

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION (Stamp) NO. 1728 OF 2018

Prakash Chimanlal Sheth ... Petitioner.

V/s.

State of Maharashtra and others ... Respondents.

Mr.Rahul S.Kadam, for the Petitioner.

Mr.V.S.Gokhale, B-Panel Advocate, for State- Respondent Nos.1 to 4.

***CORAM : R.M. Borde and
V.M. Deshpande, JJ.***

DATE : 24 July, 2018.

P.C. :-

The Petitioner is objecting to the order passed by the State Information Commissioner, Mumbai on 20 November 2017 disposing of the Appeal presented by the Petitioner. The Petitioner tendered a request under the provisions of the Right to Information Act, 2005 to the Public Information Officer, PIO for supply of the CCTV footage of all CCTV cameras installed at/in Azad Maidan Police Station, from 20.00 hours upto 22.30 hours of 30 May 2016.

Application was tendered by the Petitioner on 31 May 2016. However the request has been disposed of by PIO on 28 June 2016 belatedly. The Petitioner preferred an Appeal under section 19 of the Act to the State Information Commissioner under section 18 of the Act on 8 August 2017. However the said Appeal was not disposed of within the time limit prescribed under the Act. The Petitioner thereafter preferred the second Appeal under Section 19 of Right to Information Act, 2005 which has been disposed of as recorded above, on 21 December 2017.

2. The Petitioner states that he has lodged first information report bearing No.118 of 2016, on 25 May 2016 against the two accused persons under section 415, 417, 463, 464, 465, 466, 468, 471 read with section 34 of the Indian Penal Code. According to Petitioner, the Accused named in the FIR committed forgery and interpolation of an order dated 3 September 2007 issued by the Deputy Registrar Co-operative Societies and converted the said order into an order dated 3 September 2008 and has produced the same as evidence in Criminal Writ Petition No.3206 of 2013 wherein the Petitioner has been impleaded as the party Respondent. According to Petitioner, on 30 May 2016 both the Accused had been to Azad Maidan Police Station and met Senior P.I. Senior P.I. discussed the matter in presence of the Investigating Officer and is alleged to have shown the investigation papers to the Accused. It is also allegation of the Petitioner that though the Accused were

present in the police station they were not arrested. The Petitioner as such requested for supply of CCTV footage of the cameras installed at the police station for substantiating his contentions.

3. It appears that the request made by the Petitioner for supply of CCTV footage, has not been disposed of within period of thirty days as provided under section 7(1) of the Act of 2005. It is further contention of the Petitioner that the Appeal presented by him has also not been disposed of by the first appellate authority within the prescribed period. The Petitioner further contends that the second Appeal presented to the State Information Commissioner ought to have been taken into consideration as an appeal under section 18 of the Act and section 19 ought not to have been invoked. The contention raised by the Petitioner in this respect is devoid of substance. Sub-section 3 of Section 19 prescribes that a second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission. Sub-section 1 of Section 19 provides that any person who does not receive a decision within the time specified in sub-section 1 or clause (a) of sub-section (3) of section 7 or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer

who is senior in rank to the Central Public Information Officer or the State Public Information Officer, as the case may be.

4. In the instant matter, since the Public Information Officer did not dispose of the complaint within the time stipulated under the Act, the Petitioner preferred a further Appeal and the second Appeal presented by the Petitioner has been disposed of by the State Information Commission under section 19 of the Act. We do not find any error committed by the State Public Information Commissioner in disposing of the Appeal. So far as the Information sought for by the Petitioner is concerned it has been recorded in the order that the storage capacity in respect of CCTV footage is for five days and the CCTV footage cannot be preserved beyond the period of five days, it was not possible to consider the request and tender the information. The reasons recorded for inability to furnish the CCTV footage as requested by the Petitioner, does not appear to be erroneous or absurd. Considering merits of the contentions made by the Petitioner we do not find that the order passed by the second appellate Authority is erroneous. The Petition presented by the Petitioner is thoroughly misconceived and as such stands rejected.

(V.M. Deshpande, J.)

(R. M. Borde, J.)