

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

**WRIT PETITION NO. 1200 OF 2014**

Vijaykumar Namdeo Kakade

Age : 40 years, occu.: self employment

R/o at Chikhli, Post Ghodasgaon,

Tal. Muktainagar, Dist. Jalgaon.

Petitioner.

Versus

1. State of Maharashtra  
Through State Information  
Commission, Mumbai.

2. The President,  
Godavari Foundation,  
Godavari College of Engineering,  
Jalgaon, National Highway No.6,  
M.I.D.C. Area, Jalgaon.

3. Godavari College of Engineering,  
Jalgaon, District Jalgaon,  
Through its Principal  
National Highway No., M.I.D.C.  
Area, Jalgaon.

Respondents.

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Mr. V.P. Patil, Advocate for the petitioner.

Mr. S.N. Morampalle, A.G.P. for respondent No.1.

Mr. L.V. Sangit, Advocate for respondent Nos.2 and 3.

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**CORAM : T.V. NALAWADE, J.**

**Dated : 12 February 2019.**

**ORAL JUDGMENT :-**

. Rule. Rule made returnable forthwith. By consent heard both sides for final disposal.

2. The petition is filed to challenge the orders made by Chief Information Commissioner, Mumbai on 25.07.2013 and 15.10.2013 due to which the previous order, decision made by the Chief Information Commissioner was virtually recalled.

3. By the order dated 05.10.2010 the Chief Information Commissioner of this State had allowed the appeal filed by the present petitioner and direction was given to the respondent Institution to supply the information sought. This decision was challenged by the Institution by filing Writ Petition before this Court. The said Writ Petition No.11699 of 2010 was pending in this Court till 02.08.2013. In the meanwhile, the petitioner had approached the Information Commissioner with the grievance that the Institution was not complying his order. While deciding the grievance, the Chief Information Commissioner made the aforesaid orders, even when the proceeding filed before this Court was pending till 02.08.2013. It appears that only due to the order made by the Chief Information Commissioner on 25.07.2013 the

Writ Petition was disposed of.

4. The aforesaid circumstances show the sorry state-of-affairs with regard to the functioning of the Office of Chief Information Commissioner of this State. When one proceeding, in which there was challenge to the previous order made by Chief Information Commissioner was pending in this Court, it was not proper on the part of Chief Information Commissioner to cancel the order made by his predecessor. This Court holds that the Chief Information Commissioner is not expected to recall or review the order when any proceeding is pending in this Court in which there is challenge to the order itself made by the Chief Information Commissioner.

5. In the background of the aforesaid circumstances, the right of the petitioner to get particular information needs to be considered. Though some record is produced, which is collected from the internet show that the respondent Institution is receiving grants, the learned Counsel for the respondent Institution submitted that those grants are not in respect of the staff or infrastructure of College, but that amount was received for different purpose like implementation of health programmes

etc. through NGOs by the Institution. Such grants cannot be treated as the amounts given for running the college. The learned Counsel is placing reliance on such finding given in other matter by Central Information Commissioner. There is force in this submission.

6. Though there is aforesaid circumstance, the information which was sought by the petitioner also needs to be considered. The petitioner was requesting for information with regard to benefit of free-ship scheme of the Government which was for Scheduled Caste / Scheduled Tribes students and also the benefit of scholarship given by the Government to Scheduled Caste / Scheduled Tribes students who were admitted for Engineering Course. It appears that the petitioner belongs to Scheduled Caste and his brother had taken admission in Engineering College of respondent Institution and petitioner was required to pay fees of entire Course. In view of this circumstance, the petitioner wants to know the steps taken by respondent Institution regarding implementation of free-ship Scheme of the Government and also the scholarship given by Government to Scheduled Caste / Scheduled Tribes students. He

wants that information in respect of years from 2002 to 2008, the period during which the brother of petitioner was receiving education in the college of respondent Institution.

7. Though it can be said that in strict sense the respondent Institution cannot be called as a Public Authority in view of the provision of Section 2 (h) of the Right to Information Act, the fact remains that when such Institution or College is collecting money for Scheduled Caste / Scheduled Tribes students, it needs to maintain entire record and account of that amount. Supply of such information cannot be avoided by anybody, including the respondent Institution as it is a public money and it needs to be utilised only for beneficiaries of the Scheme. In view of that aspect of the matter, this Court holds that the respondent Institution is bound to supply the information to petitioner in respect of (i) the number of reserved category students who were admitted in the Course during the years 2002 to 2008 (ii) the fees, if any, recovered from such students by the Institution (iii) the amount, if any, received by way of reimbursement from the Government in respect of such students (iv) the steps taken to see that such students receive scholarship provided by the

Government (*v*) the record of amount received during that period as scholarship for such students and (*vi*) the manner in which the amount was paid to those students. If the Institution had collected free-ship amount by way of reimbursement, then the steps taken to return that amount to the respective students from whom the fees was collected by the Institution also needs to be shown in the information. Rest of the information is not to be given.

8. With aforesaid observations, the petition is partly allowed and disposed of. Rule is made absolute in those terms.

**( T.V. NALAWADE )**  
**JUDGE**

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