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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 WRIT PETITION NO. 9917 OF 2024

SHAIKH RAIS BASHIR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY
AND OTHERS

Mr.S.S.Bora, Advocate for the Petitioners.

Mr.V.M.Kagne, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : SEPTEMBER 12, 2024

PER COURT :

1. After hearing the learned Advocate for the Petitioners and the learned AGP, it is obvious that the Tahsildar, Tahsil Office, Aurangabad, Shri Ramesh Mundlod, has no explanation as to why the directions issued by the Chief Information Commissioner dated 29.09.2023, have not been complied with for a year.

2. The record reveals that the Tahsildar is resisting the divulging of the information. Costs granted by the State Information Commissioner, have been paid, but the records are not being supplied.

So also, the Chief Information Commissioner had observed in paragraph 'U' [at page No.35-3] as under :-

“उ. प्रस्तुत प्रकरणात, तक्रारदार यांना त्यांच्या माहिती अर्जांवर आवश्यक असलेल्या माहिती संदर्भातील फेरफारचा अभिलेख शोध घेऊनही उपलब्ध होत नाही. ही गंभीर बाब आहे. कारण तक्रारदार यांनी मागणी केलेल्या माहिती संदर्भातील अभिलेख हा कायमस्वरूपी जतन करून ठेवावयाचा आहे. असे असताना असा फेरफारचा अभिलेख गहाळ झाला असल्याचे सकृददर्शनी निदर्शनास येत आहे. अतः या प्रकरणी वर्तमान जन माहिती अधिकारी यांनी आयोगाचे आदेश प्राप्त होताच पंधरा दिवसांच्या आत कार्यालयातील दोन कर्मचारी यांचा गट तयार करून तक्रारदारास आवश्यक असलेल्या फेरफार संचिकेचा कसोशीने शोध घ्यावा. अशी कार्यवाही करताना रोजनामा ठेवण्यात येऊन दैनंदिन कामकाजाची नोंद त्यात घेण्यात यावी. या कार्यवाही दरम्यान उपलब्ध झालेली माहिती तक्रारदारास कलम ७ (६) नुसार विनामूल्य उपलब्ध करून द्यावी. मात्र अशा कार्यवाहीनंतरही माहिती उपलब्ध न झाल्यास माहिती उपलब्ध नसल्याची बाब (उपलब्ध वस्तुस्थितीसह जसे अभिलेख गहाळ झाला / नष्ट झाला / माहितीसंदर्भातील अभिलेख कार्यालयाच्या अभिलेखाचा भाग नाही/ माहिती संदर्भातील अभिलेख आवश्यक कार्यवाहीकरता वरिष्ठ कार्यालयात सादर केला/ न्यायालयीन प्रकरणांमुळे अभिलेख न्यायालयात सादर केला इ.) शपथपत्राआधारे नमुद करून असे मुळ शपथपत्र तक्रारदारास उपलब्ध करून द्यावे व त्याची एक प्रत आयोगास सादर करावी. ”

3. The said Tahsildar named above, is present in the Court. The learned AGP submits that he has no explanation to offer as to why the orders were not complied with. It is conceded that the District

Collector had also ordered him to comply with the said directions. In these circumstances, we could have directed disciplinary proceedings against the said Tahsildar named above. However, in order to grant him a reasonable opportunity of hearing and to enable the District Collector to follow the due procedure laid down in Law, we direct the District Collector, Aurangabad to refer to section 10 of The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. All those persons / Officers who are guilty of delaying the compliance of the order of the Chief Information Commissioner, shall be subjected to such proceedings. Needless to state, adequate opportunity for defending them be provided and the principles of natural justice shall be adhered to.

4. If the District Collector comes to a conclusion that any of such Officers or the said Tahsildar, are found guilty, appropriate action can be initiated. We make it clear to the District Collector that the action should be commensurate to the mis-demeanour proved and shall not be an eye-wash or a farce only to create a picture that some action has been taken. If the District Collector notices that certain documents

are taken out from record, the direction of the Chief Information Commissioner to register criminal offences against such Officers shall be complied with forthwith.

5. The Petitioners who have a photostate copy of a particular document, shall create an additional photostat copy under their signature to be forwarded to the above named Tasildar for verification and for re-construction of their record. This exercise of re-construction shall be completed within 30 days from today.

6. Needless to state, the re-construction of the record would not rescue the erring Officer from facing disciplinary action.

7. With the above directions, **this Writ Petition is disposed off.**

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)