Commission to impose penalty to bring a sense of discipline. The Act mandates that the information must be given at the first instance, which was not done in the present case. The petitioner was working in the dual capacity, as a head of the school as

well as Information Officer. He had wrongfully withheld information regarding his own approval by the Government Authority. Therefore, considering totality of the circumstances, the exercise of the power by the State Information Commissioner in imposing penalty of ₹ 1000/- was correct. No interference is warranted in the impugned orders.

8. The writ petition is rejected.

N.M. Jamdar, J.