



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

PUBLIC INTEREST LITIGATION NO. 129 OF 2018

(ANIL WADPALLIWAR....VS..MAHARASHTRA ELECTRICITY REGULATORY COMMISSION & OTH.)

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

Court's or Judge's orders

Shri S.P.Bhandarkar, Advocate for Petitioner.
Shri Santosh Runghta, Sr.Adv. a/b Shri Kailash Rawandhe, Advocate for
Respondent No.1.
Shri P.K.Sathianathan, Advocate for Respondent No.2.
Shri Ratnakar Singh, Adv. a/w Shri Kailash Rawandhe, Adv. for R-3 & 5.

CORAM : ANIL S. KILOR AND
RAJNISH R. VYAS, JJ.

DATE OF RESERVING THE ORDER : 08/12/2025

DATE OF PRONOUNCING THE ORDER : 09/12/2025

1. Heard.
2. In the present Public Interest Litigation (PIL) a declaration is sought that the resolution dated 04/09/2018 passed by the respondent-Commission as *per se* illegal, arbitrary, draconian and highly unconstitutional. It is contended that the said resolution defeats the spirit of the transparency in the proceedings held before the State Commission and therefore, does not stand to the scrutiny of law.
3. The petitioner then amended the petition and added a prayer to initiate appropriate criminal prosecution as prescribed under Section 9 of the Maharashtra Public Record Act, 2005 (hereinafter referred to as "the Act of 2005") against the respondent Nos. 2 to 5 for violating Section 8 of the said Act by eliminating the record till 4th September 2008, without seeking permission of the Director of Department of Archives.

4. It is important to note that similar public interest litigation was filed before the Principal Seat at Mumbai vide PIL No.79 of 2025 seeking quashing and setting aside the resolution dated 04/09/2018. In the said PIL an injunction and stay was sought from taking further steps by the respondents in furtherance of the impugned resolution, which also includes elimination of record. In the said PIL a reference was also made to the Act of 2005.

5. This Court at Principal Seat, vide order dated 11/11/2015, dismissed the said PIL and thereby rejected the challenge to the resolution dated 04/09/2018. Since the said judgment dated 11/11/2025 is binding on this Court and squarely covers the challenge raised to the constitutionality of the resolution dated 04/09/2018, the fate of the challenge raised in the present petition to the resolution dated 04/09/2018, will follow the same. Accordingly, we **dismiss** the prayer clause raising challenge to the resolution dated 04/09/2018.

6. According to the learned counsel for the petitioner, the prayer for initiation of the appropriate criminal prosecution under the provisions of the Act of 2005 for eliminating the record is the prayer which survives.

7. The learned counsel for the petitioner argues that the audio and video recordings of the meetings of the Commission was maintained by the Commission since inception. It was for clarity and transparency. It is submitted that on 04/09/2018 the impugned resolution was issued and on 05/09/2018 such

audio and video record was eliminated without showing any tearing urgency to destroy the same. It is, therefore, argued that such elimination of the record without following due procedure is contrary to the provisions of the Act of 2005 and hence, the members of the Commission shall be prosecuted.

8. On the other hand, Shri Runghta, learned Senior Advocate for the respondent-Commission argues that once the challenge to the resolution dated 04/09/2018 is rejected, the prayer for prosecution of the members of the Commission cannot be granted as Clause (3) of the resolution dated 04/09/2018 permits to eliminate the recording done till 04/09/2018 in due course of time as it is not part of the official record. It is argued that since such recording was not part of the official record, provisions of the Act of 2005 will not apply. It is, therefore, prayed that no prayer, as sought to prosecute the members of the Commission may be granted.

9. In light of the rival submissions on the issue to prosecute the members of the Commission, we perused the record and the relevant provisions.

10. The Resolution dated 04/09/2018, particularly Clause (3), stipulates that “*The recordings done till date be eliminated in due course of time as it is not part of official record.*” This clause expressly declares that such recordings do not constitute part of the official record and further permits their elimination. Consequently, once the challenge to the Resolution dated 04/09/2018 is rejected, Clause (3) must also be deemed to have been upheld by this Court. Therefore, the contention

advanced by the learned counsel for the petitioner that the said recordings formed part of the official record cannot be accepted. Moreover, Regulation Nos.78 and 79(c) of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 support the argument of the learned counsel for the respondent-Commission that it is not a public record, which is prerequisite to attract Sections 8 and 9 of the Act of 2005.

11. In the circumstances, we are of the opinion that the prayer as made by the petitioner to prosecute the members of the Commission cannot be granted. Accordingly, we pass the following order :

- i) The Public Interest Litigation No.129 of 2018 is **dismissed.**
- ii) The pending Civil Applications, if any, shall stand disposed of.
- iii) In the circumstances, there shall be no order as to costs.

(RAJNISH R. VYAS, J)

(ANIL S.KILOR,J)