



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11458 OF 2024

Kusum Shankarrao Mahavarkar & another ...Petitioners

VERSUS

The Commissioner
State Information Commission & anotherRespondents

Mr. V. B. Jadhav, Advocate for the Petitioners.
Mrs. M. L. Sangeet, AGP for the State.

CORAM : R. M. JOSHI, J.
DATE : 23rd SEPTEMBER, 2025.

PER COURT :

1. None for the contesting Respondent. Absence of the contesting Respondent indicates that he has no intention to oppose the Petition.
2. Heard learned counsel for the Petitioners and learned AGP for the State.
3. Petitioners are aggrieved by the order passed by the second appellate authority i.e. State Information Commission dated 14.06.2024 in Second Appeal No. 5734/2022 under the provisions of Right to Information Act.

4. Learned counsel for Petitioners has drawn attention of the Court to the Application made by contesting Respondent seeking information from the Public Information Officer, Education Officer, Zilla Parishad, Latur. He drew attention of the Court to the note to the said Application wherein it was stated that the information available with this office to be provided and the information may not be called from the school. This Application came to be rejected by the Information Officer by order dated 13.04.2022 on the ground that information is not available. First appeal came to be filed against the appellate authority wherein also information was sought only from the office of Education Officer. This appeal came to be rejected by order dated 25.04.2023. It is thereafter second appeal came to be filed by joining present Petitioners as party Respondents to the appeal.

5. It is the contention of learned counsel for Petitioners that the Petitioners though were joined as Public Information Officer and First Appellate Authority, none of the proceedings were initiated before them. It is his submission that the Application clearly

indicates that the information was sought from the office of Education Officer and not from the school concerned.

6. Learned AGP sought to support the impugned order by making reference to the affidavit-in-reply filed by Sanjay Bhagwanrao Dakhole on behalf of the State Information Commission.

7. There cannot be any dispute that ordinarily information is maintained by the school and it was open for the Education Officer to call upon the school to provide the said information. Here in this case, however, there is a specific note in the Application that the information be provided if it is available with the office of Education Officer and not to be called from the school. Once such a request is made, the question of any default on the part of the Public Information Officer of the school or the first appellate authority does not arise. While passing the impugned order, the authority has failed to take into consideration the Application of Applicant himself. In such circumstances, the order passed against the Petitioners from whom information was never sought cannot sustain.

8. In view of above discussion, the Petition is allowed.
Impugned order stands set aside.

(R. M. JOSHI)
Judge

dyb