

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

WRIT PETITION NO.3184 OF 2020

(Ramesh Tukaramji Dhankar Vs. The State Information Commission, Maharashtra State, Bench at Nagpur thr. its Commissioner and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. N. S. Warulkar, Advocate for Petitioner.
Mr. H. D. Dubey, AGP for Respondent No.2/State.
None for Respondent No.3.

CORAM: R. M. JOSHI, J.

DATE: 7th JULY, 2025.

1. Heard Learned Counsel for the petitioner and learned AGP for respondent no.2. None for the contesting respondent his absence indicates that he is not interested in opposing the petition.

2. This petition essentially takes exception to the order impugned dated 28.08.2022 passed by the second appellate authority under the Right to Information Act imposing penalty of Rs.25,0000/- on the petitioner. Learned Counsel for the petitioner submits that it was essential for the second appellate authority to give reasonable opportunity of being heard further penalty is imposed on the petitioner. It is his submission that no notice was given to him nor was he heard before imposition of penalty. To supports his submission he placed judgment of the Coordinate Bench of this Court in the case of *Dr. Hedgewar Seva Samiti, Kolada, Dist. Nandurbar and*

another v. Purushottam s/o Ramdas Joshi and another
2015(3) Mh.LJ 900.

3. Learned AGP has placed before this Court the record in respect of the second appeal. The said record indicates that no opportunity of hearing was given to the petitioner before imposition of the penalty against him.

4. This Court in the case of *Dr. Hedgewar Seva Samit (supra)*, has taken into consideration provisions of Section 22(1) of the Right to Information Act and has held thus:

10. The words/phraseology used in the said proviso, especially "shall be given a reasonable opportunity of being heard before any penalty is imposed on him" lead to a pre-supposition that the authority first has to come to a conclusion on the appeal and in the event the appeal is allowed, then thereafter the question of penalty would arise. In my view, the proviso gives the losing parties a right to a notice and hearing as regards imposition of penalty after the verdict of the appeal is handed down. It is only thereafter that a party similar to the petitioners would then become aware that the verdict has gone against it and would then be posed with the possibility of a penalty being imposed. It is in this situation that the hearing on the penalty is necessary.

11. From the impugned order it does not appear that the State Information Commission had put the petitioners to notice about the penalty and, therefore, obviously there was no hearing before imposing penalty. The opportunity of being heard is also not to be construed to be a mere formality or a farcical exercise. By the said

proviso, a meaning can surely be imported that the authority is open to be convinced whether penalty should or should not be imposed. Had it been a pre-determined situation in law that the penalty shall be imposed as a matter of routine course, opportunity of hearing before penalty being imposed would not have been prescribed under the said proviso. Rather, the said proviso would not have been in place.

This Court respectfully concurs the above view taken by the Coordinate Bench of this Court.

5. In the facts of the case when there is no opportunity of hearing being granted to the petitioner before imposition of penalty, the said order cannot be sustained. As a result of above discussion the petition stands allowed. Since the challenge to the order is only to the extent of clause nos.2, 3 and 4 of the impugned order, the said parts of order stand set aside.

6. The petition is allowed partly in above terms.

(R. M. JOSHI, J.)