



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12033 OF 2022

BHAUSAHEB BHUJANGRAO PAWAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Tope Sambhaji S.
AGP for Respondent/s-State : Mr. S. B. Pulkundwar.

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CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.

DATE : 13.02.2025

PER COURT :-

1. Heard both sides.
2. The petitioner was seeking the information under Right to Information Act, 2005 of 49 types from the contesting respondent. However, the contesting respondent by impugned order dated 04.11.2022 declared him vexatious litigant and also held that if the petitioner would apply for any information, hereafter, under the Right to Information Act and replying him would be amounting to wastage of time of the Officer and employees. He was also informed that for the

above reasons, he would not be given any information under the said Act.

3. Learned counsel for the petitioner would submit that declaring the petition as a vexatious litigant by the contesting respondent is against the Maharashtra Vexatious Litigation (Prevention) Act, 1971 (herein after referred to as “Vexatious Litigation Act”). He has referred to Section 2 of the Vexatious Litigation Act, which provides that if any person is to be declared as a vexatious litigant, the application should have been made by the Advocate General to the High Court at Bombay and elsewhere in the State to the District and Sessions Judge. He also referred to the Rules of High Court Bombay under the Vexatious Litigation Act, particularly paragraph No.322 which provides the procedure that would be followed for getting the declaration as a vexatious litigant. He stress his argument that *prima facie* the order declaring the vexatious litigation is exceeding jurisdiction. Hence, it is void ab initio.

4. The learned AGP pleading for contesting respondent would submit that the nature of the information if the petitioner is seeking his extraneous and with an ulterior

motive, it is in violation of the object to Right to Information Act. He would submit that due to the acts of the petitioner the valuable time of the officer and employer is unnecessarily wasting and the nature of the information which the petitioner was seeking was otherwise also available and some of the information were secret those could not be supplied to the petitioner under the Right to Information Act.

5. To bolster his argument, he relied on the case of ***Central Board of Secondary Education and another Vs. Aditya Bandopadhyay and others ; (2011) 8 Supreme Court Cases 497***, in which the very object of the Information Act has been discussed.

6. Indirectly, he has tried to get the injunctive order from this Court restraining the petitioner from seeking any information. We express our opinion that no injunction as such would be granted, because whether the information sought is liable to be given or not is in the domain of the concerned officer.

7. Learned counsel for the petitioner relied on the case of ***Goolam E. Vahanvati Vs. Anil Gulabrai Gidwani ; 2011(4) AIR***

Bom R. 382. He was also the petitioner under the Vexatious Litigation Act. It has been held in this writ petition that it was not a fit case where an order under Section 2(1) of the Act should be passed. The said judgment is based upon its facts.

8. We have gone through the provisions of the Vexatious Litigation Act and *prima facie* satisfied that the specific powers have been conferred upon the Advocate General to get the litigant declared as a vexatious litigant who institute a vexatious proceeding, civil or criminal, in any Court. We are satisfied that the Authority/the contesting respondent declaring him a vexatious litigant is not the Court, he is a officer bound by the Right to Information Act. No doubt every information sought by any person need not be supplied and what information cannot be supplied has been provided in the Right to Information Act.

9. Learned AGP may be right in saying that such type of applications may be with ulterior motive. On that point, we like to reproduce paragraph No.67 of the case of Central Board of Secondary (cited supra) which reads thus ;

“67. Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties.”

The Hon'ble Supreme Court has laid down the law that rights conferred in any Act should not be misused or abused or it should not become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony amongst its citizens. Nor should it be

converted into a tool of oppression or intimidation or honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to the applicant instead of discharging their regular duties. This finding could be read in between the line that indiscriminate and impartial demands and sundry information not related to transparency and countability in the functioning of the public authorities and eradication of the corruption should not be claimed under R.T.I. Act. Each activity of the public officer may or may not affect the transparency and countability in the function of the public authority and that may be useful to eradicate any corruption. In such situation, the object of seeking such information could be examined by the officer concerned whom the information has been sought or the person seeking such information should satisfy that the information which he is seeking is to reflect a transparency and countability of the function in the public authority and it is for eradicating the corruption. These are all the prerogatives of the officer concerned and such person seeking the information to such a large extent should have a bonafide object to

eradicate the corruption. Generally, such information should not be used for a personal benefit. The object of the Right to Information Act is to maintain the transparency and countability in the functioning of the public authority and eradicate the corruption and exceeding the jurisdiction of the public officials or public authority. The Right to Information Act is a complete Code though the right has been conferred upon the person/citizen to seek under the said Act are definitely not absolute. However, it is up to the officer concerned to take an appropriate decision. The law has already been laid down. Therefore, indirect prayer of the learned AGP that such person should be straight way restrained from seeking such type of information could not be granted. However, we already hold that declaring the petitioner as vexatious litigant is apparently illegal. Hence, we set it aside. The Right to Information Act also provides for the appeal that may be available to the person not satisfied with the information supplied nor supplied with the information. For the above reasons, we pass the following order :

ORDER

- (i) Writ Petition is partly allowed.
- (ii) The observation in the impugned order to the extent of declaring and dis-entitling the petitioner from getting any information, as vexatious litigation is quashed and set aside.
- (iii) No order as to costs.
- (iv) We made it clear that we have commented whether the petitioner is entitled to information sought or not, the officer concerned has to take an independent decision on the application filed by the petitioner seeking information as the law permits.

(SHAILESH P. BRAHME, J.)**(S. G. MEHARE, J.)**

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