



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1003/2021

Ranjana Damoji Tadavi

...Versus...

State Information Commission, Amravati Bench, Amravati Through its
Commissioner and others WITH

WRIT PETITION NO.1004/2021

Ranjana Damoji Tadavi

...Versus...

State Information Commission, Amravati Bench, Amravati Through its
Commissioner and others WITH

WRIT PETITION NO.2186/2021

Kailash Wasudevrao Masne

...Versus...

The State Information Commission, through its Commissioner, Amravati Bench
Amravati and others WITH

WRIT PETITION NO.4203/2021

Nilima Rameshrao Takey

...Versus...

State Information Commission, Amravati Division, Amravati and another WITH

WRIT PETITION NO.2187/2021

Kailash Wasudevrao Masne

...Versus...

The State Information Commission, through its Commissioner, Amravati
Division, Amravati and others WITH

WRIT PETITION NO.1590/2022

Shri Arun s/o Pralhadrao Mohod

...Versus...

State Information Commissioner, Bench at Amravati, Amravati and others

WITH
WRIT PETITION NO.4398/2021

Sandeep Ashok Gayakwad
...Versus...
State Information Commissioner, State Information Commission, Amravati and
others WITH

WRIT PETITION NO.4200/2021

Rajkumar Pratapsingh Gahlot
...Versus...
State Information Commission, Nagpur Division, Nagpur and others WITH

WRIT PETITION NO.2806/2021

Mr. Swapnil s/o Wamanrao Digalwar Nayab Tahasildar (Public Information
Officer) at Sub Divisional Office, Wardha
...Versus...
Maharashtra Information Commission, Nagpur Bench, through Information
Commissioner, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. V.B. Bhise, Advocate for petitioner in WP Nos.1003/2021 & 1004/2021
Mr. S.V. Narale, AGP for respondent No.1 in WP Nos.1003/2021 & 1004/2021
Mr. A.R. Deshpande, Advocate for respondent No.3 in WP Nos.1003/2021
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Mr. A.S. Siddiqui, Advocate for petitioner in WP No.2186/2021
Mr. S.V. Narale, AGP for respondent No.1 in WP No.2186/2021
Mr. S.A. Sahu, Advocate for respondent No.2 in WP No.2186/2021
Mr. A.A. Syed, Advocate for respondent No.3 in WP No.2186/2021
Mr. N.R. Saboo, Advocate for petitioner in WP No.4203/2021
Ms S.Z. Hyder, AGP for respondent No.1 in WP No.4203/2021
Mr. A.S. Siddiqui, Advocate for petitioner in WP No.2187/2021
Mr. A.R. Chutke, AGP for respondent No.1 in WP No.2187/2021
Mr. S.A. Sahu, Advocate for respondent No.2 in WP No.2187/2021
Mr. A.P. Kalmegh, Advocate for petitioner in WP No.1590/2022
Mr. S.V. Narale, AGP for respondent No.1 in WP No.1590/2022
Mr. Nalin Majitia, Advocate for respondent No.2 in WP No.1590/2022
Mr. R.B. Dhore, Advocate for petitioner in WP No.4398/2021
Mr. A.B. Badar, AGP for respondent No.1 in WP No.4398/2021
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Mr. A.R. Chutke, AGP for respondent No.1 in WP No.4200/2021
Mr. A.A. Mardikar, Advocate for petitioner in WP No.2806/2021
Ms S.Z. Hyder, AGP for respondent Nos.2 and 3 in WP No.2806/2021

CORAM : SACHIN S. DESHMUKH, J.

DATE : 11/07/2025

1. All these petitions are taken up together since common issue is involved. The issue is whether it was open for the Commissioner State Information to enforce penalty in defiance of the mandate of proviso to Section 20 of the Right to Information Act, 2005 (for short hereinafter “RTI Act”) which in an unequivocal term mandates the Commissioner to hear the parties before imposing penalty.

2. The petitioners herein were appointed as Information Officers and they were discharging their duties. Being aggrieved by the order, the informant presented second appeal before the Information Commissioner under Section 19 (3) of the RTI Act.

3. The principal contention put forth by the respective Counsel for the petitioners is that before imposing the penalty, the Information Commissioner has made serious departure from the mandate of proviso to Section 20 of the RTI Act, which unequivocally mandates the Information Commissioner to extend an opportunity of hearing to the Information Officer. In absence of compliance to the proviso, which is mandatory in nature stating that a reasonable opportunity of being heard to be given before any penalty is imposed upon such Information Officer, is not adhered in its letter and spirit.

4. Per contra, learned Assistant Government Pleader has justified the order by submitting that under Section 7 of the RTI Act it is obligatory for the Information Officer to

provide the information as expeditiously as possible and in any case within 30 days from the date of receipt of the request. The petitioners herein have made a serious departure from the said mandate. As such, the same compelled the informant to approach the Appellate Authority. It is further the contention of the learned Assistant Government Pleader justifying the act of imposing penalty that when second appeal was heard by the Commissioner, the Information Officers were served with the show-cause-notice, as such they have participated in the proceedings conducted by the Commissioner in second appeal. As such, the ground of no hearing being conferred upon the petitioners herein is not available to the petitioners. Therefore, requested to dismiss the petitions.

5. Having heard the respective Counsels the perusal of Section 20 of the RTI Act and more particularly, proviso therein, it can be seen that the proviso unequivocally mandates that a reasonable opportunity of being heard shall be given before any penalty is imposed upon such Information Officers. Admittedly, perusal of the order rendered by the Commissioner does not indicate in any manner that the present petitioners herein were put to any opportunity indicating that the penalty would be imposed, nor any explanation in that regard was ever sought by the Information Officers. As such, this Court is of the considered opinion that levy of penalty without complying with the mandate of proviso to Section 20 of the RTI Act is unsustainable in law, as the proviso facilitates the Information Officer a right to notice and hearing as regards imposition of penalty after the decision in

the appeal. It is always after the decision rendered by the appellate authority in appeal presented under Section 20 of the RTI Act, that the verdict in relation to penalty is to be pronounced and therefore, the proviso is aimed to confer such opportunity to the Information Officer before the penalty is imposed. If such departure, as has been done by the Information Commissioner in these cases is done, it will not only defy the mandate of the proviso but the proviso would be rendered redundant. The proviso is incorporated with a solitary aim that before penalty is imposed, which essentially is preceded by the decision in an appeal, it extends an opportunity to the Information Officer to put forth his say as to claim the immunity from imposing the penalty. Thus, the order rendered in appeal necessarily has to be an independent order of penalty. The same is precisely absent in all these cases. Therefore, the order imposing penalty is quashed and set aside. The matters are remitted back to the State Information Commissioner for taking fresh decision. Needless to state that the same has to be in accordance with the mandate of the proviso. All contentions of the respective parties in these petitions as well as appeal before the State Information Commissioner are kept open. It is expected of the learned State Information Commissioner to decide the appeal expeditiously.

6. The writ petitions are partly allowed in the above terms. No order as to costs.

(SACHIN S. DESHMUKH, J.)