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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 40 OF 2024

Mahmood Mahboob Shaikh

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Sandeep Phatak for petitioner.

Smt. P. H. Kantharia, Government Pleader with Smt. Fatima Lakadawala, AGP for respondent no.1-State.

Ms. Oorja Dhond i/by Mr. S. K. Sonawane for respondent nos.2 to 5/BMC.

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**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 23rd JULY, 2024

P.C.:

1. Heard Mr. Phatak, learned counsel for the petitioner, learned Government Pleader representing the respondent no.1-State and Ms. Dhond, learned counsel representing respondent nos.2 to 5-BMC.

2. This Public Interest Litigation petition has been filed with the following prayers: -

"[A] That this Honourable Court be pleased to call for the entire record of work order no. SCR-883.

[B] That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, directing the Respondent No.2 Corporation to upload all the public information including the measurement book, payment certificates, challans, bills of the

materials used in the project, lab reports, weight slips and photographs of this project viz. SCR-883 and all other projects undertaken by the Respondent No.2 Corporation, on the official website of the Corporation within such time as this Honourable Court deems fit.

[C]That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, holding that the action of the Respondent No. 2 to 5 in not furnishing the required information to the Petitioner is illegal and against the provisions of the Right to Information Act, 2005.

[D]That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, directing the Respondent No.2 Corporation and its respective Public Information Officer to furnish the information sought for by the Petitioner in his applications dated 16.01.2023, 13.07.2023 and 21.08.2023 immediately.

[E]That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, directing the Respondent No.2 Corporation to decide and make investigation into the complaints filed by the Petitioner dated 17.07.2023 and 28.08.2023 [Exh-O] and submit a report to this Honourable Court.

[F]That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, directing the Respondent No.2 Corporation to recover the amount from the concerned errant officers and from the Respondent No.7.

[G]That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950,

directing the Respondent No.2 Corporation to grant sanction for the prosecution of the errant municipal officers/servants of the Respondent No.2 Corporation for the misuse of public funds in respect of the Work Order in issue viz. SCR-883 and be pleased to direct the Respondent No.6 to make thorough investigation in the matter.

[H]That pending hearing and final disposal of this Public Interest Litigation, as and by way of interim relief, this Honourable Court be pleased to direct the Respondent No.2 Corporation and the respective Public Information Officers to furnish the information sought for by the Petitioner in his applications dated 16.01.2023, 13.07.2023 and 21.08.2023.

[I] That pending hearing and final disposal of this Public Interest Litigation, as and by way of interim relief, this Honourable Court be pleased to direct the Respondent No.2 Corporation to grant sanction for prosecution of the concerned responsible municipal officers/servants and also initiate the departmental enquiry against them for dereliction of public duty.

[J] That pending hearing and final disposal of this Public Interest Litigation, as and by way of interim relief, this Honourable Court be pleased to direct the Respondent No.2 Corporation to start uploading all the documents and information on its website for the purposes of access to the citizens.

[K]Ad interim relief in terms of prayer Clause [H], [I] and [J] be awarded in favour of the Petitioner.

[L]That the costs of this Public Interest Litigation be awarded in favour of Petitioner against Respondent, by this Honourable Court.

[M]For such other orders as justice and convenience may demand from time to time be passed in favour of the Petitioner by this Honourable Court."

3. The prayers made in the PIL petition can be classified in two sections, though all relate to some work order bearing No.SCR-883.

4. The first set of prayers made are in relation to certain applications said to have been preferred by the petitioner under the Right to Information Act, 2005 (hereinafter referred to as "the Act of 2005") seeking some information from the respondent-Corporation. The direction has, thus, been sought that the respondent-Corporation should be directed to upload all the public information, including measurement book etc. relating to the said project on its website.

5. Our attention has been drawn to Section 4 of the Act of 2005 which obligates public authorities to maintain all its records in a proper manner and to ensure that all records that are appropriate to be computerized, are computerized and connected through the network all over the country so that access to such record is facilitated. It also obligates the public authorities to publish certain other informations.

6. It is to be seen that Section 4 of the Act of 2005 obligates the public authorities to maintain the records and computerize the same subject to availability of resources. Accordingly, the respondent no.2-Corporation is also under the said obligation and hence, we direct that the respondent no.2-Corporation shall fulfill the obligations as per mandate of Section 4 of the Act of 2005.

7. As regards other prayers in respect of the informations not being provided to the petitioner which have been sought by him under the Act of 2005, we may observe that under Sections 18 and 19 of the said Act the State Information Commission has been vested with adequate authority for

redressal of grievances where information is not being provided or inadequate information is being provided to the persons seeking such information.

8. Accordingly, we provide that in respect of the informations, which allegedly are not being provided to the petitioner, he may approach the State Information Commission by invoking provisions of Sections 18 and 19 of the Act of 2005 where the grievances raised shall be redressed by the Commission in accordance with law.

9. The second set of prayer relates to direction sought to be issued to the respondent-Corporation to investigate into certain complaints said to have been made by the petitioner on 17th July, 2023 and 28th August, 2023. In this regard, learned counsel for the petitioner himself has stated that the petitioner has applied for seeking certain information and it is on availability of such information that a definite view can be formed about the alleged illegality in respect of the work order issued pertaining to SCR-883. Thus, the said prayer, at this juncture, cannot be granted.

10. The PIL petition is, thus, disposed of in the aforesaid terms.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)