



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 3362 OF 2011

The Secretary, Dr. Babasaheb Ambedkar Smarak Samiti,
Diksha Bhoomi, Nagpur,
Tah. And District – Nagpur,
Shri Sadanand Fulzele, aged about 83 years,
R/o Hanuman Temple Road, Dharampeth,
Nagpur.

...PETITIONER

Versus

- 1] The State Information Commissioner,
Nagpur Bench, Civil Lines, Nagpur.
- 2] Shri Janardhan s/o Gulabrao Moon,
President, Nagrik Hakka Sanrakshan Manch,
791, Nagsen Bhawan, Nagpur.
- 3] The First Appellate Authority and
the President Dr. Babasaheb Ambedkar Smarak Samiti,
Diksha Bhumi, Nagpur.

...RESPONDENTS

Shri C.S. Kaptan, Senior Counsel with Shri H.S. Chawhan, Counsel
for the petitioner.
Shri A.B. Patil, Counsel for respondent no.1.
None for respondent nos. 2 and 3.

CORAM : ANIL L. PANSARE, J.

DATE : OCTOBER 1, 2024

ORAL JUDGMENT :

The petitioner – Trust is aggrieved by order dated
23/5/2011 passed by respondent no.1 – State Information
Commissioner, Nagpur, in appeal filed by respondent no.2

under Section 19(3) of the Right to Information Act, 2005 (Act of 2005). The appellate authority has allowed the appeal and directed the petitioner – Trust to furnish information as sought by respondent no.2.

2] Heard Shri C.S. Kaptan, learned Senior Counsel for the petitioner and Shri A.B. Patil, learned Counsel for respondent no.1. None appears for respondent nos. 2 and 3.

3] The learned Senior Counsel for the petitioner submits that respondent no.2 had filed two applications seeking information under the Act of 2005. The information sought through the second application, which pertains to Teachers in the College run by the Trust, has been furnished to respondent no.2. He submits that the Trust is aggrieved by the directions given by respondent no.1 to furnish documents sought under the first application, wherein respondent no.2 has sought copy of Schedule – I of the Trust, which is even otherwise available in the public domain and, therefore, need not be furnished. The other information sought in the said application was under the presumption that the memorial,

standing at Deekshabhoomi, has been declared as 'National Memorial' and accordingly information has been sought to furnish the correspondences made between the memorial committee and the State/Central Government as also copy of agreement.

4] The learned Senior Counsel for the petitioner submits that since the memorial under question has been not declared as national memorial, there arises no question of making any correspondence to that effect. In other words, it is submitted that the said information is not available with the Trust. So far as information under second application is concerned, which relates to furnishing details of the Teachers in the College run by the petitioner, the said information was furnished to respondent no.2 and, therefore, he could not have filed appeal on that ground.

5] My attention is invited to the ground raised by the petitioner in this context, wherein it is alleged that information regarding College has been furnished. In response to the said ground, respondent no.2, in his reply, has admitted the

contents of the said paragraph. Thus, it is rightly argued that the information having been furnished, respondent no.2 ought not have filed appeal.

6] The learned Counsel for respondent no.1 submits that the statement, which has been made before this Court, were not made before respondent no.1 because none appeared for the petitioner before respondent no.1 and, therefore, the petitioner was directed to furnish the information.

7] Respondent no.2 is absent and, therefore, the statement made by the learned Senior Counsel for the petitioner stands uncontroverted.

8] In view thereof, one will have to accept that the information, as sought, is/was not available with the petitioner – Trust and, therefore, the Trust could not have been directed to furnish the information. So far as information in respect of Teachers is concerned, the same was furnished and, therefore, there was no reason to file appeal on this count.

9] Accordingly, the writ petition is allowed. Order

dated 23/5/2011 passed by respondent no.1 – State Information Commissioner, Nagpur, in Appeal No. 149/NAG/2011, is quashed and set aside.

10] Rule is made absolute in the above terms.

JUDGE

Sumit