

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

925 WRIT PETITION NO.6802 OF 2017

LAXMAN NARSAYYA BURA
VERSUS
THE STATE INFORMATION OFFICER STATE INFORMATION
COMMISSION NASHIK AND OTHERS

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Advocate for Petitioner : Mr. S.K. Chavan
AGP for Respondent 1 : Mr. A.A. Jagatkar
Advocate for Respondents 2 & 3 : Mrs. Suvarna M. Zaware

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CORAM : SMT. BHARATI H. DANGRE, J.
DATED : 09/02/2022

PER COURT :

1. Heard the learned counsel for the petitioner and perused the writ petition filed by him assailing the impugned orders.
2. The petitioner preferred an application before the respondent No. 3 Information Officer cum Deputy Education Officer (Primary) Zilla Parishad, Ahmednagar seeking the certain information in respect of one lady employee in the office of Zilla Parashid, for the period commencing from 6.6.2000 to 22.7.2004. The information sought being (a) Details of her commuted leave and the orders sanctioning such leave, (b) Copies of all the enquiry proceedings initiated against her in respect of her working in the office, from time to time in her administrative capacity and (c) Applications preferred

by her in the aforesaid period for availing Leave Travel Concession (LTC) and the orders granting the same as well as the bills of LTC.

3. Since no information was supplied by the respondent No. 3, within the stipulated period in terms of the application preferred by the petitioner on 30.9.2013, he preferred an appeal before the First Appellate Authority i.e. respondent No. 2 under section 19(1) of the Right to Information Act, 2005.

The Appellate Authority by his letter dated 29.1.2014 made available the information about the LTC facility availed by the employee, as sought for and the application came to be disposed of.

This constrained him to institute second appeal to the respondent No. 1 State Information Officer (State Information Commission Bench at Nashik), who after affording an opportunity of hearing to the petitioner and to all the concerned rejected the appeal on 7.3.2015.

4. Careful reading of the impugned order would reveal that the information sought was in respect of a woman employee working in the office and the details were sought about the leave availed by her as well as the memos/notices issued to her in relation to discharge of her duties in office and by specifically recording that this information of lady employee is her personal information and do not involve any

larger public interest and hence the decision of the lower authorities in not supplying the information was found to be perfectly justified and the appeal is dismissed.

The respondent No. 1 relied upon a decision of the Apex Court in the case of **Girish Ramchandra Deshpande Vs. Central Information Commissioner and others** reported in 2012 AIR SCW 5865, while rendering its finding.

5. Pertinent to note that in the scheme the Right to Information Act, 2005, contemplate a scheme, which provides for setting out a practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of any public authority, which is based on the premise that of democracy contemplate an informed citizenry and transparency of information which is vital to its functioning. The scheme of the Enactment make it imperative for disposal of the request seeking information within a period stipulated and with the consequences to follow as provided in section 7, subject to the provisions contained in section 8 which provide for exemption from disclosure of information.

The said provision in section 8 which begins with non obstinate clause, set out that notwithstanding anything contained in

this Act, there shall be no obligation to give any citizen various information set out in the said section and for determination of the present case the relevant clause is clause (j) which reads thus :-

“(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information :”

6. The term ‘information’ is being defined in section 2 (f) mean that any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

‘Right to information’ under section 2 (j) is defined as right to information accessible under this Act which is held by or under control of any public authority. The information which a citizen is entitled to can be obtained by him by making a request to Information

Officer and it is imperative for the Information Officer to dispose of the said request either by granting the same or rejecting the said request for any reasons specified in sections 8 and 9.

The information which relates to personal information disclosure of which has no relationship to any public activity or interest can be declined and there is no obligation upon the Information Officer to provide such information.

7. In the present case the information sought by the petitioner pertains to the service details of a woman employee in the office including the application made by her for commutation leave and the orders sanctioning such leave.

The information sought also included the details of her service career and about the memo issued to her and the action/enquiry initiated against her in respect of her administrative functioning. This information has been refused on the ground that it fall within purview of section 8 of the Act.

8. The Hon'ble Apex Court in the case of Girish Ramchandra Deshpade (supra), was confronted with a question, whether Central Information Commissioner (for short 'CIC'), acting under the Right to Information Act, 2005 was right in denying information regarding the third respondent's personal matters pertaining to his service career

and also denying the details of his assets and liability, movable and immovable properties on the ground that the information sought for was qualified to be personal information as defined in section 2 (j) of the Act.

The CIC had refused to provide the said information on the ground that it is a personal information, which is exempted from disclosure under clause (j) of section 8 (1) of the RTI Act. It was also observed by the CIC that the information which was denied by the appellant essentially falls in two parts (i) relating to the personal matters pertaining to his service career and (ii) assets and liabilities, movable and immovable properties and other financial aspects. The aforesaid information was qualified to be personal information as defined in clause (j) of section 8(1) of RTI Act and by recording that appellant was not able to convince the Commission that disclosure thereof is in larger public interest, the application was rejected.

9. The Apex Court expressed agreement with CIC in following paragraph.

“13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined

in clause (j) of Section 8 (1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

In the wake of above observations by the Apex Court and by specifically, recording that the petitioner has not made a case of bona fide public interest, in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under section 8(1)(j) of the RTI Act, the relief was rejected.

10. The aforesaid position of law as enunciated by the Apex Court squarely covers the case of the petitioner.

The information sought about the service details including commuted leave, disciplinary action, memos issued is qualified as

‘personal information’ and since the petitioner has not been able to demonstrate that it’s disclosure is in larger public interest, the respondent No. 1 has rightly rejected the appeal.

Finding no reason to cause any intervention in the same, the writ petition is dismissed. Easy on costs.

[SMT. BHARATI H. DANGRE, J.]

ssc/