

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.94 OF 2021**

SHAIKH ISMAIL ABDUL MAJID

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. P. S. Shendurnikar, Advocate for the
Petitioner.

Mr. S. B. Yawalkar, AGP for Respondents-State.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 05th SEPTEMBER, 2022.**

PER COURT:-

1. By present petition the petitioner challenges the order dated 04.09.2018 passed by the State Information Commission, Bench at Nashik thereby dismissing Appeal filed by the petitioner challenging the decision of the First Appellate Authority.

2. By his application dated 20.09.2016, the petitioner had sought information under six heads. By letter dated 10.10.2016, the Information Officer in the office of the Deputy Superintendent of Land Records, Erandol had informed the petitioner that in respect of five out of the six heads, the information does not exist. So far as the sixth head is concerned, it was communicated to the petitioner that the notes with regard to the sub division of Survey No.42 are not traceable. Aggrieved by the said information provided to him, the petitioner filed Appeal before the First

Appellate Authority. By order dated 24.10.2016, the First Appellate Authority closed the case by observing that the petitioner may file an Appeal before the District Superintendent of Land Records, Jalgaon with regard to his grievances of sub division of the concerned land. The petitioner challenged the order of the First Appellate Authority by filing Appeal No.5031/2016 before the State Information Commission, Bench at Nashik. By order dated 04.09.2018, the Appeal filed by him has been rejected.

3. Mr. Shendurnikar, learned counsel appearing for the petitioner submits that the petitioner did not receive notice of hearing of his Appeal before the State Information Commission. He invites my attention to communication dated 07.10.2019 by which the petitioner was informed that the notice for hearing of the Appeal was dispatched by ordinary post. Mr. Shendurnikar, relies upon the provisions of Rules 12 and 14 of the Right to Information Rules, 2012 (hereinafter referred to as 'Rules, 2012') and submits that the petitioner was required to be given notice of atleast 7 clear days before hearing of the Appeal. He would further submit that dispatch of notice by ordinary post is outside the purview of Rule 14 of Rules, 2012. Mr. Shendurnikar, therefore, prays for setting aside of the order and for remanding the matter for a fresh hearing.

4. Per contra, Mr. Yawalkar, learned A.G.P. appearing for the State opposes the petition. He invites my attention to the application filed by the petitioner on 20.09.2016 seeking information under the six heads. He also invites my attention to the communication dated 10.10.2016 by which the petitioner was communicated that the information sought for by him was not available. He submits that since the information itself is not available, no practical purpose would be served by remanding the matter for a fresh hearing.

5. After hearing the learned counsel for the parties it is clear that the information that the petitioner sought in his application does not exist. Even though Mr. Shendurnikar, may be right in relying on provision of Rule 12 and Rule 14 of the Rules, 2012, in my opinion no practical purpose would be served in remanding the matter for fresh hearing in peculiar facts and circumstances of the case. From the communication dated 07.10.2019, it appears that a notice of hearing was given to the petitioner, albeit by a ordinary post. Mr. Shendurnikar, claims that the petitioner did not receive the same. However, in view of the fact that the information sought for by the petitioner itself is non-existent, I do not wish to enter into the factual controversy about receipt of notice by the petitioner.

6. By the orders passed by the First Appellate Authority and the State Information Commission, the petitioner has clearly be apprised of the statutory right of Appeal with regard to his grievance of sub division of the land.

7. In the facts and circumstances of the present case, I do not find that this is a fit case for exercising extraordinary jurisdiction of this Court under Article 227 of the Constitution of India. I, therefore, do not find any merit in the present petition and the same is dismissed without any orders as to cost. It is however made clear that I have not expressed any opinion on the merits involved in the grievance of the petitioner relating to sub division of the plot.

(SANDEEP V. MARNE)
JUDGE