

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1577/2016

- 1] Prakash Ramchandra Rathi,
Aged about 48 years, Occu. Business,
R/o. Balaji Plots, Khamgaon, Dist. Buldhana.
- 2] Anil s/o Puranmal Khandelwal,
Aged about 47 years, Occu. Business,
R/o. Balaji Plots, Khamgaon, Dist. Buldhana.
- 3] Amit s/o Kamalkishore Sharma,
Aged about 37 years, Occu-Business
R/o. Natraj Garden Road, Khamgaon, Dist. Buldhana.

..... **PETITIONERS**

...V E R S U S...

- 1] The State Information Commission,
Bench at Amravati,
Near Vishram Bhavan, Bhatkuli, Tahsil Parisar,
Camp, Amravati.
- 2] Suresh @ Sirayam s/o Shrikisan Sharma,
Aged about Major, Occu-Business,
R/o. Farshi, Near Shitala Mata Mandir,
Khamgaon, District Buldhana.
- 3] The Chief Officer,
Nagar Parishad, Khamgaon,
Tah. Khamgaon, Dist. Buldhana.
- 4] The Public Relations and Information Officer
and City Engineer, Municipal Council,
Khamgaon, Tah.Khamgaon, Dist. Buldhana. **RESPONDENTS**

 Shri C.R.Sharma, Advocate for petitioners.

Shri D.M.Kale, Advocate for respondent nos. 3 and 4.

CORAM : A.S.CHANDURKAR, J.
DATED : 26.08.2019

ORAL JUDGMENT

Rule. Heard finally with consent of counsel for the parties.

The respondent no.2 despite service has not chosen to contest the writ petition.

2. The facts in brief are that the respondent no.2 by his application dated 04.04.2014 sought information that was available from 01.01.2013 as regards the building permission and sanctioned map that was issued by the Municipal Council to the present petitioners with regard to the construction made at Surajnagar. Further information was sought with regard to certified copies of documents that were supplied for seeking such permission. Thirdly details of all applications made by various persons for allotment of blocks in the said premises was also sought.

3. The petitioner no.3 on being noticed issued a letter dated 22.04.2014 stating therein that no information in respect of permission granted regarding Survey No.68/5, Plot No.3 be supplied to any person. In view of this letter, the Information Officer by his order dated 30.04.2014 refused to supply the information as sought. The first appellate Authority confirmed the said order in the appeal preferred by the respondent no.2. The State Information Commission by its order dated 04.12.2014 directed supply of such information. This order was however set aside in Writ Petition No.7255/2014 (Prakash Ramchandra Rathi Vs. The State Information Commission and others) on the ground that the same was passed in violation of principles of natural justice. After the proceedings were remanded, the State Information Commission allowed the appeal filed by the respondent no.2 and directed requisite information as sought to be supplied. Being aggrieved, the said order has been challenged in the present writ petition.

4 Shri C.R.Sharma, learned counsel for the petitioners submitted that the information sought by the respondent no.2 was personal in nature and in view of the provisions of Section 8(1)(j) read with clause (d) of the Right to Information Act, 2005 (for

short, 'the said Act') the same was not liable to be disclosed. No reason was given by the respondent no.2 for seeking such information which was personal in nature to the petitioners. Only for the purposes of harassing the petitioners the said information had been sought. To substantiate his contentions, the learned counsel placed reliance on the decisions in *Bihar Public Service Commission Vs. Saiyed Hussain Abbas Rizwi and Another (2012) 13 SCC 61* and *Girish Ramchandra Deshpande Vs. Central Information Commissioner and others, (2013) 1 SCC 212*. It was urged that without seeking any justification for supply of such information, the State Information Commission had allowed the application. The impugned order therefore was liable to be set aside.

5. Shri D.M.Kale, learned counsel for the respondent nos. 3 & 4 supported the submissions as made on behalf of the petitioners on the ground that the information sought was personal in nature to the petitioners and the respondent no.2 was not concerned with the same. No reason whatsoever was mentioned in the application for seeking that information. The State Information Commission failed to consider the purpose for which such information was sought. He also submitted that without giving particulars of the property with regard to which the information was sought, the application had been moved. Such vague information could not have been directed to be supplied. He referred to the decision in *Writ Petition No.2157/2012* (Mah. State Electricity Transmission Co.Ltd. Vs. Sureshkumar Jaikrishna Patil and another) decided on 20.10.2012 in that regard. It was thus submitted that the impugned order was liable to be set aside.

As noted above, the respondent no.2 has not chosen to contest the writ petition.

6. I have heard the learned counsel for the parties at length and I have perused the documents on record. As per application moved by the respondent no.2, the information sought was in respect of the building permission and sanctioned map with regard to the

property situated at Surajnagar concerning the petitioners. Further information is with regard to certified copies of documents that were submitted for grant of such permission as well as other documents sought were the copies of the applications made by various interested persons for being allotted the commercial and residential blocks therein. With regard to grant of information as to building permission and the sanctioned map, the petitioner no.3 in his letter dated 22.04.2014 has referred to such permission being granted in respect of plot no.3 from Survey No.68/5. The grant of permission to erect the construction and its sanctioned map would not fall within the meaning of the expression "personal information" as per Section 8(1)(d) read with clause (j) of the said Act. It is only the information of such nature the disclosure of which could harm the competitive position of the third party or which relates to personal information, the disclosure of which has no relationship with public activity or interest that is required to be justified as being sought in larger public interest. Insofar as information relating to building permission and supply of sanctioned map is concerned, same would therefore not fall within the purview of the aforesaid provisions. However insofar as other details sought by the respondent no.2 and information as to the applicants who had sought allotment of commercial and residential blocks is concerned, such information would fall within the purview of Section 8(1)(d) read with clause (j) of the said Act.

7. The legal position in this regard has been laid down in the decisions in *Bihar Public Service Commission* (supra) and *Girish Ramchandra Deshpande* (supra). It has been observed in the aforesaid decisions that the expression "public interest" must be viewed in strict sense that would justify denial of a statutory exemption in terms of the provisions of the said Act. The aforesaid decisions have been followed in *Maharashtra State Electricity Transmission Co.Ltd.* (supra). In the light of aforesaid law, the information as sought in the application dated 04.04.2014 at item nos. 2 and 3 would qualify as "personal information"

and hence unless there was any justification given for being supplied with that information and unless it was in public interest, the same were not liable to be so supplied. This aspect was specifically pointed out by the petitioners before the State Information Commission. However without considering this aspect, the appeal preferred by the respondent no.2 has been allowed.

8. Though it was submitted by the learned counsel for the petitioners as well as by the learned counsel for the respondent nos. 3 and 4 that necessary details as sought at item no.1 had not been specified, these details can be found in the letter dated 22.04.2014 that was issued by the petitioner no.3. He has referred to Plot No.3, from Survey No.68/5 wherein such construction has been undertaken. The information therefore only with regard to grant of building permission and sanctioned map in respect of Plot No.3 from Survey No.68/5 is liable to be supplied.

9. As a result, the order passed by the State Information Commission on 04.12.2014 is modified. The respondent no.4 shall supply copies of the building permission and sanctioned map with regard to construction made on Plot No.3 at Survey No.68/5 within a period of four weeks from today. The direction to supply other information is set aside. The writ petition is partly allowed in aforesaid terms. No costs.

JUDGE

Andurkar