IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 64 OF 2018
(The Principal, Swavlambi Junior College of Education, Wardha Vs. The State Information Commissioner and another)

WITH

WRIT PETITION NO. 150 OF 2018
(The Principal, Swavlambi Junior College of Education, Wardha Vs. The State Information Commissioner and another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. V.P. Marpakwar, Advocate for Petitioner

CORAM : MANISH PITALE, J.

DATE : 08th JUNE, 2022

By these two writ petitions, the Principal of a Junior College is before this Court, challenging similar orders passed by the respondent – State Information Commission, whereby appeals filed by the respondent No.2 were allowed and certain information sought under the provisions of the Right to Information Act, 2005, was directed to be provided to respondent No.2.

2. In Writ Petition No. 64/2018, the respondent No.2 sought information from the Information Officer from the petitioner as regards the proposal for appointment of one of the employees in the College. The said information was refused, as being third party information. Aggrieved by the same, the respondent No.2 approached the First Appellate Authority. The appeal was

dismissed, as a consequence of which, the respondent No.2 filed further appeal before the respondent No.1 – State Information Commission.

3. By the impugned order, dated 29/06/2016, the respondent – State Information Commission allowed the appeal and directed that the information be given to the respondent No.2.

4. Similarly, in Writ Petition No.150/2018, the respondent No.2 applied for information pertaining to attendance registers and other such information concerning the said College. It appears that the information as sought was partly given to the respondent No.2. Aggrieved by the same, the respondent No.2 filed first appeal, which was dismissed and, therefore, he filed a further appeal before the State Information Commission. The said appeal was allowed by order dated 29/06/2016 and it was directed that the entire information be provided to the respondent No.2.

5. In these writ petitions, this Court issued notice and granted ad-interim stay of the impugned orders. Despite service of notices on the respondents, they have chosen not to appear before this Court. In these circumstances, the writ petitions are taken up for final disposal.

6. Mr. V.P. Marpakwar, learned counsel appearing for the petitioner in both the petitions submitted that a perusal of the applications seeking information in the present case did not properly disclose the reason for seeking such information. There

can be no debate about the fact the information sought pertained to third party and that, therefore, sufficient reasons ought to have been given by the respondent No.2 under Section 8(1-j) of the aforesaid Act for grant of such third party information. No such reasons were put-forth and therefore, the Information Officer as well as the First Appellate Authority were justified in rejecting the claims made by respondent No.2. It was submitted that the respondent - State Information Commission failed to appreciate the true scope of Section 8(1-j) of the said Act and erroneously allowed the appeals, thereby directing such information be given to the respondent No.2.

7. As noted above, the respondents chose not to appear before this Court.

8. This Court has considered the material on record. A perusal of the same shows that respondent No.2 had applied for the information, which was third party information. The aforesaid Act has taken care of the aspect that when third party information is sought, invasion of the privacy of individual is avoided and such personal information can be disclosed only if it is related to public activity or public interest for the authorities under the said Act justifying disclosure of such information.

9. In the present case, quite apart from the fact that the respondent No.2 did not specify at any stage, the reason why such information was sought, there was no attempt made to satisfy the aforesaid requirement of Section 8(1-j) of the said Act. There can be no quarrel with the proposition that even personal information

of third party can be disclosed under the provisions of the said Act, but, the same is subject to riders provided under Section 8 (1-j) of the said Act. Unless the person seeking such information satisfies the authorities that requirements of Section 8(1-j) of the Act are satisfied, direction to issue such information cannot be granted.

10. The Information Officer as well as the First Appellate Authority in the present case found that such information could not be disclosed by operation of Section 8(1-j) of the Act. But, the respondent – State Information Commission proceeded to reverse the orders and gave a positive direction to disclose such information.

11. A perusal of the impugned order does not demonstrate as to whether the State Information Commission applied the standards and the riders specified in Section 8(1-j) of the said Act, before giving the positive direction. It is merely stated that such information would be in the interest of transparency of the administration. There is no finding as to in what manner the information was related to any public activity or public interest or that the State Information Commission was satisfied that larger public interest justified the disclosure of such information. So long as necessary ingredients of Section 8(1-j) of the said Act were not discussed or found to be satisfied, the State Information Commission ought not to have reversed the orders.

12. It is evident from the documents brought to the notice of this Court that the respondent No.2 appears to be a disgruntled

former member of the Trust, which runs the concerned College. This aspect was also completely ignored by the State Information Commission while passing the impugned order.

13. In view of the above, it is found the impugned orders are unsustainable. Accordingly, the writ petitions are allowed.

14. Impugned orders passed by the State Information Commission are quashed and set aside. Pending applications, if any, stand disposed of.

JUDGE

Digitally signed by:MILIND P DESHPANDE
Signing Date:16.06.2022 10:59