

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4218 OF 2018

The Public Information Officer,
Hon'ble High Court, Bombay, .. Petitioner

Vs.
The Hon'ble State Information
Commission and anr. .. Respondents

Mr.D.J. Khambata, Senior Counsel a/w Mr.Venktesh Dhond,
Senior Counsel and Mr.Sanjay Udeshi i/b Sanjay Udeshi & Co.,
for the Petitioner

Mr.P.R. Arjunwadkar, for Respondent No.2.

Mr.Jayant Madhavrao Shete, Respondent No.2 present in-
person.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.**

DATE : 12th APRIL, 2018

P.C. :

. Parties through their Counsel. With consent heard
finally.

2. By filing this Petition under Article 226 of the
Constitution of India, the petitioner has challenged the order
dated 07/02/2018 - Exhibit 'H' passed by respondent No.1- the
State Information Commission.

3. According to learned Senior Counsel for the petitioner, the impugned order is a non-speaking order and on the basis of prima facie opinion, the final order has been passed setting aside order passed by the Original as well as First Appellate Authority. He also submitted that various grounds are raised before the first respondent – Commissioner including the applicability of Rule 13 of the Bombay High Court Right to Information (Revised) Rule, 2009 (for short 'the said Rules'), but the same has been ignored by the Commissioner while passing the impugned order.

4. Learned Counsel appearing for the 2nd respondent on instructions from the 2nd respondent who is present in-person stated that the impugned order may be set aside as the same is a non-speaking order. He admits that there is no consideration about the objections raised by the petitioner. He submits that first respondent – Commissioner be directed to decide the matter afresh and pass fresh reasoned order after giving due opportunity of hearing to the petitioner as well as to the 2nd

respondent.

5. Having considered the submissions made by the learned Counsel for the parties and having gone through the impugned order as well as considering the statement made by learned Counsel for respondent No.2 on instructions of respondent No.2, we set aside the impugned order as we find that the impugned order is not a speaking order and merely on the basis of prima facie opinion the final order has been passed. There is also non consideration about objection of the petitioner that Rule 13 of the said Rules would be applicable.

6. We accordingly set aside the impugned order with liberty to the first respondent Commissioner to pass a fresh reasoned order after giving due opportunity of hearing to the petitioner and 2nd respondent.

7. We expect that while passing a fresh order the 2nd respondent - Commissioner shall consider all contentions of both the sides including the petitioner's contention that Rule 13 of the

said Rules is applicable to the petitioner.

8. The decision as aforesaid be taken by the Commissioner as expeditiously as possible preferably within 3 months from the date of appearance of the parties before him.

9. Parties to appear before the Commissioner on 26/04/2018 at 11.00 a.m.

10. With the above directions, Writ Petition is disposed of.

11. Parties to act upon the authenticated copy of this order.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)