

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

WRIT PETITION (WP) NO.339 OF 2020

- 1) Public Information Officer cum Head Clerk, Shri Shivaji Art, Commerce and Science College, Motala, District Buldhana, Shri Panjabrao Baburao Deshmukh.
- 2) First Appellate Authority cum Principal, Shri Shivaji Art, Commerce and Science College, Motala, District Buldhana. Dr. Haridas Gokuldas Patil.

.... Petitioner(s)

// VERSUS //

- 1) Commissioner, State Information, the State Information Commission, Amravati, District Amravati.
- 2) Ramesh Shankar Mandalkar,
Aged major, Occ. Nil, R/o Motala, Juna,
Ward No.1, Tq. Motala, District Buldana.

... Respondent(s)

Shri Abhay Sambre, Advocate for the Petitioners
Ms H.N. Jaipurkar, AGP for the Respondent No.1/State

**CORAM : ANIL S. KILOR, J.
DATED : 28.02.2023**

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

3. In this writ petition, a challenge is raised to the order passed by the State Information Commissioner, Amravati dated 01.08.2019, directing to the Public Information Officer to provide the information sought by the respondent No.2 and further imposed penalty of Rs.25,000/- upon the petitioner No.1 and recommended disciplinary inquiry against the petitioner No.2, for not supplying the information within stipulated time.

4. The learned counsel for the petitioner points out that the applicant i.e. the respondent No.2 is not connected with the college, namely Shri Shivaji Art, Commence and Science College, Motala, District Buldhana and even the information which was sought under the Right to Information Act, 2005 (for short "the Act"), was not related with the respondent No.2 and the purpose for seeking information was also not a public purpose.

5. It is submitted that the State Information Commissioner without examining the above referred facts directed the Public Information Officer to provide the information contrary to the provisions of the Act.

6. It is submitted that without issuing show cause notice to the petitioners, imposing penalty upon petitioner No.1 and recommending

disciplinary inquiry against petitioner No.2, is in violation of principles of natural justice. He therefore, submits that the impugned order is erroneous and liable to be quashed and set aside.

7. The learned AGP supports the impugned order.

8. None for the respondent No.2, though served long back.

9. After going through the record, it is revealed that the respondent no.2 is no way connected with the college, namely Shri Shivaji Art, Commence and Science College, Motala, District Buldhana. The purpose mentioned in the application under the Act also does not disclose that it is for a public purpose or in the interest of the public. The information is also not in relation with the respondent No.2.

10. Thus, in the said backdrop, it was obligatory on the part of the State Information Commissioner to examine the above referred factors before passing the impugned order. However, without recording any such findings, the State Information Commissioner has allowed the second appeal, which is contrary to the provisions of the Act.

11. Moreover, from the record, it is apparent that without issuing any show cause notice and calling thereby explanation from the petitioners,

the penalty has been imposed upon Public Information Officer/petitioner No.1 and recommended disciplinary inquiry against the First Appellate Authority Cum Principal/petitioner No.2.

12. The Co-ordinate Bench of this Court in the case of *Dr. Hedgewar Seva Samiti Vs. Purushottam*¹, has held that without granting opportunity of being heard, after issuing show cause notice, on the issue of imposition of penalty, the order imposing penalty vitiates. In the circumstances, the order of the State Commissioner Officer, imposing penalty also vitiates.

13. Hence, the order passed by the State Information Commissioner needs to be quashed and set aside. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The impugned order passed by the State Information Commissioner dated 01.08.2019, is hereby quashed and set aside.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]