



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

Writ Petition No.7582/2019

1. Sant Gadge Baba Amravati University,
through its Registrar Camp Area,
near Tapovan Gate, Amravati.
2. The Public Information Officer,
Sant Gadge Baba Amravati University,
Camp Area, near Tapovan Gate, Amravati. Petitioners.

-Versus -

Dr. Sachidanand s/o Chintamani Behra,
Aged about 60 years, Occ.-Nil,
R/o 201, Bimalco Enclave, In front of I.G.
Bungalow, Camp, Amravati, Tahsil and District
Amravati. Respondent.

Mr. S.S. Ghate, Advocate for petitioners.
Mr. D.V. Mahajan, Advocate for respondent.

CORAM : A.L. Pansare, J.
Date : 27-03-2025.

Oral Judgment

Heard.

- ii. Issue **Rule**, returnable forthwith. Mr. D.V. Mahajan, learned counsel waives service of notice for the respondent. With consent of learned counsels for the parties, the petition is taken up for final hearing.

iii. The petitioner no.1-University and petitioner no.2-Public Information Officer are aggrieved by order dated 03-09-2019 passed by the State Information Commission, Amravati in Appeal No.445/2016.

iv. Having heard both the sides and having gone through the material placed before me it appears that the respondent vide application dated 04-07-2018 sought information in respect of departmental enquiry instituted against him. The following was the information sought :-

"(1) Kindly fix date and time to inspect all original records related to the said departmental proceeding.

(2) Kindly provide the certified photocopy of the records in original of the evidences having signature/initials of the Deponent, Inquiry Officer, Presenting Officer and Dr. S.N. Behera (Charged Officer)."

v. As could be seen the respondent sought inspection of original record related to the departmental proceeding. He also sought certified photo copy of the records of the evidences having signature/initials of the deponent, Enquiry Officer, Presenting Officer and Dr. S.N. Behera, Charged Officer (respondent herein).

vi. There is no dispute that inspection of original record was given to the respondent. The issue, however, revolves around providing information as sought in second clause. As such the certified copy of the entire record has been given to the respondent, what is missing is the signature of all the authorities/persons mentioned in second clause. It appears that the signatures of respondent and the witness are missing

below the evidence of some of the witnesses and in the evidences of remaining witnesses, the signature of respondent only is missing.

vii. In this context the stand taken by the petitioners was that this is how the evidence was recorded in the departmental enquiry. In other words, it was suggested that some of the witnesses have not signed below evidence and further the respondent has not signed below evidence of any witnesses.

viii. On this point, the Counsel for respondent has invited my attention to Clause 6.21 of the Enquiry Manual. Sub-Clause (4) thereof provides as under :-

"6.21 Recording of evidence.

(1) XXXX

(2) XXXX

(3) XXXX

(4) The witness will be asked to sign every page of the depositions. The Inquiring Authority will also sign every page of the depositions. The accused Government servant or the official assisting him may also be asked to sign the depositions recorded in their presence. If a witness refuses to sign the depositions, the Inquiring Authority will record this fact and append his signature. Copies of the documents exhibited and of the depositions of witnesses will be kept in separate folders."

ix. Thus, the Enquiry Officer is duty-bound to ask the witnesses to sign every page of the depositions and the enquiry authority itself shall also sign on every page of the depositions. It further provides that the

delinquent may also be asked to sign the depositions recorded in his presence.

x. Thus, the rules of enquiry does not mandate that the delinquent should always be asked to sign the depositions. Therefore, the absence of signature of respondent on the evidence cannot be faulted with. So far as the absence of signature of witness is concerned, there is nothing to indicate whether the Enquiry Officer had asked the witnesses to sign on every page and whether they have refused to sign the same, because there is no endorsement to that effect made by the enquiring authority. This aspect as to why there is no signature of witnesses is something that cannot be gone into by the authorities under the Right to Information Act. What is important and relevant is that according to the petitioners some of the witnesses have signed below the evidence but some have not. So far as the respondent is concerned, the petitioners stand is that he has not signed below the evidence of any witness. Thus, according to the petitioners the documents as are/were available have been furnished to the respondent.

xi. The second appellate authority, however, opined that the evidence containing signature of witnesses, Presenting Officer, Enquiry Officer and the respondent being part of the enquiry, the petitioners ought to have furnished the same. The second appellate authority further found substance in the allegation made by the respondent that the original record has been destroyed.

xii. To my mind this finding runs contrary to the provision; particularly Rule 6.21 of the Enquiry Manual, which does not mandate the

signatures of all the persons noted above. It is further surprising that without any evidence, the second appellate authority has found substance in the allegations levelled by the respondent that the record of enquiry has been destroyed. It is worth mentioning here that the respondent has not made any grievance that the copy of evidence supplied to him is not the one that was recorded during enquiry. His focus and grievance is only on the signatures of the witnesses. On this point, the plea of the petitioners is that some of the witnesses have signed and some have not signed and further that the record as is available has been furnished to the respondent.

xiii. Thus the finding that evidence contained signatures of all the persons named in Rule 6.21 is without any cogent evidence. To maintain a record in a particular manner is one thing and maintaining a record without adhering to a particular provision is another. This is a case where one may argue that the evidence was not recorded in accordance with Rule 6.21. Whether such lapse will go to the root of the case or will only amount to irregularity is a matter for consideration in an independent proceedings. However, it will be far-fetched inference that evidence in all inquiries was taken in accordance with Rule 6.21 and/or record was maintained accordingly.

xiv. There is one more aspect that requires comments. The respondent, in the First Appeal has enlarged the scope of documents. He has sought additional information in the form of order-sheets and hearing notices for various dates as also copy of letters etc. The First Appellate

Authority ordered petitioners to provide information if is available. This was not permissible in first appeal.

xv. The order was challenged before the Second Appellate Authority who had passed the impugned order blaming petitioners for not providing this information includes copy of depositions with the signatures of all the persons and recommended enquiry to fix the responsibility and further to take criminal as well as departmental action.

xvi. The order appears to be apparently not sustainable; firstly because the information as sought in the application as was available has been furnished to the respondent and secondly, the penal action has been recommended without giving opportunity of hearing to the petitioners. There is nothing on record to indicate that before proposing criminal and departmental action, the petitioner no.2 was heard by the State Information Commissioner. The order impugned, therefore, is not sustainable.

xvii. The petition is, accordingly, allowed.

xviii The order impugned dated 03-09-2019 passed in Appeal No.445/2016 by the State Information Commission, Amravati is quashed and set aside.

xix. Rule is made absolute in above terms. No order as to cost.

(A.L. Pansare, J.)