

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

WRIT PETITION NO.4445 OF 2018

Young Engineers Education Society,
 Kurkheda through its President Devendra
 Murari Pise, aged 48 yrs., office at Main
 Road, Kurkheda, Tah. Kurkheda,
 Dist. Gadchiroli – 442605. **PETITIONER**

...VERSUS...

1. The State Information Commissioner,
 State of Maharashtra, Nagpur Bench,
 Administrative Building No.2, First Floor,
 Civil Lines, Nagpur – 01.
2. Shri Raghuvir Soma Bawankule,
 aged major, Occ: Service, Bondegaon,
 Ward No.1, Brahmapuri, Th. Brahmapuri,
 Dist. Chandrapur – 442401.
3. The Deputy Director of Education,
 Nagpur Division, Balbharti, Opp. N.I.T.
 Garden, Dhantoli, Nagpur – 12. **RESPONDENTS**

 Shri B. G. Kulkarni, Advocate for Petitioner.
 Mrs. H. N. Jaipurkar, AGP for Respondent Nos.1 & 3/State.
 Shri S. S. Taram, Advocate for Respondent No.2.

CORAM: **ANIL S. KILOR, J.**
DATE: **9th FEBRUARY, 2023.**

ORAL JUDGMENT:

The order passed by the State Information
 Commissioner in Appeal No.837/2018 dated 20.04.2018 directing

the Public Information Officer to provide information sought under the application within seven days from the date of receipt of the order is the subject matter of this petition.

2. At the outset, the learned counsel for the respondent raised a preliminary objection to the tenability of the petition on the ground that the present petition is filed by the society through the President, however, no resolution authorizing the President to file the present petition is placed on record.

3. In reply the learned counsel for the petitioner has drawn attention of this Court to the affidavit dated 06.02.2023 and the resolution filed along with the same authorizing the President to file the present petition. In that view of the matter, I do not find any substance in the preliminary objection, accordingly, it is rejected.

4. In the present matter, there is no dispute that the petitioner is an educational society and the respondent no.2 was working in the said society and on finding that he produced the forged and fabricated Degree of M.Ed. while obtaining employment, a police complaint was lodged against him and

thereupon, the Crime No.267/2017 was registered and Criminal Case No.10/2018 was filed against him, which is pending.

5. From the record it is evident that, the respondent no.2 was thereafter terminated by the petitioner society.

6. It is alleged that, after termination, to pressurize and harass the petitioner society, the respondent no.2 has taken recourse to the provision of Right to Information Act and as many as forty applications were filed, so far, in addition to thirty-five false complaints to the various authorities against the petitioner society.

7. It is submitted that one of such application was made on 11.12.2017 i.e. after more than one year of his termination seeking the following information namely:

- [i] Copy of complete proposal submitted by Society/Principal of the Thoravi Arts and Science Junior College Kurkheda, Tahsil Kurkheda, District Gadchiroli, for grant of no objection certificate for filling up the post in the year October/September,

2017.

[ii] Permission dated 23.11.2017 issued by the Deputy Director of Education bearing letter No.HSC/C/Permission/9572/2017.

It is stated in the application that, the said information was required for Court purposes.

8. Thereupon, in compliance with section 11 of the Right to Information Act, 2005, the Deputy Director of Education issued letter to the petitioner society informing that the authority intends to disclose the information sought by the respondent no.2 and if the petitioner wants to make any submission in this regard the same shall be made.

9. In response to the same, the petitioner society submitted its objection in writing on 28.12.2017.

10. Considering the submissions made by the petitioner society and further on the ground that the information sought by the respondent no.2, was in relation to third person, the

application was rejected.

11. Thereafter, the respondent no.2 preferred the first appeal wherein vide order dated 07.02.2018, the order of the Assistant Director of Education was maintained. Feeling aggrieved by the same the respondent no.2 filed the second appeal before the State Information Commissioner which came to be allowed vide impugned order and directions were issued to the Public Information Officer to provide the information as sought by the respondent no.2 within seven days from the date of receipt of the copy of order.

12. I have heard the learned counsel for the respective parties.

13. Shri B. G. Kulkarni, learned counsel for the petitioner submits, that admittedly the information sought by the respondent no.2 is not related with him and after termination of the respondent no.2 in the year 2016 he is no way connected with the petitioner or its colleges. Therefore, the information sought is in relation to the third person and the purpose behind seeking such information is not any public purpose. The society therefore,

opposed disclosure of such information and it was rightly not provided by the Public Information Officer as well as by the first appellate authority. It is submitted that, however, without recording the proper reasons for allowing the second appeal, the appeal was allowed.

14. It is submitted that the petitioner society submitted its objection in detailed before the State Information Commissioner, however, there is no reference to it or whisper made about the same.

15. On the other-hand, the learned counsel for the respondent no.2 supports the order of the Commissioner.

16. The learned AGP Mr. Thakare supports the impugned order.

17. In the back-drop of rival submissions, I have perused the petition, the documents filed along with the petition and the impugned order directing the Public Information Officer to supply the information sought by the respondent no.2 within seven days from the receipt of order.

18. In this case, there is no dispute that the petitioner was terminated in the year 2016 and the application was moved seeking information on 11.12.2017 i.e. after more than one year. Thus, on the date of application, the respondent no.2 was no way connected with the college or school run by the petitioner society.

19. It is also clear from the information sought by the respondent no.2 that the information sought by him was not related with him, but he was seeking information relating to third person and therefore, the Public Information Officer rightly issued notice under section 11 of the Act and informs its intention to disclose the information and asked the society to submit its say if any in this regard.

20. Accordingly objection was raised by the society on numerous grounds including the nuisance created by the respondent no.2 by making false complaints to the various government authorities and by making applications under the Right to Information Act. The Public Information Officer considering the reply of the petitioner informed the respondent no.2 that such information cannot be provided. Thereafter the first appellate Court also rightly rejected the first appeal vide order

dated 07.02.2018.

21. However, the State Information Commissioner ignoring the submissions filed by the petitioner society which runs in three pages and without dealing with any of the objection raised by the petitioner decided the application in favour of the respondent no.2.

22. From the observations made in the impugned order it can be seen that the Commissioner has observed that, the information is not in respect of third party. But no reasons are recorded that, on what basis the Commissioner has reached to said conclusion.

23. Furthermore, as I have already observed that considering the date of termination of the respondent no.2, the date of application and the fact that the information sought by the respondent no.2 is not in relation with service tenure and is no way connected with respondent no.2, undisputedly, the information is in respect of third person. In such circumstances, before directing to provide the information as regards third person, it is obligatory on the part of the Commissioner to record

the observations and findings whether such information is required for public purpose or in the public interest. On the other hand the disclosure of which would cause unwarranted invasion of privacy.

24. However, the Commissioner without recording any such reasons allowed the second appeal. In the circumstances, I have no hesitation to hold the impugned order is erroneous and it is liable to be quashed and set aside. Accordingly the petition is allowed in above terms.

(ANIL S. KILOR, J.)

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