

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

WRIT PETITION (WP) NO.2416 OF 2018

- 1) Public Information Officer cum
Superintendent, Shri Shivaji Education
Society, Amravati, D.D. Bagal.
- 2) First Appellate Authority cum Secretary,
Shri Shivaji Education Society, Amravati,
Shri S.S. Khade.

.... Petitioner(s)

// VERSUS //

- 1) The State Information Commission, thr.
its Commissioner, Amravati, District
Amravati.
- 2) Ramesh Shankar Mandalkar,
Aged major, Occ. Nil, R/o Motala, 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 17.01.2018, directing to the Public Information Officer to provide the information sought by the respondent No.2 and further imposed penalty of Rs.5,000/- upon the petitioner No.1, 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 Education Society 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. He therefore, submits that the impugned order is erroneous and liable to be quashed and set aside.

6. The learned AGP supports the impugned order.

7. None for the respondent No.2, though served long back.
8. After going through the record, it is revealed that the respondent no.2 is no way connected with the college, namely Shri Shivaji Education Society. 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.
9. 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.
10. In the circumstances, as it is not established that the information sought by the respondent No.2 is permissible under the Act, to be provided, the penalty cannot be imposed for not supplying such information. 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 17.01.2018, is hereby quashed and set aside.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]