

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 344 OF 2017

John Wilson Education Society,
through its authorized Trustee & Anr. .. Petitioners

v/s.

The State Chief Information Commissioner,
State of Maharashtra & Anr. .. Respondents

Mr. Vishal K. Jagwani I/b Mr. Shaikh Nasir Masih for the petitioners
Mr. Kedar Dighe, AGP for the respondent – State
Mr. Naseer B. Jahagirdar, the respondent no.2 in person

**CORAM : A.S. OKA &
M.S. SANKLECHA, J.J.**

DATED : 9th APRIL, 2019

P.C.

1. Heard the learned Counsel appearing for the petitioner.
2. The challenge in this petition under Article 226 of the Constitution of India is to the order dated 1st September, 2016 passed by the State Information Commission. The second respondent sought information under the provisions of the Right to Information Act, 2005 (for short “RTI Act”). The information was sought regarding amounts collected by the Wilson College for allowing functions to be held at its Gymkhana Ground. The impugned order has been passed in the second

appeal preferred by the second respondent.

3. The submission of the learned Counsel appearing for the petitioner is that the Gymkhana / Ground is owned by the John Wilson Education Society (for short “the said Education Society”). He submitted that a Bench consisting of two members of the State Information Commission, by the order dated 30th November, 2015 held that the said Education Society is not a public Authority within the meaning of clause (h) of Section 2 of the Right to Information Act, 2005 (for short “RTI Act”). He submitted that in the present case, the information was sought from the said Education Society. He submitted that the consistent stand of the petitioner was that the said Education Society is the owner of the Gymkhana / Ground and as the said Society is not a public Authority, an order directing to furnish the information sought by the second respondent cannot be issued against the said Education Society.

4. We have carefully considered the submissions. From the cause title of the impugned order, it appears that the second appeal was preferred against the Public Officer of the Wilson College and the first Appellate Authority under the Act of the Wilson College. From the

submissions which are recorded in the impugned judgment and order, it appears that though the application seeking information was filed to the Public Information Officer of Wilson College, for the first time in the second appeal, the second respondent impleaded the Principal of the College. It was submitted on behalf of the petitioner that the Principal of Wilson College is the ex-officio Secretary of the said Education Society and is the ex-officio Chairman of the Wilson College Gymkhana Board. It is alleged that the land on which Gymkhana is situated, has been allotted to the said Education Society and not to the Wilson College and the correspondence made by the Principal in respect of the Gymkhana is in his capacity as the Secretary of the said Education Society.

5. Following are the findings of the facts recorded by the second Appellate Authority in the impugned order on the basis of the material on record :-

(a) The correspondence between the Principal of the Wilson College on one hand and the Collector / Superintendent of land Records, Mumbai on the other hand, is made by the Principal on the letter head of the Wilson College and the correspondence has been signed by the Principal neither as the Secretary of the said Education Society nor as

the Chairman of the Gymkhana Board. He has signed the same specifically as the Principal of the Wilson College;

(b) In the letter dated 14th March, 2012 addressed by the Principal of the Wilson College, the Superintendent of Land Records has been informed that the Wilson College Gymkhana has been in the name of the Principal of the Wilson College, which was allotted on lease for the benefit of students of the Wilson College;

(c) The Principal of the Wilson College has played a major role in allowing commercial use of the Gymkhana;

(d) The amount received as a consideration for allowing commercial use is paid by the cheques drawn in favour of the Principal of the Wilson College; and

(d) The Principal of the Wilson College addressed a letter dated 14th February, 2014 regarding the grant of permission for construction of an extra Pavilion. It is mentioned by him in the letter that the existing Pavilion was insufficient to cater the need of existing students.

6. There is no reason to disturb the aforesaid findings of facts recorded by the State Information Commission on the basis of letters / correspondence made by the Principal of the Wilson College himself.

7. Moreover, it was not the case made out by the petitioner before the State Information Commission that the Wilson College is not a Public Authority within the meaning of RTI Act. There is no such stand taken in this petition. We must also note here that there is a finding recorded in the impugned order that by deeming provision under sub-Section (5) of Section 5 of the RTI Act, the Principal shall be deemed to be the Public Information Officer of the Wilson College and that is why in the impugned order directions have been issued against him.

8. Hence, in writ jurisdiction under Article 226 of the Constitution of India, there is no reason to interfere with the impugned order, which is based on appreciation of the documents on record.

9. Hence, the petition is rejected.

(M.S. SANKLECHA, J.)

(A. S. OKA, J.)