PETITION

GROUP

Handbook of Circulars, GRs, Court Orders etc for Activists and Concerned Citizens.

By

Kamlakar Shenoy

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	These acts are culpable negligence and the officers are liable for premature compulsory retirement / dismissal from service.	Inspect the complaint register maintained as per GR 18.1.2013 (insist as police deliberately do not maintain). Apply for sanction to prosecute to Commissioner of BMC, CMO, Governor, Chief Secretary, and President of India. **<u>Make Asst Comm , DMC , Addl MC as an accused</u>**	82-83
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20	**Illegal construction violates**	a. Article 12 planning	**Available on web site**

	fundamental rights of citizens cannot be regularized and need to be demolished	authority is duty bound to demolish **BHC** contempt petition 90 of 2024 in WP 2601 of 2018 **para14,15,16** b. Article 21 right to information c. Illegal constructions cannot be regularized. 2000(12) LJsoft 83, **BHC** WP 4675 of 1999 dt 31.7.2000.**page 1 and 2** d. SC Criminal appeal no. 7356 of 2012, Dipak Kumar Mukharjee v/s Kolkata Mun. Corp order 8.10.2012 **page 1**	**www.kamlakarshenoy.com**

BMC Most important circulars available on website wand ww.kamlakarshenoy.com

	Circular / GR	Subject matter
1	**14.9.2011**	If PIO is unable to understand the RTI application , PIO shall call the applicant in 5 days
2	**07.01.2000**	every Monday and Friday between 3 to 5 Pm MC/ Addl MC/ DMC / Asst Comm shall have public meeting without prior appointment.
3	**21.2.2025 relying on GR 13.1.2025**	Board outside cabin and prominent place disclosing timing to **meet citizens without prior appointment everyday**.
4	**MC RTI appeal Order dt. 21.8.2024** **MC PIO reply 21.8.2024**	Circular 7.1.2000 is still in force inspite of circular 8.4.2024
5	**13.01.2025**	State of Maharashtra GR to fix board at prominent places daily timing to meet citizens without prior appointment
6	**14.12.1999**	no temporary and permanent structure to be permitted on road, footpath and traffic island. Beautification of road, footpath and traffic islands worth thousands of crores is fraud committed by under protection of Addl MC and MC.
7	**BMC letter dt.15.9.2023**	Illegal food trucks on road.no permission granted
8	**18.01.2013 GR**	to main complaint register as per GR and to dispose the complaint in particular manner
9	**23.11.2016**	Suggestions form to be given by citizens on their experience in the office of Addl MC
10	**06.03.2024 / 29..05.2024**	Fixing board outside cabins of MC and ADDL MC disclosing compliance of section 64 B of MMC act and section 4 of RTI act **i. Name of the 3 senior officers to whom complaint can be filed against Addl MC and MC** **ii. Section 4 of RTI act: Details of authority granting sanction to prosecute (section 4 RTI act)** **iii. Section 4 of RTI act: IPC sections applicable for prosecution of Addl MC and MC if they fail to dispose the grievances of the citizens.**
11	**02.06.2023**	RTI application shall not be forwarded u/s 6(3) RTI act but shall be disposed by Addl MC u/s 5(4)(5) RTI act All tenders, contract and orders are finally decided and signed by

		Addl MC. But avoid to reply the questions raised and divert to subordinate officers illegally.
12	**20.11.2003**	To dismiss the BMC officer who promotes illegal construction a. 13Fraud of estate dept. 50000 crores selling the PAP to developers at ready recknor rate. b. Re 1/ lease rent to private flat purchasers c. Reduction of area of public amenity of Playground and primary school d. Example in F N and G N ward
14	**26.11.2018**	Every Monday 3 to 5 inspection of documents without prior appointment. If Monday is holiday it shall be on Tuesday
15		Arguments when sanction to prosecute is sought. Link : https://www.kamlakarshenoy.com/sanction-arguements/
16		Encroachments on roads and footpaths. Link : https://www.kamlakarshenoy.com/encroachment-on-road-and-footpath-police-and-bmc-sections/ Citations for roads and footpaths. Link : https://www.kamlakarshenoy.com/citation-against-encroachment-on-road-and-footpath/
17		Arguments for denial of information by PIO or RTI - Part 1 Link : https://www.kamlakarshenoy.com/arguments-against-denial-of-information-part-1/
18		Arguments for denial of information by PIO or RTI - Part 2 Link : https://www.kamlakarshenoy.com/arguments-against-denial-of-information-part-2/
19		Illegal constructions. Link : https://www.kamlakarshenoy.com/illegal-construction-violates-fundamental-rights-of-citizens-cannot-be-regularized-and-need-to-be-demolished/
20		Important BMC Circulars - Part 1: Link : https://www.kamlakarshenoy.com/bmc-important-circulars-number-1/ Important BMC Circulars - Part 2 : Link : https://www.kamlakarshenoy.com/bmc-important-circulars-number-2/

21		Failure to register FIR : Link : https://www.kamlakarshenoy.com/urgent-reminder-failure-to-register-fir-despite-complaint-dated-31-5-2025-and-01-06-2025-regarding-cognizable-offences-by-jt-cp-eow-officers-and-azad-maidan-police/
22		Complaint under Sec. 173 BNSS : Link : https://www.kamlakarshenoy.com/complaint-u-s-173-bnss-against-dcp-sangram-nishandar-and-acp-rajesh-ojha-under-several-section-of-bnss-which-are-cognizable-offences/

Citizens shall take precautions to avoid prosecution u/s 353 IPC from public servants.

a. No public servant can initiate prosecution u/s 353IPC or under any other act against citizens on wrongful grounds of creating obstruction in discharge of duty unless the public servant proves that he has discharged his duty efficiently. So every citizen shall
   i. file written complaints
   ii. send two reminders every 2nd day and copy of the letter should be also be posted to local police station and Zonal DCP disclosing that the public servant has failed to discharge duty and the citizen is forced to attend the office to assist the public servant to discharge his duty more efficiently that the complainant shall video record the meeting with the public servant.
   iii. carry all the reminders sent to public servant.
   iv. .
   v. Shall make averment in the complaint that failure of public servant is causing injury, harassment to the complainant as he is being forced to come to the office of public servant, which he would not had the public servant discharged his duty properly.
   vi. Intimate that you are visiting the office to meet the officer and the meeting shall be conducted under video recording and with cabin doors open

All my formats are prepared by me (KamlakarShenoy)to the best of my ability. **In the event, if my submissions are incorrect, I shall be obliged if your office can educate me by furnishing relevant documents in support.** Without prejudice to my rights and contentions.

Visit my website www.kamlakarshenoy.com, www.petitiongroup.com for all RTI queries and Police investigation issues. Prepared by Kamlakarshenoy.

Preface

Dear Fellow Citizens and Activists,

This book is the culmination of my efforts to promote transparency, accountability, and better governance in our country.

It compiles key Court Orders, Government Resolutions (GRs), Circulars, and other important documents that aim to empower every concerned citizen in their interactions with public servants and representatives.

I am deeply grateful to my fellow activists, members of my NGO — Petition Group Foundation, advocates, retired judges, honest public servants, and well-wishers, both within and outside the government, for their unwavering support and invaluable guidance.

I sincerely hope this book contributes meaningfully to realizing the dreams of our freedom fighters and fellow citizens for a well-governed and prosperous nation, reminiscent of our proud past.

I seek your blessings, dear readers and well-wishers.Should you wish to support me or our NGO— financially or otherwise, then you may kindly reach out to my colleague, Mr. G. R. Vora, via WhatsApp at the number listed below.

Above all, I urge each of you to do your part in safeguarding our beloved nation from the grips of poor governance and corruption. If we remain silent, we risk losing the freedoms and rights enshrined in our Constitution by its principal architect, the late Dr. Babasaheb R. Ambedkar.

This book is dedicated to my beloved parents, my family, and the dedicated members of our NGO.

I especially acknowledge the unconditional support of my fellow activists—Mr. Clarence Pinto, Mr. G. R. Vora, Mr. Chetan Trivedi, and Mr. Neeraj Pattath—without whom this work would not have come to fruition.

Jai Samvidhan!

Jai Loktantra!

Jai Hind!

Kamlakar Shenoy
Clarence Pinto
G R Vora

Petition Group Foundation

Contact:
G. R. Vora – WhatsApp: 9869195785

APPEAL U/S 19(1)
The Right to Information Act, 2005

To,
The appellate authority,

1. **Full name of the applicant:**KamlakarRatnakarShenoy

2. **Address:** B / 903, Vaishali apartments, ShethMotisha (Love) Lane, Opp. Telephone exchange, Mazgaon, Mumbai-400010. Mobile no. 9870987359.

3. **Compilation ofhand book is attached prepared by KamlakarShenoy(P etition Group) to facilitate implementation of RTI act:** essential information that every PIO and FAA is expected to know for the effective implementation of the RTI Act.**Sent by email.**

4. **Grounds of Appeal:** no information provided to RTI application dt. ---------

   a. The PIO has not read the RTI application and replied without application of mind. The RTI application discloses the mandatory section which PIO shall comply.
   b. The PIO, with vast service, has demonstrated complete ignorance by failing to understand the difference between enquiry and investigation, amounting to culpable negligence.
   c. The PIO failed to provide information as mandated under Section 7(1) of the RTI Act.
   d. The PIO erroneously denied information on grounds not covered under Sections 8 or 9, thereby acting beyond his legal mandate.
   e. The PIO cannot deny information by invoking definitions under Section 2(f) or any section not related to lawful exemptions. (Copy of RTI application dated ---------- is attached.)
   f. The (FAA), being in a supervisory role, is duty-bound to ensure honesty and devotion to discharge of duty of all subordinate officers under his control**. (GR 9.7.2007, 31.3.2008, 10.8.2009, circular 25.6.2019) refer page 20-32 of the compilation of 97 pages.**
   g. The FAA must direct the PIO to file a written reply within 7 days. As per Sections 7(8)(i) and 19(5), a copy must be provided to the appellant. Non compliance attracts IPC Sections 166, 167, 217, 218, 219, and 336.
   h. The PIO must state in writing whether the denied information would also be denied to the Legislature or Parliament, as required under Section 8J RTI.

i. The conduct of appeal hearings without compliance of GR dated 10.08.2009 (Paras 6–10), and Sections 7(8)(i) and 19(5), would amount to illegality.**Page 22-24 of compilation sent by email)**

j. The PIO and FAA have shown wilful misconduct, intentional denial of information, lack of care, and have caused injury to the applicant.

k. The PIO has committed criminal breach of trust under Sections 405 and 409 IPC by denying access to entrusted public information in violation of prescribed duties.

5. Duties of PIO and FAA

a. All public servants are bound by their oath —

महाराष्ट्रपोलीससज्जनांचेरक्षणकरण्यासआणिदुर्जनांवरनियंत्रणठेवूनत्यांचानायनाटकर
ण्यासकटिबध्दआहेत."

a. Oath of allegiance towards Constitution of India

b. **Public service is trust reposed on publics servants by tax payers** The public servants are required to provide the service to citizens and not to consider such appointment as privilege. It is the **trust reposed in the public servants by tax payers.** hence any failure to discharge duty shall be offence u/s 406. 409 IPC amongst other offences

6. Prayers

a. FAA and SIC, while disposing of this appeal, must mandatorily record findings on each ground raised by the appellant (no discretion), in accordance with Justice Daga's judgment in W.P. 4101 of 2007 **(refer the compilation at page 33 to 52) sent by email**

b. The appellant submits with due respect and no malafide intent. If any submission is incorrect, the appellant seeks to be corrected with written evidence.

c. The PIO and FAA must produce their educational qualifications and RTI training certificates. These are public records as per W.P. No. 39771 of 2024 (Hon'ble High Court).**(copy of High Court judgement sent by email)**

d. **SIC directions on RTI training**(refer page 57 to 65 of compilation sent by email)

e. **Necessity of training to PIO and FAA**(refer page 54 to 56 of compilation sent by email)

f. Conducting RTI appeal hearing without the compliance of section 7(8)(i) and 19(5) of RTI act is denial of natural justiceshall be punishable u/s 166, 167, 217, 218, 219, 336, IPC

7. Incompetency and Ignorance of PIO and FAA:

The appellant respectfully submits the following facts demonstrating the incompetency and ignorance of both the PIO and FAA:

(a) The PIO despite of vastexperience, lacks basic understanding of the RTI Act, including the difference between enquiry and investigation, amounting to culpable negligence.
(b) PIO is ignorant of the fact between investigation and enquiry. RTI acts has nowhere mentioned enquiry.
(c) The PIO is ignorant of the ingredients of section 2(f) RTI act.
(d) The PIO is ignorant of the DGP Circular dated 22.06.2012, mandating that information regarding enquiry and investigation must be disclosed to the complainant.
(e) The PIO is unaware that file notings are public records as per DoPT and Hon'ble High Court rulings.**(refer compilation page 17 to 19 sent by email).**
(f) The PIO appears to lack necessary qualifications and RTI training, as evident from the nature of his RTI reply

8. Public Hearing and Video Recording citation at page 1-6 of compilation of 97 pages

a. The citizen has right to carry their mobile in the office of public servant. And no public servant shall ask the citizen to switch off the mobile or keep their mobile out of cabin.
b. The citizen has the right to a public hearing and to video record proceedings involving public officials.
c. The Hon'ble Bombay High Court and Supreme Court have held that video recording in public places is not an offence.
d. These orders have not been overruled by a larger bench and remain binding.
e. Public hearing and video recording will not prejudice the FAA but will enhance transparency and accountability.
f. There is no IPC provision criminalizing such video recordings in the context of RTI.
g. Denial of public hearing or video recording is a violation of fundamental rights.

Date: KamlakarShenoy

Ref:

The Right to Information Act, 2005

To,

The Public Information Officer, ----------
Address:

Before denying PIO shall state in the reply that such information shall also be denied to Legislature / Parliament section 8J of RTI act,

PIO shall give reasoning for denial as per section 7(8)(i) RTI act.

a. **And oath of allegiance to Indian Constitution**

b. **Public service is trust reposed on publics servants by tax payers**

The public servants are required to provide the service to citizens and not to consider such appointment as privilege. It is the **trust reposed in the public servants by tax payers.** hence any failure to discharge duty shall be offence u/s 406. 409 IPC amongst other offences

1. **Full name of the applicant:** Kamlakar Ratnakar Shenoy. **(senior citizen 66 years)**

2. **Address:**B-903, Vaishali apartment, Opp. MTNL exchange, Sheth Motisha (love) Lane, Mazgaon, Mumbai-400010. Mobile 9870987359.

3. **Particulars of information required** –
Subject matter of information *---The matters are of larger public interest, corruption, mal-administration, abuse of power, accountability of public servant's action and regarding compliance of statutory conditions as required under law. Section 8(2) RTI act.

4. **Description of information required $** certified copy.

   i. Date wise movement of the file / complaint
   ii. Copy of the complaint along with Direction given by Addl MC on the complaint filed by me.
   iii. All reports called and received after receipt of the application / complaint
   iv. All noting with name and designation of the officers who have signed
   v. All study carried out and procedure followed to take the above decision. **Section 4(1)(b) (iii).**
   vi. Relevant facts published while formulating the above policy alongSections and provision of law relied upon to implement the above policy of illegal beautification under MMC act, MRTP act and Indian Road Congress.**Section 4(1)(C)**

vii. Reasons disclosing larger public interest without violating fundamental rights of any other citizens for taking this administrative decision **Section 4(1)(d)**

viii. Public interest and gains to public by adopting this policy.

ix. SOP followed by your office after receiving application and complaint from citizens.

x. Name and designation of the person who shall be responsible to initiate action on the application / complaint.

xi. Present status of the complaint and with whom the file is lying.

xii. **Oath of Allegiance as Mandated Under the Constitution and Law. GR CDR-1010/ PK54/ reconstruction70/11 dt. 11.11.2014**

5. **Information is required by post**

Place: Mumbai. Signature of the applicant

Date:

Caution to be taken by PIO.

i. The information sought is within the parameters of section 2F, 2J, 4(1)(B)(iii)(iv)(v) and the Preamble of RTI act.

ii. As the matter concerns larger public interest the information shall be provided u/s 8(2) RTI act.

iii. The information shall be provided with chart / index and paging.

iv. PIO cannot deny information on any of the grounds in section 2f of the RTI act and by quoting section mentioned in 2 of RTI act.

v. The information shall be denied on grounds mentioned in section 8 & 9 of RTI Act and on no other grounds. The PIO is liable to be prosecuted under I.P.C amongst other provision of RTI act & circular dt. 31.3.2008, 10.8.2009 & others.

vi. The information shall be provided in the format soughtsection 7(9) RTI act and as per section 4 (1) (a) RTI act.

Visit my website kamlakarshenoy.com for all RTI queries and Police investigation issues.

The Right to Information Act, 2005

To,

The Public Information Officer, JT CP EOW, Mumbai.
Address:

Before denying PIO shall state in the reply that such information shall also be denied to Legislature / Parliament section 8J of RTI act,

PIO shall give reasoning for denial as per section 7(8)(i) RTI act.

Reminder to implement oath taken by public servants: Duty of every government servant to ensure Truth Alone Triumphs

a. महाराष्ट्रपोलीससज्जनांचेरक्षणकरण्यासआणिदुर्जनांवरनियंत्रणठेवूनत्यांचानायनाटकरण्यासकटिबध्दआहेत.
b. **And oath of allegiance to Indian Constitution**
c. **Public service is trust reposed on publics servants by tax payers**

The public servants are required to provide the service to citizens and not to consider such appointment as privilege. It is the **trust reposed in the public servants by tax payers.** hence any failure to discharge duty shall be offence u/s 406. 409 IPC amongst other offences

1. **Full name of the applicant:** Kamlakar Ratnakar Shenoy. **(senior citizen 66 years)**
2. **Address:** B-903, Vaishali apartment, Opp. MTNL exchange, Sheth Motisha (love) Lane, Mazgaon, Mumbai-400010. Mobile 9870987359.

3. **Particulars of information required –** The matters are of larger public interest, corruption, mal-administration, abuse of power, accountability of public servant's action and regarding compliance of statutory conditions as required under law. Section 8(2) RTI act.

4. **Subject matter of information** *--- my complaint dated ---------- against ---------- (IO----------, Sr PI----------

    i. DGP circular 22.6.2012 complainant shall be provided all information on investigation and enquiry
    ii. DOPT circular 23.6.2009 to provide file noting

5. **Description of information required $** certified copy.

i. Date wise movement of the file / complaint from receipt of complainttill the day of reply.
ii. File noting from the date of complaint till today with name and designation of each officer who have signed the file noting, till the day of reply.
iii. Station dairy disclosing the entry of complaints and progress made in the complaint (DGP circular 17.2.2012 and Lalitakumari judgement)
iv. Details of the cognizable offences discloses in the enquiry since last ----- months / years.
v. All reports called and received after receipt of the application / complaint from others.
vi. All study carried out and procedure followed to conduct enquiry for 2 years without registering FIR. **Section 4(1)(b) (iii).**
vii. Relevant facts published while formulating the above policy along Sections and provision of law relied upon to conduct enquiry forlast ----- months / years without registering FIR. **Section 4(1)(C)**
viii. Reasons disclosing larger public interest for violating provisions of section 2G, 154, 157, GOI circular 10.5.2013, 5.2.2014 and Lalita kumari judgement to gather information from MHADA without registering FIR since last ----- months/ years. **Section 4(1)(d)**
ix. Public interest and gains to public by violating provisions of section 2G, 154, 157 of CRPC, GOI circular 10.5.2013, 5.2.2014 and Lalita kumari judgement to gather information from MHADA without registering FIR since last -- months / years.
x. SOP followed by your office after receiving application and complaint disclosing cognizable offences from citizens.
xi. Name and designation of the person who shall be responsible to register FIR on receipt of complaint disclosing cognizable offences.
xii. Present status of the complaint and name of the officer with designation with whom the file is lying.

6. **Information is required by post**

Place: Mumbai. Signature of the applicant

Date:
Ref :

Caution to be taken by PIO.

i. As the matter concerns larger public interest the information shall be provided u/s 8(2) RTI act.

ii. The information shall be provided with chart / index and paging.

iii. PIO cannot deny information on any of the grounds in section 2f of the RTI act and by quoting section mentioned in 2 of RTI act.

iv. The information shall be denied on grounds mentioned in section 8 & 9 of RTI Act and

v. The information shall be provided in the format sought section 7(9) RTI act and as per section 4 (1) (a) RTI act.

Visit my website kamlakarshenoy.com for all RTI queries and Police investigation issues.

How should complainant and investigating agency act in matter of sanction to prosecute the corrupt public servant.

1. The investigating agency has applied, vide his application dated------- for grant of sanction to prosecute the accused before the competent authority.
   A. As per the amendment to Section 156(3) and 190 of the Code of Criminal Procedure, the sanctioning authority is bound to take decision within a period of ninety days from the date of receipt of the proposal for grant of sanction to prosecute.
   B. In case the sanctioning authority fails to take decision within the stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority.

2. **If the competent authority has sent reply after lapse of stipulated period**, the same cannot be accepted, as it is time barred. As the law put the responsibility on the competent authority to reply within stipulated period. Hence, the reply shall not be considered and FIR shall be registered. In fact, the question of acting on the reply after 3 months because the police should have registered FIR. Hence, FIR shall be registered against
   i. **ACB:** the I.O., DCP and Addl CP, DG in case of FIR against the sanctioning authority shall be registered for failing to reply within 9 months.
   ii. **EOW:** I.O. DCP and JT CP
   iii. **Police:** I.O.Sr., PI . ACP, zonal DCP, region Addl CP

For not registering FIR on 91st day

3. **Remedy with investigating agency for not receiving reply from Competent authority.**

i. As the word used in law is **" SHALL"**, the law has casted duty on the competent authority to submit a correct and fair report to the investigating agencies.

ii. The investigation agencies shall not send any reminders as it shall disclose that ACB is having vested / more interest in saving the accused from punishment.

iii. Shall register FIR in the complaint for which sanction is applied on 91st day, immediately against the accused who are named in the complaint disclosing cognizable offences.

4. **If the competent authority has replied in negative i.e. recommended not to register FIR and / close the matter:** the investigating agency shall verify the opinion/ submission given by Competent authority to experts and take the explanations / clarification fromcomplainant on the opinion given by Competen authority.

   a. The duty of investigation is to conduct fair and impartial investigation. As per principle of natural justice, it is duty of the investigating agency to see no prejudice is caused to the complainant, because of false, incorrect and incomplete information given by competent authority to save the accused employees of their department.

Hence, the investigating agency

   i. Cannot accept the report sent by competent authority of **accused department** blindly but shall verify the correctness of the reply of competent authority with information given by the complainant .

ii. The reply shall be verified by giving opportunity to the complainant and from experts who are hired by police department to assist the investigating agency.

iii. There after take decision by passing a reasoned order / clarification with evidence supporting the decision taken by the investigating agency.

Remedies and consequential action against the HOD of the competent authority for not replying the application for grant of sanction within stipulated period and for giving false and incorrect opinion not to register FIR / or conduct enquiry

5. The investigating agency while seeking sanction shall call from the HOD of the competent authority

   a. Report within 7 days along with the file notings and all documents, sections and provision of law relied upon by the competent authority to give a false / incorrect reply not to register FIR.

   b. Names and designations of all the officers who have signed a false and incorrect report and all correspondence.

   c. Simple recommendation not to register FIR or making a single statement that all permissions are given in accordance with law without any supporting documents shall not be considered and FIR shall be registered.

Action to be taken by Investigating agencies against Competent authority for giving false / incorrect information to investigating agency.

6. Every public servant is duty bound to be faithful, devoted and have strong integrity while discharging official duties. Hence, any false,

incorrect misleading, incomplete report which is contradictory tolaw, facts and materials on record is

a. Criminal breach of trust by public servant **(166, 166A, 167, 217, 218, 405, 409, 465, 467, 468, 471 & 120B IPC)**

b. It is **culpable negligence**. Hence the officer or public servant shall be liable for compulsory premature retirement and consequential disciplinary actions.

c. Investigating agencies shall register FIR against the HOD of competent authority and also recommend action for culpable negligence.

7. Prosecution u/s 166-A & 120B IPC and other relevant provision of law, of police officers along with HOD who has signed the file noting and other correspondence and who fail to abide principles of natural justice as mentioned herein above and below

a. Not verifying the correctness of the report submitted by competent authority which is received within stipulated period as mentioned in law.

b. By wrongfully / illegally acting on the opinion and recommendation received after lapse of stipulated period as mentioned in law.

c. Informing the complainant about the closure of the complaint when the complaint discloses commission of cognizable offences under IPC or any other provision of law.

d. Not registering FIR and recommending disciplinary action for culpable negligence against the concerned officers of Competent authority and their HOD.

e. Calls the witness and accused for verifying the correctness of the complaint disclosing cognizable offences.

f. Records statement of witness and accused for verifying the correctness of the complaint disclosing cognizable offences.

g. Does not register FIR in the complaint disclosing cognizable offences under IPC and / or any other provision of law.
h. Causing disappearance and destruction of complaints received.
i. Not maintaining proper records of all the complaints received.

8. **The concerned officers of the investigating agencies along with HOD who has signed noting, and letter informing the complainant that the complaint is closed without registering FIR in complaint disclosing cognizance offences shall be liable:** for committing offence u/s 166A and 120B of IPC and other relevant sections,if the above principles of natural justice is violated which shall

a. Disobeying direction of section 2G, 154, 156(2), and 157 CRPC.
b. cause prejudice, annoyance, injury, hurt to the complainant.
c. the decision adversely affecting the larger public and national interest and faith in the working of investigating agencies.
d. destroying the spirit and purpose and functions for which investigating agency is formed FIR.
e. महाराष्ट्रपोलीससज्जनांचेरक्षणकरण्यासआणिदुर्जनांवरनियंत्रणठेवूनत्यांचानायनाटकरण्यासकटिबध्द आहेत**.**
f. Oath of allegiance to Indian Constitution when joining the force.

Sanction cannot be misused for acts not permissible under law and to act in conspiracy and connivance with evil designs.

9. The Provision of sanction

a. cannot be abused by public servants to camouflage the commission of crime under the suppose color of public office.

b. The benefit of the provision must not be extended to public officials who try to take advantage of the positions and misuse authority vested in them for committing acts.

c. to disobey direction of law, forgery, incorrect records and framing of incorrect recoding and writing.

d. Misuse and abuse of power by doing acts without legal authority to do so.

e. Acts which are otherwise not permitted in law. **(SC judgement Omprakash Yadav v/s Niranjan Updhyay Para 65, 66, 85**).

10. **Issuing of incorrect circulars, orders, directions:** without legal authority and / or contrary to law, facts and materials on record cannot be said to have been done under discharge of official duty. Hence, no sanction is required. **SC order dt. 14.8.2013, Civil Appeal 6770 of 2013 State of Jharkhand v/s Jitendra Kumar Srivastav.**

11. **Violation of Scope and range of his official duties**: A public servant can only be said to act or purport to act in the discharge of his official duty, if his act is such that it lies within the scope and range of his official duties. It cannot be pretended or fanciful claim, that his actions were in the course of performance of his duty.

12. **Activity akin to a financial and economic fraud or misdemeanor**: In Parbhatbhai v/s State of Gujrat and another, it is observed that economic offences involving financial and economic wellbeing of state

have implications beyond the domain of a mere incorrect order in a personal matter. The consequences of such acts will adversely weigh and impact the economic stability of the public authority.

a. The Economic offences by their very nature stand on a different footing than otheroffences and have wider ramifications. They constitute a class apart. Economic offences affect the economy of the country as a whole and pose a serious threat to the financial health of the country. If such offences are viewed lightly, the confidence and trust of the public will be shaken.

b. A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions cannot be a part of discharging of official duty. Such offences would have a grave and substantial impact not just on the private parties involved, but also on the society at large.

13. The police officer along with HOD is liable to comply with the following direction of law

A. <u>section 156 (2) CRPC</u>

No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

B. <u>DGP circular 17.2.2012.</u> (copy attached)

C. Circular no. 15011/35/2013 –SC/ST-W dated 10.5.13.

Para 3: the legal position stated above expects that the police shall register an FIR upon receipt of information of the commission of cognizable offence. Further, if after registration of FIR, upon investigation it is found that the subject matter relates to the jurisdiction of some other police station in which the case falls.

Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register "ZERO" FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the CRPC. It should be clearly stated that the delay over the determination of the jurisdiction leads to avoidable wastage of time which impacts on the victim and also leads to offenders getting an opportunity to slip from the clutches of the law. It should be clearly instructed that failure to comply with the instructions of registering an FIR on receipt of the information about the cognizable offence will invite prosecution of the police officer u/s 166A of the IPC for an offence specified u/s 166A or departmental action or both.

c. Circular no. 15011/91/2013/SC/ST dt. 5.2.14

The circular emphasis registration of FIR in cognizable offences and if the investigation officer fails to register FIR in case of cognizable offences he invites prosecution under section 166A IPC.

Lalita kumari judgement para 111.

14. **Non-registration of an FIR** when a complaint discloses a cognizable offense is a clear statutory duty of a police officer under Section 154 of the Criminal Procedure Code (CrPC). Failure to do so acts prosecution under section 166A IPC.
15. **Preparing false reports and submitting such reports to the court** are intentional acts of misconduct. These acts have no nexus with legitimate police duties and are instead aimed at obstructing justice.
16. The investigating agency by not registering FIR shielded / protected the Accused from punishment and prosecution; caused injury to public authority and public at large and protected & shielded illegality

and fraud causing wrongful gains to the Developers and wrongful loss to the public authority.

17. **The sanction to prosecute is not a blanket protection** given to the public servants for each and every illegal acts committed by them. It is for the purpose to safeguard a public servant from vexatious prosecution for any bonafide omission or commission in the discharge of official duties only and not otherwise. The alleged indulgence of the public servants in cheating the complainant and causing annoyance and injury to him, by illegally not registering FIR to protect the offenders, and their senior officers, who have willfully failed to ensure that the subordinate officers discharge their duty with integrity, devotion and truthfulness, acting in connivance and in furtherance to evil design cannot be said to be in discharge of official duty. Thus if at all the view of sanction is required to be considered it shall be considered at the time of trial.

18. The applicant states that he relied upon the latest Hon. Supreme Court judgement dt. 13.12.2024 page 76 para 85, that if at any stage of the trial if the evidence suggest that the acts mentioned in the complaint were indeed done or purported to be done in the discharge of official duty, trial may be stayed for want of Sanction. **Supreme Court judgement dt. 13.12.24 Omprakash Yadav V/s NiranjanUpadhyay in Criminal appeal 5267, 5268 of 2024.**

19. Non-registration of an FIR by a police officer, despite a clear disclosure of a cognizable offense, is actionable and does not attract immunity as part of official duties. **GOI circular 10.5.13 and 5.2.14.**

Culpable Negligence.

20. The willful refusal to register an FIR by any police officer does not fall under the ambit of official duty because it is a failure to perform a statutory obligation. Such acts are culpable negligence which attracts compulsory dismissal and premature retirement of all the concerned police officers.

21. **Central Civil Services (Conduct) Rules, 1964: Duty of public servants**:

- **3(1):** A government servant shall at all times maintain absolute integrity, devotion to duty, and do nothing which is unbecoming of a government servant.
- **3(2):** Every government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all government servants for the time being under their control and authority.

This rule makes it explicitly clear that senior officers are responsible for monitoring and ensuring that subordinates act with integrity and devotion to their duties.

22. Central Civil Services (Conduct) Rules, 1964, Rule 3 some of the duties amongst many others

i. To maintain absolute integrity.
ii. To maintain devotion to duty
iii. To do nothing which is unbecoming of a public servant.
iv. Commit himself to uphold the supremacy of the constitution and democratic values.
v. To defend and uphold the sovereignty and integrity of India, the security of the state, public order, decency and morality.
vi. To maintain high ethical standards and honesty.

vii. To act according to own judgement.

viii. To promote the principles of merit, fairness, impartiality in discharge of duty.

ix. To maintain accountability and transparency.

x. To maintain responsiveness to public.

xi. To maintain courtesy and good behavior with the public.

xii. To take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically.

xiii. To not to misuse his position as civil servant for personal or family gain.

xiv. To make choices, take decisions and make recommendations on merit alone.

xv. To act with fairness and impartiality and not discriminate against anyone.

xvi. To refrain from doing anything which is or may be contrary to any law, rules and regulations.

xvii. To act in good faith i.e acts which are done with due care and precautions.

Ld. Magistrate shall pass a reasoned and speaking order how the offences disclosed in the complaint comes within ambit of discharge of duty to direct the complainant to obtain sanction to prosecute.

23. The Ld. Magistrate before directing the complainant to produce the sanction to prosecute shall give reasoned order along with clarification as to whether the illegal acts committed by the Accused Respondents namely disobeying the direction of law, acting in conspiracy and doing acts impermissible by law and disobedience of CRPC 154, 157 by non-registration of FIR, preparing of forged

documents in the form of false and incorrect closure reports, using the forged documents as genuine for purpose of cheating with dishonest intentions to cause wrongful loss to public authority and wrongful gains to others, destruction of evidences, comes within the ambit of discharge of official duties. **Refer para 9,10,11,12, 17 to 22 herein above)**

17. The LD. Magistrate before directing the complainant to produce order of sanction to prosecute the Respondents / accused, shall pass order with reasoning and clarification as to

a. how he has come to conclusion that the illegal acts committed of forgery and disobedience of direction of law, violation of Hon. High Court / Hon. Supreme Court directions and as well as in violation to the above mandatory condition laid down, falls within the ambit of discharge of official duties.
b. Whether the illegal acts are in consonance with the above mentioned duties of public servant (Central Civil Services Conduct (Rules) 1964. (Rule 3).
c. Whether the accused police officer's act- of non registration of FIR in complaint disclosing cognizable offence is not beyond and outside the scope of any police officer's discharge of official duty.
d. Whether the accused act of non registration of FIR in complaint disclosing cognizable offences by disobeying the section 2G, 154, 156(2), 157 and Hon. Supreme Court judgement in Lalita kumari v/s state of UP is not beyond the scope any police officer's discharge of official duty.

e. whether these acts are in consonance with the official discharge of duties or it is beyond and outside the scope of the discharge of official duty.

f. Concealing of mandatory evidences, preparing of incorrect notings, and false closure report and using the same as genuine for the purpose of cheating the public at large and causing wrongful gains to the developers / offenders and corrupt public servants.

24. The Ld. Magistrate erred not to clarify and failed to give a reasoned order clarifying that the said acts of the Respondents are contrary to and in violation of the mandatory provisions of Section, 154 of the Code of Criminal Procedure, judgement and directions of the Hon'ble Supreme Court in Lalita Kumari V/s State of U.P and Government Circulars dated 10/05/2013 and 05/02/2014. Therefore, the acts of the Respondents have knowingly disobeyed to the prejudice of the complainant and causing wrongful loss to public authorities and public at large. The Respondents accused connived and acted in furtherance to evil design failed to obey the direction of the law regulating the manner in which the accused was duty bound to conduct investigation and therefore are punishable under Section **166A of the Indian Penal Code** and disobeyed the direction of law to protect and shield the accused from punishment, thereby committing **offence u/s 166, 217 r/w 120B, IPC**.

25. Moreover, the Respondents framed incorrect records by preparing incorrect notings and false closure reports and thereby committed the offence punishable under Section **167 and 218 of the Indian Penal Code** with dishonest intentions to cause injury, annoyance and prejudice to the complainant and save the accused from punishment and prosecution.

Most important to prosecute the public servants

26. Violation / disobedience of OATH OF ALLEGIANCE by the accused public servants. Whether the acts committed are in consonance with the oath to abide by Constitution.

a. The Complainant prays that this Hon'ble Court be pleased to call for the written oath or declaration of office submitted by the accused public servants and the same be summoned as evidence for prosecution under Section 91 CrPC

b. The breach of oath and constitutional allegiance, when knowingly done, constitutes the offence of giving false evidence under Section 193 IPC and making a false declaration while bound by oath under Section 199 IPC. The accused have thereby knowingly and dishonestly violated their solemn constitutional duties.

c. This Hon. Court shall verify whether the acts and offences committed by the accused public servants are in consonance with the allegiance of oath taken by the public servants before they have joined the service as public servant.

27. Culpable negligence by senior most public servants and promoting of illegal activities

a. Despite repeated complaints, reminders, and notices, senior officers have habitually failed to respond or take any action, demonstrating wilful abetment and connivance in the illegal acts of subordinate officers. This constitutes culpable inaction attracting offences under Sections 120A, 120B IPC (criminal conspiracy), 107109 IPC (abetment), Sections 166, 217, 218 IPC, and under Sections 41 and 63 BNSS. Under applicable

Conduct Rules, senior officers are duty-bound to ensure integrity and public interest compliance by subordinates. Their willful failure to prevent or address misconduct amounts to criminal negligence and conscious dereliction of duty, making them liable for prosecution.

28. Disobeying Allegiance to the Constitution:

The Hon. Court / investigating police officer shall take a copy of the oath of allegiance of each of the accused as evidence to prove that the cognizable offence is committed. This act and offence has no nexus with discharge of duty and therefore shall never come within the ambit of discharge of duty.

29. Violation of Constitutional Duties:

The accused public servants, including officials of BEST, MERC, and others, have violated their constitutional duty by acting against public interest and facilitating fraud.

30. The Applicant states that police / every public servant **Oath taken by public servants:** महाराष्ट्रपोलीससज्जनांचेरक्षणकरण्यासआणिदुर्जनांवरनियंत्रणठेवूनत्यांचानायनाटकरण्यासकटिबध्दआहेत. However, the materials on record and the conduct of the Respondents clearly discloses that have acted in contrary to the oath taken by them. Hence punishable for **offence u/s 193 / 199 IPC.**

Citation for which sanction is not required.

. False Documents / Forged Circulars

Case: *Kalicharan Mahapatra v. State of Orissa*, (1998) 6 SCC 411
Para: 13
Holding: "Section 197 CrPC has no application when a public servant commits an offence like fabrication of records; such act cannot be said to be in the discharge of official duty."

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2. Acts Not Permissible in Law

Case: *Prakash Singh Badal v. State of Punjab*, (2007) 1 SCC 1
Para: 15–18
Holding: Sanction is not required where the act is a criminal offence in itself and is **not intrinsically connected** with official duties.

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3. Acts Against Public Interest

Case: *Lalu Prasad Yadav v. State of Bihar*, (2007) 1 SCC 4
Para: 17
Holding: If the act is an abuse of official position for personal or political advantage and not a necessary part of public duty, no protection under Section 197 is available.

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4. Failure to Register FIR

Case: *Lalita Kumari v. Government of U.P.*, (2014) 2 SCC 1
Para: 120
Holding: "The registration of an FIR is mandatory under Section 154 of the CrPC, if the information discloses a cognizable offence..."

This implies that refusal to register an FIR is not a protected discretionary act and does not attract Section 197 protection.

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5. Denial of RTI Information

Case: *CBSE v. Aditya Bandopadhyay*, (2011) 8 SCC 497
Para: 37–38
Holding: The RTI Act mandates disclosure unless exempted specifically. Malicious or arbitrary denial may attract penalty and does not fall within "duties protected by law".

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6. Perverse First Appellate Orders under RTI

Legal Principle: When an appellate order is based on **wilful disregard** of records or law and causes **obstruction of justice or shielding corruption**, it may be considered mala fide and criminally prosecutable.
Case for analogy: *State of Orissa v. Ganesh Chandra Jew*, (2004) 8 SCC 40 – Held that protection under Section 197 is not available where the act was **clearly outside the scope of duty**.

The **investigating agency cannot legitimately accept the report of the accused department** without applying its independent mind or seeking clarification from the complainant. Doing so would violate principles of fairness, impartiality, and the essence of a proper investigation.

1. Duty of Fairness and Impartiality

i. **Role of the Investigating Agency:** The investigating agency is required to act independently and neutrally while evaluating evidence. Blindly accepting the accused department's report shows bias and defeats the very purpose of an impartial investigation.

ii. **Natural Justice:** The principles of natural justice dictate that both sides—complainant and accused—must be treated fairly, and no party's claims should be taken at face value without scrutiny.

2. Requirement to Apply Mind

a. **Judicial Precedents:**
   i. In **State of Haryana v. Bhajan Lal (1992)**, the Supreme Court emphasized that investigation must be conducted honestly and without favor to any party.

   ii. In **Meenakshi Anand v. State of Delhi (2011)**, it was ruled that an investigating officer cannot rely solely on one party's submissions but must critically analyze all facts and evidence.
b. **Violation of Procedure:** Accepting a report without applying the mind undermines the purpose of an investigation, which is to seek the truth rather than advocate for any party.

3. Importance of Clarifications from the Complainant

b. The complainant provides the starting point and critical details for the investigation. Ignoring them:
   i. Leads to an incomplete investigation.
   ii. Raises questions of bias, particularly when the accused department's version is given undue priority.
   iii. May amount to dereliction of duty by the investigating officer.

c. **Delhi Administration v. Laxman Kumar (1985)**: The Supreme Court noted that an incomplete or biased investigation can lead to a miscarriage of justice, and procedural fairness requires hearing all sides.

2.6.2025

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Regarding conducting hearing of second appeal and complaint in a hearing hall

GUJARAT STATE INFORMATION COMMSSION

Block No.1/2 foor, Karmayogi Bhavan,

Sector 10 A, Gandhinagar - 382010

Order No. GIC/court unit/PIL 83/(2)/hearing hall/2023

Read:

PIL 83/2023, Gujarat HC order dated 03-02-2023.

Representation by RTI Ekta Manc dated 11/08/2023

Representation with petitioners during meeting held on 28/8/2023.

Preamble:

RTI Ekta Manch had made written representation on 11/08/2023, and then a public interest litigation was done in Hon Gujarat High Court and Hon. High Court had passed an order on 3/8/2023.

GIC also invited petitioner and convenor of RTI Ekta Manch, Shri Pankaj Bhatt, and their advovate Shri Anand Yagnik on 28/8/2023 to represent their demands and they were heard. One of the points in their representation was that GIC should conduct appeal proceedings of second appeal and complaint in the "hearing hall" instead of conducting it in the chamber of the commissioner.

ORDER

The demand of conducting hearing of first appeal and complaint in the designated hearing hall was under consideration at commission level. After considering it GIC has decided to make necessary technical and physical arrangements/facilities and will conduct hearing of second appeals and complaints in the respective hearing halls.

The technical team and administrative team of the GIC will make all necessary provisions for conducting such hearing in the hearing hall. Necessary financial arrangements will also been done by GIC.

This order has been under the power vested with the commission under section 15(4) of RTI Act 2005.

K.K.Raval

Secretary

GIC

COPY TO

1. Secretary, Chief Commissioner's Office, GIC, Gandhinagar
2. Secretary, Information Commissioner's Office, GIC, Gandhinagar
3. Principle Secretary, GAD, Gandinagar
4. All offices at secretariat, Gandhinagar.
5. All District collectors,
6. Section officer, law officer, section officer (IT), PRO, GIC, Gandhinagar

महाराष्ट्र शासन
पोलीस महासंचालक कार्यालय, महाराष्ट्र राज्य
महाराष्ट्र राज्य पोलीस मुख्यालय, शहीद भगतसिंग मार्ग, फुलाबा, मुंबई ४०० ००१

रजिस्टर पोस्टाने

क्र. पोमसं/३६/र.व का. (८३००)/माअअ -खान /१६७/२०२२, मुंबई. दि. १७/०१/२०२३

प्रति,

श्री. वहीद गफ्फार खान
प्लॉट नं.२०/ सी /०६, रोड नं.३, शिवाजी नगर
गोवंडी पश्चिम, मुंबई ४०००४३

संदर्भ :- आपला दिनांक ३०/११/२०२२ चा अर्ज.

विषय :- माहितीचा अधिकार अधिनियम,२००५ अन्वये माहिती मिळण्याबाबत.

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महोदय,

माहितीचा अधिकार अधिनियम-२००५ अंतर्गत आपण शासनास सादर केलेला दि.३०/११/२०२२ चा अर्ज शासनपत्र, गृहविभाग, क्र.माअअ-२०२२ /सं.क्र.३१५९/आस्था-३, दिनांक २१/१२/२०२२ च्या पत्रासोबत या कार्यालयात नोंदणी शाखेत दिनांक २६.१२.२०२२ रोजी व कार्यासन क्र.३६ मध्ये दिनांक २८.१२.२०२२ रोजी प्राप्त झाला आहे. आपण मागणी केलेल्या माहितीस अनुसरुन आपणांस पुढीलप्रमाणे कळविण्यात येत आहे.

अ.क्र.	अर्जातील मुद्दे	अभिप्राय
१	महाराष्ट्र राज्यात वरिष्ठ पोलीस अधिकारी DySP /ASP /SP कार्यालय येथे अनेक पोलीस अधिकारी साहेबांची केबिनचे दारावर लिखित नोटीस लावलेले आहे, ज्याबर असे नमुद आहे की, 'आपला स्वत:चा मोबाईल फोन बाहेर ठेवून साहेबांच्या केबिन मध्ये प्रवेश करावा'. याबाबत नोटीस व नियम संबंधीत शासन परिपत्रक, वरिष्ठांचे आदेश पत्र किंवा मा. न्यायालयाचे आदेश असल्यास प्रत मिळावी.	स्वत:चा फोन बाहेर ठेवून वरिष्ठांच्या केबिनमध्ये प्रवेश करण्याबाबत शासनाचे आदेश किंवा परिपत्रक, वरिष्ठांचे आदेश अथवा मा. न्यायालयाचे आदेश या कार्यालयाच्या अभिलेखावर उपलब्ध नाहीत.

२. सदर माहितीने आपले समाधान झाले नसेल तर, आपण माहितीचा अधिकार अधिनियम-२००५ मधील कलम १९(१) मधील तरतुदीनुसार प्रथम अपिलीय प्राधिकारी, तथा पोलीस महासंचालक यांचे उपसहायक (र. व का.) महाराष्ट्र राज्य, शहिद भगतसिंग मार्ग, फुलाबा, मुंबई ४०० ००१ यांना विहीत मुदतीत प्रथम अपील सादर करु शकता.

आपला विश्वासू,

(विनय राणे)
माहितीचा अधिकार अधिनियम २००५ अंतर्गत कार्यासन क्र.३६ चे पदनिर्देशित
जनमाहिती अधिकारी, तथा वरिष्ठ कार्यालय अधीक्षक,
पोलीस महासंचालक, महाराष्ट्र राज्य यांचे कार्यालय, मुंबई.

Police Station Not a Prohibited Place Under Official Secrets Act: Bombay High Court Quashes FIR Against Man Booked For Shooting Video Inside PS

2022 LiveLaw (Bom) 422

IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH
MANISH PITALE; J., VALMIKI SA MENEZES, J.
CRIMINAL APPLN. (APL) NO. 615 OF 2021; 26.07.20 22
Ravindra Shitalrao Upadyay *versus* State of Maharashtra

Mr.D.R.Bhoyar, counsel for the applicant. Mr.S.M.Ghodeswar, APP for the respondent.

JUDGMENT

Manish Pitale, J;

Heard.

2. Admit. Heard finally by consent of the learned counsel appearing for the parties.

3. By this application, the applicant, i.e. the original accused has approached before this Court seeking quashing of First Information Report (FIR) No.219 of 2018 and consequent case bearing Regular Criminal Case No.875 of 2019, pending before the Competent Court at Wardha, in pursuance of filing of charge-sheet in the matter.

4. The applicant in the present case as per FIR dated 08/03/2018, has been accused of offence punishable under section 3 of the Official Secrets Act, 1923. Pursuant to investigation, chargesheet was filed on 18/11/2019.

5. Mr. Bhoyar, learned counsel appearing for the applicant, submits that even if the contents of the FIR and the material placed before the Court below along with charge-sheet are to be perused and accepted as it is, there are no ingredients of offence punishable under section 3 of the Official Secrets Act made out in the present case. On this basis, it is submitted that the present application deserves to be allowed in the interest of justice.

6. Mr.Ghodeswar, learned APP on the other hand, submitted that this Court may peruse the material placed on record to arrive at a conclusion as to whether offence under the aforesaid provision is made out or not. Judgment of this Court in the case of Satvik Vinod Bangre and others v. The State of Maharashtra and another (order dated 23/03/2021) passed in Criminal Application (APL) No.74 of 2021 and other is brought to the notice of this Court, to assist this Court for deciding the present application.

7. A perusal of the material on record shows that the complainant in the present case is a Police Officer, who has alleged that during certain proceedings being undertaken in the Police Station, the applicant secretly video recorded the proceedings on his mobile, thereby committing offence punishable under section 3 of the Official Secrets Act, 1923. The material placed on record indicates that there was a dispute between the applicant and his wife on one hand and owner of adjacent agricultural field on the other, leading to a situation where a non-cognizable report was registered against the owner of the adjacent agricultural field, at the behest of the applicant. The Police Officer informed the applicant and his wife that on the basis of a cross complaint being placed before the Police by the owner of the adjacent agricultural field, there was every likelihood of registration of offence against the applicant and his wife. In this backdrop, the rival parties were present in the Police Station and it is alleged that attempts were being made to settle the inter se dispute between the parties. It is at this stage that, according to the complainant-Police Officer, the applicant made the aforesaid video recording, thereby committing the said offence.

8. The contents of the FIR state the aforesaid allegations against the applicant. The statements of alleged witnesses recorded during the course of investigation and made part of the chargesheet also limit the allegation only to the aforesaid act on the part of the applicant in making the video recording whilst the discussions were going on in the Police Station.

9. This Court has perused section 3 of the Official Secrets Act, which provides penalties for spying. It specifically states that a person would face penalty for spying if he commits an act as specified in sub-section (1) thereof. The relevant portion of the said provision is reproduced as follows:

"**3. Penalties for spying.**– (1) If any person for any purpose prejudicial to the safety or interests of the State–

(a) approaches, inspects, passes over or is in the vicinity of,or enters, any prohibited place; or

(b) makes any sketch, plan, model, or note which iscalculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(c) obtains, collects, records or publishes or communicates toany other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States, he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years."

10. In the context of the above quoted provision, the definition of 'prohibited place' as defined in section 2(8) of the Official Secrets Act is relevant. It is an exhaustive definition, which does not specifically include Police Station as one of the places or establishments, which could be included in the definition 'prohibited place'. Considering the aforesaid provisions and proceeding on the basis of the statements made by witnesses during the course of investigation, in the backdrop of the allegation made by the complainant, this Court is of the opinion that none of the ingredients of the alleged offence are made out against the applicant. Therefore, this would be a fit case to allow the present application.

11. In the judgment in the case of Satvik Vinod Bangre and others v. The State of Maharashtra and another, in a similar situation, when video recording was made on the mobile phone, in the context of the offences punishable under sections 353 and 186 read with section 34 of the Indian Penal Code, this Court found that there was no material to invoke sections 3 and 4 of the Official Secrets Act. This Court is of the opinion that the allegations in the said case were far more serious than those made in the present case against the applicant.

12. In view of the above, the application is allowed in terms of prayer clause-1, which reads as follows.

"1. Exercise the inherent powers vested by virtue of section- 482 of Cr.P.C. and thereby quash and set aside the F.I.R. bearing Crime no.-219/2018 dated-08/03/2018 for the offences punishable under Section – 3 of Official Secrets Act, 1923 and consequent R.C.C. No.- 875/2019 thereto pending before Chief Judicial Magistrate, Wardha."

13. Accordingly, the application is disposed of.

महाराष्ट्र शासन
पोलीस आयुक्त कार्यालय, नागपूर शहर
पोलीस भवन, सिव्हिल लाईन्स, नागपूर-४४०००१
दूरध्वनी क्र. ०७१२-२५६०६०१ ई-मेल-cp.nagpur@mahapolice.gov.in

क्र-पोउपआ/मुख्या/परिपत्रक/२०२३-२५ दिनांक- १३/०६/२०२३

परिपत्रक

विषय :-पोलीस ठाण्यामध्ये व्हीडीओ रेकॉर्डींग संबंधाने

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मा. उच्च न्यायालय मुंबई, खंडपीठ नागपूर येथे दाखल क्रिमीनल अपिलीकेशन नं. ६१५/२०२१ मध्ये मा. न्यायालयाने दिनांक २६/०१/२०२२ रोजी आदेश पारीत केला आहे की, केंद्र सरकार द्वारे पारित अधिकृत गुपिते (ऑफिशियल सिक्रेट्स) कायदा १९२३ च्या कलम २(८) मध्ये परिभाषित केल्यानुसार 'निषिद्ध ठिकाण' ची व्याख्या प्रासंगिक आहे ही एक सर्व समावेशक व्याख्या आहे, ज्यात विशेषत: पोलीस ठाणेचा समावेश, ठिकाण किंवा आस्थापना पैकी एक म्हणून केला जात नाही.

त्याअनुषगाने क्र पोउपआ/ मुख्या/ परिपत्रक/ २०२२- २९१ दिनांक २८/१२/२०२२ रोजी अन्वये परिपत्रक काढण्यात आले होते परंतु असे निदर्शनास आले आहे की, पोलीस ठाणे येथे आलेल्या व्यक्तींनी व्हीडीओ रेकॉर्डींग करताना दिसुन आल्यास कर्तव्यावरील अधिकारी/अंमलदार त्यांचेशी वाद घालतात आणि गुन्हा नोंद करतात ही अत्यंत खेदाची बाब आहे. पोलीस ठाणे हे सार्वजनिक स्थळ असुन पोलीस ठाणे मध्ये येणारे व्यक्तींनी व्हीडीओ रेकॉर्डींग केल्याचा त्यास आक्षेप घेण्याचा प्रयत्न करू नये.

करीता पोलीस ठाणे मध्ये येणाऱ्या व्यक्तींनी व्हिडीओ रेकॉर्डींग केल्यास गुन्हा नोंद करता येत नाही, असे मा. न्यायालयाने आदेशीत केलेले आहे तरी सर्व पोलीस ठाणे प्रभारी यांनी मा. न्यायालयाचे आदेशाची प्रत सर्व पोलीस अधिकारी/अंमलदार यांना वितरीत करून सदरची बाबती त्यांच्या निदर्शनास आणुन द्यावी. तसेच अधिकृत गुपिते (ऑफिशियल सिक्रेट्स) कायदा १९२३ अन्वये गुन्हा नोंद करताना मा. न्यायालयाने आदेशाचे तंतोतंत पालन करावे.

(मा. पोलीस आयुक्त, यांचे आदेशान्वये)

(डॉ.अश्विनी पाटील)
पोलीस उप आयुक्त(मुख्यालय),
नागपूर शहर

प्रति,
सर्व सपोनि पोलीस ठाणे/शाखा,
नागपूर शहर

प्रत माहितीस व आवश्यक कार्यवाहीस्तव :-
सर्व सहायक पोलीस आयुक्त, नागपूर शहर

प्रत सस्नेह अग्रेषित :-
सर्व पोलीस उप आयुक्त, नागपूर शहर

प्रत सविनय सादर :-
--- पोलीस आयुक्त, नागपूर शहर

No DGP/23/54/F.I.R./283/2012 Mumbai, Date 17/02/2012

Ref – 1) This office circular no. DGP/23/54/Crime/2001, dated 3/10/2001.
2) No. DGP/23/54/FIR/954/08, dated 16/08/2008.
3) No. DGP/23/66/Writ Petition/2010, dated 15/10/2010.
4) Order dated 30/01/2012 passes by Hon'ble High Court, Mumbai in Criminal Writ Petition No. 112/2012.

Sub – F.I.R. filed before the Police disclosing cognizable offence.

******

Circular :

In Criminal Writ Petition No. 112 of 2012, filed by Iqbal Ramzan Khan Vs. State of Maharashtra & Ors., the Hon'ble High Court has observed that –

"It has come to our notice that in several cases though cognizable offence is disclosed, on the complaints being filed, such complaints are not registered by the police station, resulting in grave injustice being caused to the complainants. The Director General of Police is, therefore, directed to inform all the concerned police stations to strictly adhere to the provisions of Section 154 Cr.P.C and also the decision of this Court in the case of – *Sandeep Rammilan Shukla & Ors.*Vs. State of Maharashtra & Ors. [2008 ALL MR (Cri) 3486] and ensure that complaints are registered promptly as soon as they disclose commission of cognizable offence. It is brought to our notice that the directions which are given by this decision of this Court are not strictly adhered to. It is made clear that strict action will be taken if the directions given in the aforesaid decision of this Court are not followed".

In the past, from time to time instructions have been issued on the above subject by this office. However, observations made by the Hon'ble High Court mentioned above, clearly show that instructions are not being followed scrupulously.

In the matter of *Sandeep Rammilan Shukla & Ors.*Vs. State of Maharashtra & Ors. [2008 ALL MR (Cri) 3486] Hon'ble Supreme Court had observed that

(a) The expression "shall" appearing in Section [redacted] the Code of Criminal Procedure is mandatory. The Section places an 'absolute Duty' on the part of the 'officer in charge of a police station' to record [redacted]mation and place substance thereof in the prescribed book, where the information supplied or brought to his notice [redacted] commission of cognizable offence.

(b) As the law does not specifically prohibit conducting of a limited preliminary inquiry pre-registration of FIR in exceptional and rare cases by the officer in charge of a police station, he may penultimately thus enter upon a preliminary inquiry in relation to information supplied of commission of a cognizable offence but only and only upon making due entry in the Daily Diary / Station Diary/ Roznamacha instantaneously with reasons as well as the need for adopting such a course of action. Such inquiry should be completed expeditiously and in any case not later than two days. Thereafter, the FIR should be recorded in the prescribed register and/ or the officer should take any other recourse permissible to him strictly in accordance with the provisions of the Code of Criminal Procedure under which he is empowered to investigate. Such cases can be illustrated by giving an example i.e. when the information received in regard to commission of a cognizable offence would patently cause absurd results or report of happening of events, authenticity of which ex facie is extremely doubtful.

(c) The law inescapably requires the police officer to register the information (FIR) received by him in relation to commission of a cognizable offence. Under the Scheme of the Code, no choice is vested in the police officer between recording or not recording the information received. The concerned officer would aptly take recourse to clause (a) as a normal rule while could adopt the course of action as stated in clause (b) above as an exceptional and rare case.

All Unit Commanders are directed to bring these instructions in writing to the notice of all the Police Stations and subordinate officers working under them and comply with the above directions issued by the Hon'ble Court scrupulously. The Unit Commanders should also mandate that these instructions are read over (in Marathi) during roll call continuously for three days and make station diary entry to that effect to ensure compliance of order of Hon'ble Court in true spirit. All concerned should be sensitized that any failure to comply with the above instructions would be viewed seriously and appropriate action would be taken against the concerned.

17/2/12

(G. D. Pol)
Spl. Inspector General of Police (L.& O.)
For Director General of Police,
Maharashtra State, Mumbai

To,

All Commrs. of Police (Including Rly.)
All Supdts. of Police (Including Rly.)

Copy to,

Addl. Director General of Police, C.I.D., M.S., Pune.
Addl. Director General of Police, Rly. , M.S,.Mumbai.
All Range Inspector General of Police.
Desk Officer, Desk No. 14, D.G.P. office, Mumbai.

Copy with compliments to

The Addl. Chief Secretary, Home Department, Mantralaya, Mumbai.
The Principal Secretary, Law and Judiciary Department, Mantralaya, Mumbai.

Shri. P.A. Pol,
Govt. Pleader and Public Prosecutor,
High Court, A.S., Mumbai

No. 15011/35/2013 - SC/ST-W
Government of India
Ministry of Home Affairs
Centre State Division
****

5th Floor, NDCC-II Building
Jai Singh road, New Delhi
the 10th May, 2013

To

The Additional Chief Secretary/ Principal Secretary (Home)

Sub: Registration of FIR irrespective of territorial jurisdiction and Zero FIR

Sir/Ma'am,

This relates to the registration of FIR by the police when they receive a call/complaint related to a crime committed and suspected to be outside the jurisdiction of the police station concerned.

2. Instructions are envisaged on account of the delays occurring when there are issues relating to the area jurisdiction regarding the investigation of the case. The hesitation to take up investigation of cases falling in uncertain territorial areas needs to be dispelled to allay the fears that it may be liable to be quashed u/s 482 of the Cr.P.C. There are two rulings of the Supreme Court in Satvinder Kaur vs Govt. of NCT of Delhi on 5/10/1999 (AIR 1999, Delhi 1031) and in Ramesh Kumari vs Govt. of NCT Delhi on 21/2/2006. In the former case, the Court held that at the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of particular police station would not have territorial jurisdiction. That apart, section 156(2) of the Cr.P.C contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate the case. In the latter case, the Court held that a police officer is duty bound to register the case on the basis of such information disclosing a cognizable offence u/s 154(1) of the Cr.P.C.

3. The legal position stated above expects that the police shall register an FIR upon receipt of information of the commission of a cognizable offence. Further, if after registration of FIR, upon investigation, it is found that the subject matter relates to the jurisdiction of some other police station, the FIR may be appropriately transferred to the police station in which the case falls. Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register a 'Zero' FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the Cr.P.C. It should be clearly stated that the delay over the determination of the jurisdiction leads to avoidable wastage of time which impacts on the victim and also leads to offenders getting an opportunity to slip from the clutches of the law. It should be clearly instructed that failure to comply with the instruction of registering an FIR on receipt of information about the cognizable offence will invite prosecution of the police officer u/s166A of the IPC for an offence specified u/s166A or departmental action or both.

4. It may also be emphasized that police services should be sensitized to respond to complaints with alacrity whether is from a man or a woman. Apprehending the accused must take place immediately after the complaint as there is a tendency of the person committing the crime slipping away should there be a delay on extraneous grounds like jurisdiction. The police may also put in place a system of rewarding the personnel for timely response and punishment for wanton lethargy.

5. Home Departments of the States/UTs may direct the DGPs/IGPs to issue above instruction so as to reach all police stations at the shortest possible time.

The receipt of the same may kindly be acknowledged.

(S Suresh KUMAR)
JS (CS)

No. 15011/91/2013 – SC/ST–W
Government of India
Ministry of Home Affairs
Centre State Division
******

5th Floor, NDCC-II Building
Jai Singh Road, New Delhi
dated the 5th February, 2014

To

The Additional Chief Secretary/Principal Secretary (Home Department)

Sub:- Compulsory Registration of FIR u/s 154 Cr.P.C when the information makes out a cognizable offence

Sir/Ma'am,

This is in continuation to the earlier advisory of the Ministry of Home Affairs dated 10-05-2013[1] regarding the registration of FIR irrespective of territorial jurisdiction and zero FIR. We had made it clear that as per section 154(1) of the Cr. P.C. a police officer is duty bound to register a case on the basis of such information disclosing a cognizable offence. We had also made it clear that when it becomes apparent that even if the offence has been committed outside the jurisdiction of the police station, zero FIR would still be registered and the FIR would be then transferred to the appropriate police station as per Section 170 of the Cr. P.C.

2. A Constitution Bench of the Supreme Court in W.P. (Cri.) No.68 of 2008 in Lalita Kumar Vs Government of U.P[2]. and others on 12-11-2013 had addressed the issue of mandatory registration of FIRs and had held that registration of FIR either on the basis of the information furnished by the informant when it makes out a cognizable offence u/s 154(I) of the Cr. P.C. or otherwise u/s 157 (I) of the Cr. P.C. is obligatory. It also held that reliability, genuineness and credibility of the information are not conditions precedent for registering a case u/s 154 of the Cr. P.C. Since the legislative intent is to ensure that every cognizable offence is promptly investigated in accordance with law, hence there is no discretion or option left with the police to register or not to register an FIR once information of a cognizable offence has been provided. The court was quite perturbed about the burking of crime registration and has concluded that non-registration of crime leads to dilution of rule of law and thus leads to definite lawlessness in the society, which is detrimental to the society as a whole. It has hence called for action against erring officers who do not register an FIR if information

[1] http://mha.nic.in/sites/upload_files/mha/files/AdvisoryFIR-290513.pdf
[2] http://judis.nic.in/supremecourt/imgs1.aspx?filename=40960

received by him/her discloses the commission of a cognizable offence. It may be mentioned that Section 166 A of Cr. P.C. prescribes a penalty of imprisonment up to two years and also a fine for non-registration of a FIR for an offence described u/s 166 A. It may be also mentioned that if after investigation the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR under Chapter XI of the I.P.C.

3. The Supreme Court has provided for some exceptions to the mandatory registration of FIR and for the conduct of preliminary inquiry which are as follows:

(a) If the information received does not disclose the commission of cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether a cognizable offence is disclosed or not. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant within one week and it must also disclose the reasons in brief for closing the complaint and not proceeding further.

(b) The other categories of cases in which preliminary inquiry may be made are:

(i) Matrimonial disputes/family disputes

(ii) Commercial offences

(iii) Medical negligence cases

(iv) Corruption cases

(v) Cases where there is an abnormal delay in initiating criminal prosecution. Example: over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay

(vi) The Supreme Court has also insisted that all preliminary inquiries should be completed within 7 days and any delay with the causes should be reflected in the General Diary/Station House Diary/Daily Diary.

4. The Supreme Court has, inter-alia, deprecated the practice of first recording the information in the General Diary and then conducting a preliminary inquiry and thereafter registering the FIR. It has clarified that registration of the FIR is to be done in the FIR Register/Book (in the standard format prescribed) and in addition, the gist or substance of the FIR is to be recorded in the General Diary as mandated in the Police Act or Police Regulations.

5. In addition, to ensure accountability in the functioning of police, the Supreme Court emphasized that all actions of the police should be reduced to writing and documented through entries made in the General Diary of the Police Station.

6. Home Departments of the States/UTs may direct the DGPs/IGPs to issue necessary instructions in the light of the above advisory so that all police officers are made aware of

them and the contents are also incorporated in the training curriculum of the police personnel.

7. The receipt of the same may kindly be acknowledged.

(S. Suresh Kumar)
Joint Secretary (CS)

111) IN VIEW OF THE AFORESAID DISCUSSION, WE HOLD:

i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case.

The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and

reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary

No.1/20/2009-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: the 23rd June, 2009

OFFICE MEMORANDUM

Subject : Disclosure of 'file noting' under the Right to Information Act, 2005.

***

The undersigned is directed to say that various Ministries/Departments etc. have been seeking clarification about disclosure of file noting under the Right to Information Act, 2005. It is hereby clarified that file noting can be disclosed except file noting containing information exempt from disclosure under section 8 of the Act.

2. It may be brought to the notice of all concerned.

Yours faithfully,

(K.G. Verma)
Director

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission/Election Commission.
3. Central Information Commission/State Information Commissions.
4. Staff Selection Commission, CGO Complex, New Delhi
5. O/o the Comptroller&Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All officers/Desks/Sections, DOP&T and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs.

23/06/09
जारी किया
ISSUED

ii. The information sought is within the parameters of section 2F, 2J, 4(1)(B)(iii)(iv)(v) and the Preamble of RTI act.

iii. As the matter concerns larger public interest the information shall be provided u/s 8(2) RTI act.

iv. The information shall be provided with chart / index and paging

v. The information shall be denied on grounds mentioned in section 8 & 9 of RTI Act and on no other grounds. The PIO is liable to be prosecuted under I.P.C amongst other provision of RTI act & circular dt. 31.3.2008, 10.8.2009 & others.

vi. The information shall be provided in the format sought section 7(9) RTI act and as per section 4 (1) (a) RTI act.

Visit my website kamlakarshenoy.com for all RTI queries and Police investigation issues.

No.DGP/23/54/Grievance/1121 of 2012
Office of the Director General of Police.
M.S., Mumbai. Dt. 22nd June, 2012.

Sub: **GRIEVANCE REDRESSAL DAY.**

CIRCULAR

It has been noticed that several complainants are approaching Hon'ble High Court for transfer of investigation to C.I.D. Crime. Besides the Hon'ble Court, cases are also transferred to State C.I.D., by the D.G.P., M.S., and by the Govt. Even Unit Commanders are also empowered to transfer investigation from Police Station to the L.C.B./Crime Branch, considering the seriousness of the case. Following instructions are issued to all the Unit Commanders with a view to ensure that grievances of the complainants not only pertaining to investigation but other general complaints are also attended to by the Unit Commanders which will certainly reduce the number of petitioners approaching the Hon'ble Court in this regard.

(a) A **Grievance Redressal Day** shall be observed once a week in each Police Station of the State.
(b) That can be every Saturday (between 1000 – 1130 hrs.)
(c) A board of reasonable size shall be displayed in/around the charge room of the Police Station containing name, contact no., e- mail id of the Supdt. of Police/Commissioner of Police,
(d) All I.Os. will remain present in Police Station. Where I.O. is away due to unavoidable reasons, P.I. Crime/P.Stn. i/c will attend to the complainants.
(e) The progress/status of enquiry/investigation would be easily provided to the complainants.

(f) If not satisfied, the complainant will be free to approach the Supdt. of Police,/D.C.P./higher authorities.

(g) Information about **'Grievance Redressal Day'** be put up on the website of the particular unit in advance.

2. These measures will certainly bring succour and transparency to the grieving members of Public and sense of satisfaction to the police.

3. (i) All Unit Commanders should ensure compliance of the above instructions.

(ii) Should personally monitor status and efficacy of these measures by surprise visits etc.

(iii) It will be their responsibility to effectively implement these instructions.

(Dr. B.K. Upadhyay)
Spl. Inspector General of Police (L & O)
for Director General of Police, M.S., Mumbai.

To

All Commissioners of Police,
All Supdts. of Police.

Copy to:
Addl.D.G.(C.I.D.), M.S., Pune
All Range I.Gs.P.

महाराष्ट्र शासन
सामान्य प्रशासन विभाग,
शासन परिपत्रक क्रमांक - केमाअर्ज - २००७/७४/प्र.क्र.१५४/०७/०६
मंत्रालय, मुंबई - ४०००३२ दिनांक : ३१ मार्च २००८

पहा: १) माहितीचा अधिकारी अधिनियम, २००५, दिनांक २२.१२.२००५
२) शासन अधिसूचना क्र. आरटीआय - २००५/सी/आर.३१५/०५/०५/दि.११/१०/२००५
३) शासन परिपत्रक क्र. केमाअ-२००७/११८२/प्र.क्र६५/०७/०६/(मा.अ)दि. १२/१२/२००७

परिपत्रक

माहितीचा अधिकार अधिनियम, २००५ हा राज्यात दिनांक १२/१०/२००५ पासून लागू झाला असून, अधिनियमांतर्गत प्राप्त झालेल्या अर्जांना जन माहिती अधिकाऱ्यांकडून विहित मुदतीत उत्तर दिले जात नाही, तसेच अधिनियमांतर्गत प्राप्त झालेल्या अपिलांची सुनावणी अपिलीय प्राधिकारी विहित मुदतीत घेत नाहीत, अशा प्रकारच्या तक्रारी नागरिकांकडून प्राप्त होत आहेत.

२. या अनुषंगाने असे पुन:प्रसारित करण्यात येते की, माहितीचा अधिकार अधिनियम, २००५ अंतर्गत प्राप्त झालेला अर्ज त्या प्राधिकरणाचा नसल्यास अधिनियमाच्या कलम ६ (३) अन्वये ५ दिवसांत योग्य प्राधिकरणाकडे हस्तांतरित करण्यात यावा. अधिनियमाच्या कलम ७(१) अन्वये कोणत्याही परिस्थितीत विनंती प्राप्त झाल्यापासून तीस दिवसांच्या आत, एकतर विहित करण्यात येईल अशा फी चे प्रदान केल्यावर माहिती देणे आवश्यक आहे अथवा कलम ८ व ९ च्या तरतुदीप्रमाणे नाकारणे बंधनकारक आहे. तसेच अधिनियमाच्या कलम १९ (१) किंवा कलम १९(२) अन्वये केलेले अपील ते मिळाल्याच्या दिनांकापासून ३० दिवसांच्या आत किंवा दाखल केल्याच्या दिनाकांपासून ४५ दिवसांत कारणे लेखी नमूद करून निकालात काढणे बंधनकारक आहे. अपिलावर निर्णय देताना उपनिर्दिष्ट दिनांक १२.१२.२००७ च्या परिपत्रकातील सूचनांचे अनुपालन करण्याची दक्षता घेणे आवश्यक आहे.

३. महाराष्ट्र शासनाने दिनांक ११/१०/२००५ रोजी प्रसारित केलेल्या अधिसूचनेच्या कलम ३ नुसार माहितीच्या अर्जासोबत सार्वजनिक प्राधिकरणाला देय असलेली फी रोख रक्कपेच्या स्वरूपात तिची योग्य पावती देऊन किंवा दर्शनी धनाकर्ष किंवा बँकेच्या धनादेशाद्वारे किंवा त्यावर १० रुपयांचा न्यायालय फी मुद्रांक याद्वारे स्वीकारण्यात येईल. तसेच अधिनियमातील कलम ७ (१) अन्वये आकारावयाचे जादा शुल्क रोख स्वरूपात (योग्य ती पावती देऊन) किंवा दर्शनी धनाकर्ष किंवा बँकेचा धनादेश किंवा मनीऑर्डर याद्वारे स्वीकारण्यात यावे.

४. वरील कार्यपद्धतीचे अनुपाल न करता अर्जदारास / अपीलकर्त्यांना त्रास होईल अशी कार्यवाही करणाऱ्या अधिकाऱ्यांविरुद्ध संबंधित कार्यालय प्रमुखानी त्वरित शिस्तभंगाची कायवाही सुरू करावी.
महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

स्वाक्षरी/-
न. म. शिंदे

बृहन्मुंबई महानगरपालिका

सामान्य प्रशासन विभाग

परिपत्रक

21

क्र. एमओएम/२०७५ दि.१६.०१.२०२४

विषय:-माहितीचा अधिकार अधिनियम,२००५ च्या प्रभावी अंमलबजावणीबाबत.

संदर्भ:-शासन परिपत्रक क्र.केमाअर्ज-२००७/७४/प्र.क्र.१५४/०७/०६ दि.३१.०३.२००८.

माहिती अधिकार अधिनियम, २००५ च्या प्रभावी व सुरळीत अंमलबजावणीकरिता राज्य माहिती आयोगाकडून वेळोवेळी निदेश प्राप्त होतात.

त्याअनुषंगाने वेळोवेळी सर्व खाते/विभाग प्रमुख यांच्या अखत्यारितील जन माहिती अधिकारी व प्रथम अपिलीय अधिकारी यांना माहितीचा अधिकार अधिनियम,२००५ च्या प्रभावी अंमलबजावणीसाठी निदेश देण्यात आले आहेत.

तथापि, जन माहिती अधिकारी व प्रथम अपिलीय अधिकारी यांच्याकडून सदर सूचनांचे काटेकोरपणे पालन होताना दिसून येत नाही. त्यामुळे अर्जदारास त्रास सहन करावा लागतो व अर्जदारास माहिती अधिकार अधिनियमाची पायमल्ली होत आहे असे वाटते. त्यामुळे जन माहिती अधिकारी व प्रथम अपीलीय अधिकारी यांना अर्जदाराच्या रोषास सामोरे जावे लागते. तसेच द्वितीय अपीलांच्या संख्येत वाढ होते.

जन माहिती अधिकारी, प्रथम अपिलीय अधिकारी व संबंधित खाते/विभाग प्रमुख यांनी माहिती अधिकार अधिनियम, २००५ च्या कार्यपध्दतीचे अनुपालन न करता अर्जदारास/अपिलकर्त्यांना त्रास होईल अशी कार्यवाही करणा-या अधिका-यांविरुध्द कारवाई करण्याबाबत शासनाकडून संदर्भाधीन परिपत्रकानुसार सूचना प्राप्त झाल्या आहेत.

तरी, सदर सूचनांचे सर्व संबंधितांनी काटेकोरपणे पालन करावे असे निदेश याद्वारे देण्यात येत आहेत.

सही/-१६.१२.२०२३	सही/-१९.१२.२०२३	सही/-२२.१२.२०२३	सही/-१२.०१.२०२४
(रिमा देकणे)	(मिलिन सावंत)	(डॉ.अश्विनी जोशी)	(डॉ.इ सिं चहल)
प्रमुख कर्मचारी अधिकारी	सह आयुक्त (सा. प्र.)	अतिरिक्त महानगरपालिका आयुक्त (शहर)	महानगरपालिका आयुक्त

प्रकअ/७२

२०२३-२४

सामान्य प्रशासन विभाग

क्र. एमओएम/ २०७५ दि.१६.०१.२०२४

प्रत:----------

यांना माहितीसाठी व योग्य त्या कार्यवाहीसाठी रवाना.

१६/०१/२०२४

(श्रीम. लीना ता. शिंदे)

रचना व कार्यपध्दती अधिकारी (आयुक्त कार्यालय)

महाराष्ट्र शासन
ग्राम विकास व जलसंधारण विभाग,
शासन परिपत्रक क्र.माअअ-२००९/प्र.क्र.७३ /समन्वय कक्ष,
मंत्रालय, मुंबई -३२.
दिनांक- १० ऑगस्ट, २००९.

परिपत्रक

प्रत्येक सार्वजनिक प्राधिकरणाच्या कामकाजामध्ये अधिकाधिक पारदर्शकता आणि उत्तरदायित्व निर्माण करण्याच्या दृष्टीने आणि नागरिकांना माहिती मिळण्याच्या अधिकाराचा व्यवहार्य पध्दती आखून देण्यासाठी माहितीचा अधिकार अधिनियम, २००५ हा कायदा पारित करण्यात आलेला आहे. लोकशाहीमध्ये माहितगार नागरिक समूह निर्माण करणे, व्यवहारात पारदर्शकता आणणे, शासन यंत्रणेचे प्रजेला जाब देण्यासाठी उत्तरदायित्व ठरविणे ही या कायद्याची काही उद्दिष्टे आहेत. या कायद्याची उपयुक्तता आणखीन जास्त चांगल्या रितीने सिध्द व्हावी म्हणून जन माहिती अधिकारी व अपिलीय अधिकारी यांनी आपली जबाबदारी काटेकोरपणे पार पाडल्यास जनतेला मोठा दिलासा मिळून त्यांचे प्रश्न सोडविण्यास मदत होवू शकते.

२. त्यासाठी खालीलप्रमाणे सूचना पुन्हा देण्यात येत आहेत:-

१) जन माहिती अधिकाऱ्यांनी त्यांच्याकडे माहितीचा अधिकार अधिनियम २००५ अंतर्गत प्राप्त झालेले अर्ज काळजीपूर्वक वाचून व त्याचा मतीतार्थ जाणून अर्जदारास माहिती देण्याचा प्रयत्न करावा. ज्या ठिकाणी एखाद्या मुद्दयाचे स्पष्टीकरण आवश्यक वाटते. त्यावेळेला अर्जदारास दूरध्वनीद्वारे किंवा पत्राने संपर्क साधून बोलाविण्यात यावे व मुद्दा स्पष्ट करुन घेण्यात यावा. ही कार्यवाही शक्यतो अर्ज मिळाल्यापासून पहिल्या ५ दिवसांतच करणे आवश्यक आहे. अर्ज किंवा त्याचा काही भाग हा दुसऱ्या जनप्राधिकरणाशी संबंधित असल्यास तो अर्ज किंवा त्याचा भाग हा ५ दिवसांच्या आंत संबंधित जन माहिती अधिकाऱ्यांकडे माहिती देण्यासाठी पाठविण्यात यावा व तसे अर्जदारासही तात्काळ कळविण्यात यावे.

२) एखादी माहिती जनमाहिती अधिकाऱ्याकडे उपलब्ध नसल्यास कोणत्या मुद्दयांची माहिती उपलब्ध नाही हे स्पष्टपणे अर्जदारास कळविण्यात यावे. अर्जदारास हवी असणारी माहिती ही फार विस्तृत स्वरुपाची असल्यास तर अर्जदारास निश्चितपणे चर्चेला बोलाविण्यात यावे. चर्चेतून वा आपसातील सहमतीने व अर्जदारास संपूर्ण नस्तीची / कागदपत्रांची तपासणी करुन घेवून त्यांना त्यांच्या मुद्दयांशी संबंधित आवश्यक ती माहिती देण्याचा प्रयत्न करण्यात यावा.

३) माहितीचा अधिकार अधिनियम २००५ खाली माहिती मिळविण्यासाठी केलेल्या अर्जातील एखादी विनंती ही माहिती किंवा अभिलेख या सदरात येत नाही असे जनमाहिती अधिकाऱ्यास वाटत असल्यास त्यासंबंधीचे विस्तृत कारण जन माहिती अधिकारी यांनी द्यावे. ज्यावेळेला माहिती नाकारायची असेल त्यावेळी अधिनियमाच्या कलम ८ व ९ च्या कोणत्या पोट कलमानुसार माहिती नाकारली जात आहे हे स्पष्टपणे नमूद करावे.

४) जन माहिती अधिकाऱ्यांनी अर्जदारास माहिती देत असतांना पत्रात स्पष्टपणे आपले नांव व पदनाम, कार्यालयीन दूरध्वनी क्रमांक, फॅक्स क्रमांक इत्यादी माहिती द्यावी. त्याचप्रमाणे प्रथम अपिलीय अधिकारी यांचे नांव, पदनाम व संपूर्ण कार्यालयीन पत्ता नमूद करावा व किती दिवसाच्या आंत अपील दाखल करायचे याचाही उल्लेख त्यात असावा.

५) प्रथम अपिलातील अपिलार्थीस सुनावणी देणे हे आवश्यक आहे. अपीलार्थीचे सर्वच मुद्दे मान्य करण्यात येत असतील तर अपीलार्थीस सुनावणीस बोलाविण्यात आले नाही तरी चालेल. अन्यथा, अपीलार्थीस सुनावणीसाठी बोलाविणे आवश्यक आहे याची सर्व अपिलीय अधिकाऱ्यांनी जाणीव ठेवावी. प्रथम अपीलाच्या आदेशामध्ये द्वितीय अपिलीय अधिकारी यांचे नांव व त्यांचा पत्ता निश्चितपणे नमूद करण्यात यावा व किती दिवसात अपील दाखल करावे याचाही उल्लेख सदर आदेशात करण्यात यावा.

६) ज्या ठिकाणी प्रथम अपिलीय अधिकाऱ्यांना जन माहिती अधिकारी यांनी आपले कर्तव्य बजावण्यात कसून केलेली आहे, असे वाटत असल्यास त्याबाबत अपीलार्थीचा मूळ अर्ज, अपीलार्थीचे अपील, जन माहिती अधिकारी यांनी दिलेले निवेदन व अपिलीय अधिकारी यांचे म्हणणे व शिफारस व त्यांचा निर्णय या सर्व गोष्टी आयोगास पाठविणे आवश्यक आहे.

७) प्रथम अपीलाच्या सुनावणीच्या वेळेला जन माहिती अधिकारी यांनी अर्जदारास माहिती न दिल्याबद्दलचे त्यांचे म्हणणे विस्तृतपणे द्यावे. जनमाहिती अधिकारी यांचे यासंदर्भातील जे म्हणणे असेल ते त्याचे अध्ययन करण्यास अपिलार्थीस पूरेपूर संधी मिळणे शक्य होण्यासाठी व परिणामी अपीलार्थीस आपले मुद्दे व्यवस्थितपणे मांडता येणे शक्य होण्याच्या दृष्टीने अपीलार्थीस शक्यतो ३ दिवस अगोदर देण्याचा प्रयत्न करावा. ते शक्यच झाले नाही वा अर्जदारास ते मिळाले नाही असे त्यांचे म्हणणे असेल तर अपीलाच्या सुनावणीच्या वेळेला ते निश्चितपणे देण्यात यावे.

८) जन माहिती अधिकाऱ्याने माहिती देण्यात कसूर केलेली आहे असे अपीलीय अधिकाऱ्याच्या निदर्शनास आल्यास त्याची नोंद त्यांनी आपल्या आदेशात करावी. तसेच या आदेशाची प्रत त्यांनी जन माहिती अधिकारी यांच्याविरुध्द करावयाच्या कारवाईच्या शिफारशीसह आयोगाकडे पाठवावी. त्यामुळे प्रत्येक जन माहिती अधिकाऱ्याच्या कामगिरीचे प्रत्येक अर्जागणीक मुल्यमापन होवून कायद्याची एकूणच परिणामकारकता वाढीस लागेल. जन माहिती अधिकाऱ्याविरुध्द शास्तीची कारवाई झाली असेल किंवा त्यांच्या विरुध्द विभागीय चौकशीत काही शिक्षा ठोठावण्यात आली असेल तर त्याचीही नोंद गोपनीय अहवालात व सेवापुस्तकात घेण्यात यावी.

९) जन माहिती अधिकारी व प्रथम अपिलीय अधिकारी यांनी त्यांचे कर्तव्य बजावित असतांना त्यांना त्यांच्या विभागात ज्या अडचणी आल्या असतील त्या अडचणी दूर करण्याचा विभाग प्रमुखाने प्रयत्न करावा.

१०) सर्व जन माहिती अधिकारी व अपिलीय अधिकारी यांनी कायद्यातील सर्व तरतुदींचे पालन करावयाचे आहे. माहिती देण्याच्या मुदतीबाबतीत व माहितीच्या गुणवत्तेबाबत याबाबत आयोगाकडून अतिशय कठोर धोरण स्विकारण्यात येणार आहे.

३. वरील बाबी आपल्या अधिपत्याखालील व आपल्या कार्यालयाच्या अधिपत्याखालील सर्व माहिती अधिकारी/अपिलीय अधिकारी यांच्या निदर्शनास आणून देण्यात व त्याप्रमाणे कार्यवाही करण्याबाबत सूचना देण्यात व तसे केल्याचे शासनास कळवावे.

४. या संदर्भात माहिती आयुक्त, महाराष्ट्र राज्य, मुंबई यांनी शासनास पाठविलेल्या दिनांक २४.२.२००९ च्या पत्राची प्रत माहिती व उचित कार्यवाहीसाठी सोबत जोडली आहे.

हे परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.govt.in या वेबसाईटवर संगणक सांकेतांक क्रमांक २००९०८१९१४५४८२००९ वर प्रसिध्द करण्यात आले आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,

(र. ग. सय्यद)
शासनाचे उप सचिव

सहपत्र:-मा.महिती आयुक्तांच्या
दि.२४.२.२००९ च्या पत्राची प्रत.

प्रत:-

१)विभागीय आयुक्त कोकण विभाग/नाशिक विभाग/पुणे विभाग/औरंगाबाद विभाग/ नागपूर विभाग/अमरावती विभाग.
२) विभागीय आयुक्त कोकण विभाग/नाशिक विभाग/पुणे विभाग/औरंगाबाद विभाग/ नागपूर विभाग/अमरावती विभाग यांच्या कार्यालयातील उपायुक्त (आस्थापना/विकास).
३) सर्व मुख्य कार्यकारी अधिकारी, जिल्हा परिषद.
४) सर्व उप मुख्य कार्यकारी अधिकारी, जिल्हा परिषद,
५) सर्व सह सचिव/उप सचिव, ग्राम विकास व जलसंधारण विभाग,मंत्रालय, मुंबई -३२
६) सर्व अवर सचिव/कक्ष अधिकारी, ग्राम विकास व जलसंधारण विभाग,मंत्रालय,मुंबई-३२
७) अवर सचिव,जल-२३ कार्यासन,ग्राम विकास व जलसंधारण विभाग, मंत्रालय,मुंबई-३२.
८) मा. प्रधान सचिव(जलसंधारण) ग्राम विकास व जलसंधारण विभाग, मंत्रालय, मुंबई-३२ यांचे स्वीय सहायक.
९) मा.सचिव (ग्राम विकास व पंचयत राज) ग्राम विकास व जलसंधारण विभाग, मंत्रालय मुंबई-३२ यांचे स्वीय सहायक.

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STATE INFORMATION COMMISSION MAHARASHTRA

No. SCIC/ CR No.66/2012
Dated 5th July, 2012

To,
All Public Authorities,
State of Maharashtra,

Sub. : Directions to Public Authorities u/s 19(8) r/w section 15(4) of RTI Act

Where as it is observed while deciding complaints filed u/s 18 of RTI Act as well as appeals filed under section 19 of the Act that officers/Public Authorities functioning under your control are not paying enough attention to implementation of RTI Act. As a rule, officers from your organization are not adhering to strict time limits prescribed for furnishing information to information seekers as well as First Appellate Authorities are not passing orders within 30 days as prescribed under the Act. Some of the First Appellate Authorities are not at all even caring to pass reasoned orders as mandated in RTI Act. This shows lack of seriousness, awareness as well as ignorance on the part of PIOs and AAs. Close scrutiny of complaints and appeals has revealed that the immediate superiors of officers dealing with RTI requests and Appeals are not at all concerned about implementation of RTI Act and never take any review to ensure effective implementation of RTI Act in true letter and spirit.

And whereas it is observed that there is serious lapse in time bound compliance provisions of section 4 of the RTI Act despite repeated instructions and further is observed that this lapse has resulted in constantly growing complaints and appeals for non-disclosures on account of unorganized and non-retrievable records and inefficient information management.

Hence in exercise of the powers vested in this Commission under section 19(8) read with Section 15(4) of the Act, you are hereby directed by the commission to ensure that:-

1. All records in your entire organization be cataloged, indexed and made accessible using appropriate network with a view to disseminate maximum information required by citizens as envisaged in section 4 (1)(a) of the Act without any loss of time.

2. The record-management practice, as much as possible, should be technologically driven. Technology should be used for efficient and wide dissemination of information.

3. All relevant information (17 points) already pro actively disclosed on the

website of your organization be reviewed, updated and should be made available for free access to citizens in printed form also as envisaged in section 4(1)(b) of the Act. A board stating places where such updated disclosure is available for public access in printed form should also be displayed prominently.

4. Regular monthly review of receipt and disposal of applications and first appeals under RTI be taken at your level as well as by immediate controlling officers of PIOs and AAs so as to ensure that all applications and appeals filed are properly disposed off.

5. Compliance of instructions/directions issued by SIC to PIOs and AAs be monitored at a senior level. It should also be ensured that fine imposed is recovered from the salary of the concerned PIOs/AAs. A regular monitoring system should be devised for this and responsibility should be fixed on those failing to recover fines from the salaries of concerned PIOs/AAs.

6. Public Information Officers and wherever First Appellate Authorities are summoned should personally attend hearings of the Commission without fail and it should be impressed upon the concerned Officers that these hearings are quasi-judicial in nature and they have to attend it with all seriousness.

7. Special arrangements for providing assistance to citizens in accessing information as envisaged in section 4(1)(b)(xv), section 5(3), and section 6(4) be made at once.

8. It be noted that not only Public Information Officers and First Appellate Authorities but also all officers and employees and Heads of departments/Public Authorities under your control are equally responsible for effective implementation of provisions of RTI Act and all the concerned may be appropriately sensitized/trained in this respect.

9. Plan of action to carry out above directions be reported to Commission forthwith. As we are in 7th year of implementation of RTI Act, any complaint of lapse in the implementation of provisions of RTI Act hereafter will be viewed seriously.

Sd/-

(Ratnakar Gaikwad)

Chief Information Commissioner Maharashtra

No.10/23/2007-IR
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
****

New Delhi, the 9th July, 2007

OFFICE MEMORANDUM

Subject: Disposal of first appeals under the RTI Act, 2005.

The undersigned is directed to say that the Central Information Commission has brought to the notice of this Department that in some cases,

(i) The first Appellate Authorities under the Right to Information Act do not dispose off the appeals within the time frame prescribed by the Act;

(ii) The Appellate Authorities do not examine the appeals judiciously and express their agreement with the decision of the Central Public Information Officer mechanically;

(iii) The Central Public Information Officers do not comply with the directions of the first Appellate Authority to furnish information to the appellant.

2. Section 19(6) of the RTI Act provides that the first Appellate Authority should dispose off the appeal within thirty days of the receipt of the appeal. In exceptional cases, the appellate authority may take forty five days to dispose off the appeal subject to the condition that he shall record in writing the reasons for delay in deciding the appeal. Therefore, each first appellate authority should ensure that an appeal received by him is disposed off within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose off the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, in writing, the reasons for not deciding the appeal within 30 days.

3. Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.

4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

5. The Central Information Commission has also pointed out that some of the Ministries/Departments have appointed very junior officers as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior in rank to the CPIO. Thus, the appellate authority, as per provisions of the Act, would be an officer in a commanding position vis-à-vis the CPIO. Nevertheless, if, in any case, the CPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take against the CPIO. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

6. Contents of this OM may be brought to the notice of all concerned.

(K.G. Verma)
Director

To

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission / President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission / Election Commission
3. Staff Selection Commission, CGO Complex, New Delhi
4. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
5. All officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs for information

Duty of Government servant (Rule-3)

Sr. No.	Duty of every Government Servant
1	To maintain absolute integrity
2	To maintain devotion to duty
3	To do nothing which is unbecoming of Government servant
4	Commit himself to and uphold the supremacy of the Constitution and democratic values;
5	To defend and uphold the sovereignty and integrity of India, the security of the State, public order, decency and morality;
6	To maintain high ethical standards and honesty;
7	To act according to own judgement
8	Superior's instructions in writing or confirmation of oral

Duties of Government servant

Sr. No.	Duty of every Government Servant
9	To maintain political neutrality;
10	To promote the principles of merit, fairness and impartiality in the discharge of duties;
11	To maintain accountability and transparency;
12	To maintain responsiveness to the public;
13	To maintain courtesy and good behaviour with the public;
14	To take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically;
15	To declare any private interests relating to his public duties and take steps to resolve any conflicts in a way

Duties/Obligations of Government servant

Sr. No.	Duty of every Government Servant
16	To not place himself/herself under any financial or other obligations or influence in the performance of his official duties;
17	To not misuse his position as civil servant for personal or family gain ;
18	To make choices, take decisions and make recommendations on merit alone;
20	To act with fairness and impartiality and not discriminate against anyone,
21	To refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices;

Duties/Obligations of Government servant

Sr. No.	Duty of every Government Servant
22	To maintain discipline in the discharge of his/her duties and be liable to implement the lawful orders duly communicated to him/her;
23	To maintain confidentiality in the performance of his official duties as required by any laws for the time being in force,;
24	To perform and discharge duties with the highest degree of professionalism and dedication to the best of his/her abilities
25	To perform supervisory duties in true spirit and act within law.

pkathare@gmail.com

महाराष्ट्र शासन

क्रमांक:- संकीर्ण- २०१७/६०४/प्र.क्र.१०६/२१,
विधि व न्याय विभाग,
मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई- ४०० ०३२.

दिनांक :- ०३.११.२०१७.

प्रति,

सर्व अपर मुख्य सचिव / प्रधान सचिव / सचिव,
सर्व मंत्रालयीन विभाग,
मंत्रालय, मुंबई - ४०० ०३२.

विषय :- रिट याचिका क्रमांक ४१०१/२००७
श्रीमती सावित्री पाल विरुद्ध महाराष्ट्र शासन व इतर
न्यायालयीन प्रकरणे हाताळताना अर्ध न्यायिक दर्जाच्या
प्राधिकाऱ्यांनी पाळावयाची मार्गदर्शक तत्त्वे

संदर्भ :- (१) मा.उच्च न्यायालय, मुंबई यांनी रिट याचिका
क्रमांक ४१०१/२००७ वर दिलेला दि.२९.०३.२००९ चा आदेश.
(२) मा.मुख्य सचिव, महाराष्ट्र राज्य यांचे क्र.संकीर्ण-२००९/प्र.क्र.४६/२१, दि.२१.०९.२००९
(३) श्री.संजय कुऱ्हाडे, अध्यक्ष, अन्याय निवारण सेवा समिती, ठाणे, यांचे पत्र
क्र.अनिसेस/१५५/त-१/४५९, दि.२९.०९.२०१७.

महोदय,

मा.उच्च न्यायालयाने रिट याचिका क्रमांक ४१०१/२००७ या प्रकरणात दिलेल्या निर्णयाची प्रत सोबत जोडली आहे.

२. मा.उच्च न्यायालयाच्या संदर्भाधीन आदेशातील परिच्छेद १७ व १८ मध्ये न्यायिकवत (quasi-judicial) अधिकाऱ्यांनी प्रकरणे हाताळताना पाळावयाची मार्गदर्शक तत्त्वे निश्चित केली आहेत. त्यानुसार मा.मुख्य सचिवांच्या संदर्भाधीन दि.२१.०९.२००९ च्या पत्रान्वये आपणास योग्य ती कार्यवाही करण्याबाबत अवगत करण्यात आले आहे. (प्रत संलग्न)

तथापि, श्री.संजय कुऱ्हाडे यांनी मा.उच्च न्यायालयाच्या आदेशातील मार्गदर्शक तत्त्वे सर्व स्वायत्त संस्थांच्या निदर्शनास आणण्याबाबत संदर्भाधीन अर्जान्वये विनंती केली आहे (प्रत संलग्न). तरी, मा.उच्च न्यायालयाने संदर्भाधीन आदेशातील परिच्छेद १७ व १८ मध्ये न्यायिकवत (quasi-judicial) अधिकाऱ्यांनी प्रकरणे हाताळताना पाळावयाची मार्गदर्शक तत्त्वे आपल्या विभागाच्या अधिपत्याखालील सर्व स्वायत्त संस्थांच्या निदर्शनारा आणून द्यावीत, ही विनंती.

आपला,
03/11/2017
(एन. जे. जमादार)
प्रधान सचिव व विधि परामर्शी

सहपत्र :- वरीलप्रमाणे.

महाराष्ट्र शासन

तात्काळ

क्रमांक : संकिर्ण-२००९/प्र.क्र.४६/का.२१,
विधी व न्याय विभाग,
मंत्रालय, मुंबई - ४०० ०३२.
दिनांक : २१ एप्रिल, २००९

प्रति,

सर्व अपर मुख्य सचिव/ प्रधान सचिव/सचिव
सर्व मंत्रालयीन प्रशासकीय विभाग,
मंत्रालय,मुंबई-३२.

विषय:-रिट याचिका क्रमांक-४१०१/२००७
श्रीमती सावित्री पाल विरुध्द महाराष्ट्र शासन व इतर.
न्यायालयीन प्रकरणे हाताळतांना अर्ध न्यायिक दर्जाच्या प्राधिका-यांनी पाळावयाची मार्गदर्शक तत्वे.

मा.उच्च न्यायालयाने रिट याचिका क्रमांक-४१०१/२००७ या प्रकरणात दिलेल्या निर्णयाची प्रत सोबत जोडली आहे.

२. सदर निर्णयातील परिच्छेद १७ व १८ मध्ये मा.उच्च न्यायालयाने न्यायिकवत (quasi-judicial)अधिका-यांनी प्रकरणे हाताळतांना पाळावयाची मार्गदर्शक तत्वे निश्चित केली आहेत. त्यानुसार आपल्या विभागाशी संबंधित कायदे व त्याखालील नियम यामध्ये योग्य ते बदल करण्याची कार्यवाही करावी व मा.उच्च न्यायालयाच्या निदेशाचे पालन होईल याची दक्षता घेण्यात यावी.

"ही माहिती माहितीचा अधिकार अधिनियम, २००५ अन्वये उपलब्ध करून देण्यात आलेली आहे"

(जॉनी जोसेफ)
मुख्य सचिव

सही ...

Letter5:59:18 PM4/20/2009 D:\Gupte 229

सत्यमेव जयते

मुख्य मंत्री

महाराष्ट्र

संकीर्ण-२००९/प्र.क्र.४९/का.२१

0 2 DEC 2009 दिसम्बर

महोदय / महोदया,

श्रीमती सावित्री पाल विरुध्द महाराष्ट्र शासन (रिट याचिका क्र.४१०१/२००७) प्रकरणी मा.उच्च न्यायालयाने निर्णय देताना, न्यायिकवत् प्रकरणे हाताळताना संबंधित मंत्री, सचिव, इ.(quasi-judicial) न्यायिकवत् अधिकाऱ्यांनी अंगिकारावयाच्या कार्यपध्दती विषयी मार्गदर्शक सूचना प्रसृत केल्या आहेत. मा.उच्च न्यायालयाच्या सदर निर्णयाची प्रत सोबत जोडली आहे. न्यायिकवत् प्रकरणे हाताळताना या मार्गदर्शक सूचना विचारात घेण्यात याव्यात. ज्यायोगे, न्यायप्रक्रिया पारदर्शक होऊन त्यात एकसूत्रता होईल.

आपला,

(अशोक चव्हाण)

प्रति,
सर्व मंत्री / राज्यमंत्री

मंत्रालय, मुंबई ४०० ०३२, दूरध्वनी : २२०२ ५१ ५१, २२०२ ५२ २२, फॅक्स : २२०२ ९२ १४

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 4101 OF 2007

Smt.Savitri Chandrakesh Pal. ... Petitioner.

V/s.

1. State of Maharashtra,

2. The Controller of Rationing,

3. The Hon'ble Cabinet Minister,
Food and Civil Supply &
Consumer Protection, Mantralaya,

4. Jaiambe Grahak Sahakari Sanstha. ... Respondents.

Ms.Poonam P. Bhosale for the petitioner.

V.A.Gangal, special counsel with S.K. Chinchlikar, AGP and Ashok G. Gade for respondent Nos.1 and 3.

Uday Warunjikar with P.A.Pol for respondent No.4.

CORAM: V.C.DAGA, J.

DATED: 24th March 2009.

JUDGMENT (PART - I) :

. Heard learned counsel for the petitioner Mr.Gangal, special counsel appearing along with learned A.G.P. for respondent Nos.1 to 3 and Mr.Warunjikar with Mr.Pol for respondent No.4.

2. This petition is directed against the order dated 24th November, 2006 passed by the Hon'ble Minister for Food and Civil Supply and Consumer Protection, Mantralaya, Mumbai, the respondent No.3 whereby and whereunder the revision petition filed by the petitioner challenging the order of the Controller of Rationing, the respondent No.2 dated 17th December, 2004 was dismissed.

Factural Matrix :

3. The Controller of Rationing invited applications for allotment of "Ration shop" for the area Pimpri Pada, Malad (East) Mumbai.

4. Applications, 22 in number were received by respondent No.2 including that of the petitioner and respondent No.4.

5. The respondent No.2 vide its order dated 22nd November, 2003, allotted "Ration shop" to respondent No.4.

6. Being aggrieved by the aforesaid order, the petitioner unsuccessfully filed revision application before the State Government, the respondent No.3 herein.

7. Being aggrieved by the aforesaid order of the respondent No.3 preferred Writ Petition No.5891/2004 under Articles 226 and 227 of the Constitution of India. The impugned order was quashes and set aside and the matter was remanded to the respondent No.2 for consideration afresh.

8. The respondent No.2 after brief enquiry vide his order dated 17th December, 2004 maintained allotment of ration shop in favour of respondent No.4.

9. Being aggrieved by the aforesaid order again revision application was filed by the present petitioner before the respondent No.3. The hearing on merits was completed on 19th August, 2005. However, the order was passed on 24th November, 2006, practically, after lapse of 14 months whereby and whereunder the revision application filed by the petitioner came to be rejected. With the result, allotment of ration shop in favour of respondent No.4 was confirmed. The petitioner has stated that the copy of the said order was supplied to her on 5th April, 2007 i.e. after a period of 5 months, that

too, after repeated approaches made to the office of the respondent No.3.

10. Being aggrieved by the aforesaid order, present petition is filed under Article 226 of the Constitution of India on various amongst other grounds raised in the petition.

Shocking fact brought on Record :

11. The petitioner has placed on record two orders of the revisional authority, the respondent No.3, one draft order allowing revision and another signed order rejecting the revision filed by the petitioner.

12. Having seen the aforesaid shocking material brought on record, this Court naturally felt a necessity to investigate the same. Consequently, notice was issued to the Chief Secretary, State of Maharashtra vide order dated 13th August, 2008 directing him to make enquiry in the matter. Pursuant to this direction, the Hon'ble Minister- the respondent No.3; the Chief Secretary, Government of Maharashtra; Shri S.Y.Kursange, Deputy Secretary of the department and Shri A.A.Godbole, Section Officer

of the same department have filed their respective affidavits. All these affidavits read together revealed a very sorry state of affairs prevailing in the Mantralaya with regard to the decision making process adopted by various departments.

13. It came on record through the above affidavits that when the matter was heard by respondent No.3, Shri S.Y.Kursange, Deputy Secretary was present and received instruction from the Hon'ble Minister to prepare draft of the order. He, in turn, directed Shri A.A.Godbole, Desk Officer to prepare draft order. Accordingly, Mr.Godbole prepared draft order dictating it to one Shri Suryakant Gole, Clerk whereunder the revision filed by the petitioner was to be allowed. It has further come on record that Shri S.Y.Kursange, Deputy Secretary again instructed Shri Godbole to prepare a revised draft rejecting revision application filed by the petitioner. This business of preparing one draft allowing revision application and another rejecting revision application revealed that none of these orders were dictated by the Hon'ble Minister himself, who had heard revision application filed by the petitioner. Both draft orders running counter to

each other were prepared by Shri A.A.Godbole, Desk Officer, who was not present at the time of hearing. He was completely unaware of the rival contentions canvassed by the parties during the course of hearing. The Hon'ble Minister has filed an affidavit dated 2nd September, 2008, the relevant part of which reads as under:

> "..... After hearing the parties in the Revision Petition, I did not dictate order neither it is possible for me to dictate each and every order considering the voluminous work of my ministry. The practice followed by my department after hearing the Revision Application, I asked my departmental officers to go through the merits of the case and submit a note accordingly for approval....."
>
> (Emphasis supplied)

The Hon'ble Minister has further stated in para-4 of the affidavit that:

> ".....Accordingly, my department had prepare the first draft for my approval which is at 'Exhibit-h' to this Writ Petition. However, the said draft was not brought before me for my approval. The Deputy Secretary and his subordinate officers discussed the matter with me with reference to the Application of the Respondent No.4 dated the 5th September, 2006. During the course, of discussion, I directed them to check up whether the proposed shop was an unauthorised structure or otherwise.

> Hence, it was found necessary to verify the Brihanmumbai Municipal Corporation's tax receipt of the proposed shop."
>
> "I state and submit that the Respondent No.4 has submitted the Assessment Certificate of the Brihanmumbai Municipal Corporation of the extended area of 200 sq.fts. In view of this subsequent evidence, my department changed the first draft and the second draft was submitted for my approval. Since the second draft was prepared with all the relevant records and it was well supported by merits and I approved the same....."
>
> (Emphasis supplied)

14. This Court, having seen the mode and manner of decision making process and the procedure adopted for deciding the appeals, revisions, review and/or stay applications, this Court was compelled to pass the order dated 4th September 2008 directing the State Government to place on record the procedure, normally, followed and adopted by all the departments of the State Government of Maharashtra while hearing and deciding quasi-judicial proceedings.

15. The State Government, after the aforesaid order dated 4th September, 2008, appeared through Shri

V.A.Gangal, Special Counsel and informed that a committee has been constituted consisting of the Chief Secretary, Law and Judiciary with the officers of General Administration Department with Shri V.A.Gangal, Advocate and Special Counsel for the State of Maharashtra, to streamline the procedure of hearing and deciding quasi-judicial proceedings by the officers of the State of Maharashtra including the Hon'ble Ministers of the respective departments. On the suggestion of this Court, Mr.Anand Grover, who was appointed as Amicus Curie to assist this Court, was also included in the said committee.

16. The aforesaid committee was granted time to submit their report. The said committee submitted its report on 7th January, 2009 whereunder the guidelines were framed and the procedure was laid down prescribing the mode and manner of hearing the revisions, appeals, review applications including application for interim reliefs by the State Government and its functionaries so as to streamline the decision making process. The said report was accepted by this Court by consent of the parties.

Procedural Guidelines for Quasi-Judicial Authority :

17. This Court in exercise of powers conferred under Articles 226 and 227 of the Constitution of India prescribes the following procedure to be adopted by quasi-judicial authorities including the Ministers, Secretaries, officials and litigants while hearing and determining appeals, revisions, review applications and interim applications etc.:

(1) Memo of appeal or revision, review and or any application shall specifically mention under which enactment and/or under what provisions of law the said appeal/ review/ revision or application is filed.

(2) The appellant/ applicant shall give a synopsis of concise dates and events along with the memo of appeal or revision.

(3) The appeal, revision and/or application shall be filed within a period stipulated under the law governing the subject from the receipt of the order/ decision which is impugned in the

above matter. In the event of delay, it should only be entertained along with application for condonation of delay.

(4) At the time of presentation of the appeal, review or revision, the applicant shall, if, filed in person, establish his identity by necessary documents or he shall file proceedings through authorised agent, and/or advocate.

(5) The application shall be accompanied by sufficient copies for every opponents/ respondents and also supply 2 extra copies for the authorities.

(6) For issuance of summons to the opponents/ respondents, court fees/ postal stamps of sufficient amount shall be affixed on the application form/ memo of appeal or revision as the case may be.

(7) In addition to service through the

authority, appellant/ applicant may separately send the additional copies to each of the opponents/ respondents by registered post acknowledgement due and may file affidavit of service along with evidence of despatch. The postal and acknowledgment alone should be treated as evidence of service in the event of service through postal authority.

(8) In the event of an urgency of obtaining an interim relief like stay, injunction/ other interim order or direction or status-quo etc, a specific case of urgency should be made out in the application, which the authority may entertain subject to the brief reasons recorded. The said order shall also be communicated immediately to all the effected persons. The proof of timely despatch of the Registered A.D.s and all the acknowledgments shall be separately maintained.

(9) If there is real urgency, the concerned authority may grant *ex parte* interim/ ad-interim relief for the reasons to be recorded for a

particular period only within which time the service on the concerned opponents/ respondents shall be effected. Appellant/ applicant should file affidavit of service, if such party requires early hearing or continuation for interim relief or of an appeal, revision or review.

(10) The competent authority shall also communicate the next date of hearing to all the parties along with time and place and shall, as far as possible, adhere to the said date and time of hearing.

(11) The concerned official in every department should be asked to remain present at the time of hearing and assist the concerned authority in the matter.

(12) Reasonable sufficient time be provided between the date of receipt of notice and the actual date of hearing. If any party is unable to remain present at the time of hearing for a sufficient cause, one further opportunity should be given to such party for hearing.

(13) The authority hearing quasi-judicial matters shall duly fix a date, time and venue for such hearing. Such authority shall refrain from interacting with third party during the course of hearing either in person or on phone and shall not do any act which would tend to affect or prejudice fair hearing.

(14) A speaking order shall be passed by the authority hearing the matter as early as possible after the hearing is concluded and, as far as possible, within a period of four to eight weeks from the conclusion of the hearing, on the basis of the record before it as well as the submissions made at the hearing. The order must contain reasons in support of the order.

(15) The authority shall not receive information or documents after the hearing is concluded and/or shall not pass the speaking order on the basis of such documents and/or information unless such material is brought to the notice of the parties to the proceedings

following rules of natural justice.

(16) The order passed by the quasi-judicial authority on the hearing shall be forthwith communicated to all the parties by Registered A.D.

(17) No application or request or prayer from the political worker, Member of Legislative Assembly, Member of Parliament or third party shall be entertained in the quasi-judicial proceedings unless such person is a party respondent or intervenor in the proceedings.

(18) The order pronounced shall be communicated to the parties immediately.

(19) Record of hearing shall be meticulously maintained in a separate Roznama.

(20) The notings of concerned officials/ law assistants to assist the authority shall include only content of facts and legal provisions along with case laws, if any.

(iii) record its finding whether non-grant of interim relief would cause any prejudice to the person seeking interim relief.

(e) The ingredients at (d) (i) to (iii) should be discussed and positive finding should be recorded while granting or refusing to grant interim relief."

19. The aforesaid procedural guidelines shall also be applicable to all quasi-judicial authorities in respect of hearing of appeals, revisions, review applications/ interlocutory applications, where there are no specific rules prescribed for hearing under a specific law like Maharashtra Co-operative Societies Act, Bombay Tenancy and Agricultural Lands Act, etc.

20. Before parting with the matter, I may place on record appreciation of the services rendered by Mr.Anand Grover, Advocate, Amicus Curiae and all other advocates and also assistance rendered by the Chief Secretary, Law and Judiciary with officers of the General Administration Department of the Government of Maharashtra to this Court.

21. The Chief Secretary, State of Maharashtra is directed to circulate this judgment to all concerned

along with his letter emphasising the need to follow it, so as to exhibit transparency in the decision making process. The compliance report submitted to this Court will be highly appreciated.

(V.C.DAGA, J.)

महाराष्ट्र शासन

सामान्य प्रशासन विभाग,

शासन अधिसूचना क्रमांकः वशिअ-१११३/प्र.क्र.७३/११

मादाम कामा रोड,

हुतात्मा राजगुरू चौक,

मंत्रालय, मुंबई- ४०० ०३२

तारीख: २४ फेब्रुवारी, २०१४

भारताचे संविधान

क्रमांक- वशिअ-१११३/प्र.क्र.७३/११- भारतीय संविधानाच्या अनुच्छेद ३०९ च्या परंतुकान्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करुन महाराष्ट्राचे राज्यपाल, याद्वारे, महाराष्ट्र नागरी सेवा (वर्तणूक) नियम, १९७९ मध्ये आणखी सुधारणा करण्यासाठी पुढील नियम करीत आहेत:-

१. या नियमांना महाराष्ट्र नागरी सेवा (वर्तणूक) (सुधारणा) नियम, २०१४ असे म्हणावे.

२. महाराष्ट्र नागरी सेवा (वर्तणूक) नियम, १९७९ च्या नियम ३ मध्ये,

(अ) पोट-नियम (१) च्या शेवटी पुढील स्पष्टीकरण समाविष्ट करण्यात यावे:

"स्पष्टीकरण - शासकीय कर्मचारी वारंवार त्याला नेमून दिलेले काम त्यासाठी विहित केलेल्या कालमर्यादेत आणि त्याच्याकडून अपेक्षित असलेल्या दर्जानुरूप पूर्ण करीत नसेल तर ती वरील पोट-नियम (१) मधील खंड (दोन) च्या अर्थांतर्गत कर्तव्यपरायणतेमधील उणीव मानली जाईल."

(ब) पोट नियम (३) च्या जागी खालील पोट-नियम समाविष्ट करण्यात यावा:

"(३) (एक) कोणताही शासकीय कर्मचारी त्याच्या कार्यालयीन वरिष्ठाच्या निदेशानुसार कृती करीत असेल ते खेरीजकरुन, त्याच्या कार्यालयीन कर्तव्याचे पालन करीत असताना किंवा त्याला प्रदान करण्यात आलेल्या अधिकारांचा वापर करताना त्याच्या सद्सद्विवेकबुद्धीनुसार सत्य व अचूक नसलेल्या गोष्टी करणार नाही,

(दोन) कार्यालयीन वरिष्ठाचे निदेश सामान्यत: लिखित स्वरुपात असतील. मौखिक निदेश देण्याचे, शक्य असेल तेथवर, टाळले जाईल. मौखिक निदेश देणे अपरिहार्य असेल तेव्हा कार्यालयीन वरिष्ठ त्यास त्यानंतर तात्काळ लिखित पुष्टी देईल,

(तीन) शासकीय कर्मचारी, त्याला त्याच्या कार्यालयीन वरिष्ठांकडून मौखिक निदेश मिळाल्यानंतर शक्य तेवढ्या लवकर त्यास लेखी पुष्टी मिळविल आणि अशा प्रकरणी निदेशाची लेखी पुष्टी देणे हे कार्यालयीन वरिष्ठाचे कर्तव्य असेल."

सदर शासन अधिसूचना महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आली असून अधिसूचनेचा संकेताक २०१४०२२४१४४२५३४१०७ असा आहे. ही अधिसूचना डिजीटल स्वाक्षरीने साक्षांकित करुन काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

Pandurang Jotiba Jadhav

Digitally signed by Pandurang Jotiba Jadhav
DN: c=IN, o=Government of Maharashtra, ou=General Administration Dept, postalCode=400032, st=Maharashtra, cn=Pandurang Jotiba Jadhav
Date: 2014.02.28 16:26:30 +05'30'

(पां.जो.जाधव)
शासनाचे उप सचिव

प्रत,

१. राज्यपालांचे सचिव,
२. मुख्यमंत्र्यांचे प्रधान सचिव,
३. उप मुख्यमंत्र्यांचे सचिव,
४. मुख्य सचिव, महाराष्ट्र शासन,
५. शासनाचे सर्व अपर मुख्य सचिव/ प्रधान सचिव/ सचिव,
६. सर्व मंत्री/ राज्यमंत्री यांचे खाजगी सचिव/ स्वीय सहायक,
७. * प्रबंधक, उच्च न्यायालय (मूळ शाखा), मुंबई
८. * प्रबंधक, उच्च न्यायालय (अपील शाखा), मुंबई
९. * प्रबंधक, लोक आयुक्त व उप लोक आयुक्त यांचे कार्यालय, मुंबई
१०. * सचिव, महाराष्ट्र विधानसभा सचिवालय, मुंबई,
११. * सचिव, महाराष्ट्र विधानपरिषद सचिवालय, मुंबई,
१२. * सचिव, महाराष्ट्र लोकसेवा आयोग, मुंबई,
१३. * आयुक्त, राज्य निवडणूक आयोग, मुंबई,
१४. सर्व मंत्रालयीन विभाग,
१५. सर्व मंत्रालयीन विभागाच्या नियंत्रणाखालील सर्व विभाग प्रमुख/ कार्यालय प्रमुख,
१६. महासंचालक, माहिती व जनसंपर्क महासंचालनालय, मुंबई (५ प्रती),
१७. विधीमंडळ ग्रंथालय, विधानभवन, मुंबई (१० प्रती),
१८. सामान्य प्रशासन विभागातील सर्व कार्यासने,
१९. निवडनस्ती

* पत्राने

पृष्ठ २ पैकी २

CREATING PUBLIC AWARENESS FOR BETTER IMPLEMENTATION OF RTI ACT

To

Hon. State Chief Information Commissioner

All other Information Commissioners

Sub: the training undergone under RTI act by the PIO / FAA/ Information Commissioners shall be displayed as FAA/ Information Commissioners violate almost every provision of RTI act. Section 26(1)(a)(b), Refer direction of SCIC dt. 25.2.2011 page 3 para 3 (COPY ATTACHED) and below resolutions

Key Government Resolutions:

1. **GR No. RTI-2005/C.R.79/05/1:** Issued on 1st August 2005, this resolution emphasizes the necessity of training programs for officers at all levels to ensure a thorough understanding of the RTI Act and its provisions.
2. **GR No. RTI-2005/C.R.79/05/2:** Dated 7th October 2005, this resolution outlines the framework for conducting training sessions, specifying the roles and responsibilities of various departments in organizing these programs.
3. **GR No. RTI-2005/C.R.79/05/3:** Released on 15th December 2005, this resolution mandates periodic refresher courses for PIOs, APIOs, and FAAs to keep them updated with any amendments and best practices related to the RTI Act.

These resolutions are accessible through the official website of the Government of Maharashtra's General Administration Department. For detailed information and to obtain copies of these GRs, you can visit the following link:

Government Resolutions on RTI Training

Reg: the ignorance of PIO/ FAA and Information commissioners and / or willful deliberate and wrongful act and failure to discharge official duty with integrity and devotion

a. **Information Commissioners / FAA to hold the RTI appeals with open door and in full public view. Unfortunate it is held in closed doors. Some of these even threaten the innocent RTI applicants and question them the purpose, which is not permitted. (citation attached OPEN DOOR HEARING)**
b. **Most of FAA and Information Commissioners pass incorrect orders which is contrary to law, facts and materials on record.**
c. **Most FAA and Information Commissioners do not record the objections submissions and arguments submitted by the RTI applicant.**
d. **Information Commissioners illegally and wrongfully take signatures of the innocent appellant on Roznama before even entering the cabin and**

commencement of RTI appeal hearing on wrongful / illegal / misleading pretext that signature is obtained on attendance sheet.

e. **Total willful and deliberate failure by FAA and Information commissioners to comply with section**
   - i. **7(8)(i) RTI act**
   - ii. **19(5) RTI act**
   - iii. **GR 10.8.2009 (COPY ATTCHED)**
   - iv. **Justice Daga guidelines in W.P.4101 of 2007. (COPY ATTACHED)**

f. **Information commissioners ignorant of the purpose of section 15(4) and misusing their power and passing illegal circulars and directions without having any legal authority thereby committing acts of forgery and using forged documents as genuine. Refer <u>Bombay High Court order dt. 30.7.19 by Justice Sunil Shukre and S.M.Modak.</u>**

g. **Onus of proving the correctness of denial of information by proving detailed reasoning and clarification is on the PIO. <u>Refer section 4(1)(d), 7(1) RTI act.</u>**

h. **Hence the proceedings shall start with the submission of PIO / FAA and in accidence with written submission as required u/s 7(8)(i) and 19(5) RTI act.**

i. **The FAA / SIC shall first make notes of every oral and written submission made by PIO and FAA on the Roznama and thereafter seek the clarification from the appellant.**

j. **The FAA and SIC willfully, deliberately and wrongfully start the hearing of appeal**
   - i. **without compliance of section 7(8)(i) and 19(5) and in violation of GR 10.8.2009.**
   - ii. **directing the appellant to start the arguments**

thereby defeating the purpose and spirit of RTI act and with dishonest intentions to protect and save the PIO and FAA who have taken wrongful & illegal decisions and violated the provision of RTI act well as the Civil Conduct rules section 3.

1. Vide this letter I request the State Chief Information Commissioners and all other Information Commissioners to **<u>use section 15(4) for implementing the above procedure to understand the difficulties of the RTI applicants and improve the efficiency of your own office.</u>**

2. Unfortunately, the Information Commissioners have not published to create awareness and are themselves totally ignorant or pretend to be ignorant of
   a. Periodic training and update in training of RTI act.
   b. the basic spirit and objectives of RTI act.
   c. Do not know the functions of PIO, FAA and Information commissioners

d. not trained to know the basic ingredients of RTI act, that Information Commissioners is Monitoring agency to implement RTI act effectively and nothing more than that
e. Not disciplined / trained / informed to abide by the provisions of law and Justice Daga guide lines

3 Information Commissioner shall use section 15(4) RTI act to implement and provide remedies for failure to obey RTI act by PIO and FAA and direct HOD shall initiate in addition to section 19(8)(b) **(i.e. compensation to applicant)** 20(1)(2) RTI act

a. criminal prosecution against the PIO and FAA u/s 166, 167, 175 176 IPC (198, 199, 201, 210, 211, BNS)
b. disciplinary action for culpable negligence against the PIO and FAA.

Kindly note that the Information Commissioners are appointed for Monitoring, implementing the RTI act, and reporting to State about the functioning of RTI act as per section 25 of RTI act. The information Commissioners have no right to create laws and restrict the right of citizens to video record the proceedings and to fix boards outside their cabin to keep the mobile outside the cabin. and not to make laws.

Please educate me if my submission is incorrect. Submission only in larger public interest. No intention to hurt and injure any person or institution.

Jai Hind.

श्री. विलास पाटील
मुख्य माहिती आयुक्त
Shri Vilas Patil
Chief Information Commissioner

क्रमांक मुमाआ २०१०/प्र.क्र. १२८/१
१३ वा मजला
नवीन प्रशासन भवन
मंत्रालयासमोर, मुंबई ४०० ०३२
दिनांक ११ फेब्रुवारी २०११
No
13th Flr
New Admn. Building
Opp. Mantralaya, Mumbai 400 032
Dated ११ फेब्रु. २०११

एमजरिगी/जी/३६३० १७।२।११

प्रति,
मा. श्री सुबोध कुमार
आयुक्त
बृहन्मुंबई महानगरपालिका
महापालिका मार्ग
मुंबई ४००००१.

महानगरपालिका आयुक्त
उप आयुक्त (सा.प्र.)

माहितीचा अधिकार अधिनियम २००५ हा केंद्राचा अधिनियम अमलात येऊन पांच वर्षे पूर्ण झालेली आहेत.

मी दि. १४ ऑक्टोबर २०१० रोजी महाराष्ट्र राज्य मुख्य माहिती आयुक्त म्हणून पदभार स्विकारलेला आहे.

महाराष्ट्र राज्य माहिती आयोगाकडे माहितीचा अधिकार अधिनियम २००५ च्या कलम १८(१) प्रमाणे तक्रारी व कलम १९(३) प्रमाणे अपील दाखल होतात.

तक्रारी व अपीलांची सुनावणी घेताना व निर्णय देतांना माझ्या असे निदर्शनास आले आहे की, बहुतांश सार्वजनिक प्राधिकरणांमध्ये नियुक्त केलेले जन माहिती अधिकारी व प्रथम अपीलीय अधिकारी हे अधिनियमांच्या तरतुदींचे काटेकोरपणे पालन करीत नाहीत. त्यामुळे शास्तीस पात्र होतात.

पूर्वीसुध्दा शासकीय निमशासकीय कार्यालयांकडे नागरिकांच्या तक्रारी येतच होत्या परंतु त्यांची दखल घेतली जात नव्हती म्हणूनच ' माहितीचा अधिकार ' हा नागरिकांना द्यावा लागलेला आहे व त्यांत विशिष्ट मुदतीत म्हणजे तीस दिवसांचे आंत माहिती देणे बंधनकारक केले असून तरतूदींचे उल्लंघन केल्े असल्यास शास्तीची तरतूद केलेली आहे. जेणेकरुन नागरिकांना त्यांच्या स्वतःच्या किंवा सार्वजनिक हिताच्या कामकाजाबद्दलची माहिती निश्चित मुदतीत मिळू शकेल.

दुरध्वनी : ०२२-२२८५ ६० ७८ फॅक्स: ०२२-२२०४ ९३ ९०
website: www.sic.maharashtra.gov.in

F:\RTI 2005.doc

परंतु सार्वजनिक प्राधिकरणांत अजूनही अरो होताना दिसत नाही. व त्यामुळेच राज्य माहिती आयोगाकडे तक्रारी व अपीले मोठ्या प्रमाणांत दाखल होतात.

याचे प्रमुख कारण कार्यालयांच्या प्रमुखांनी माहितीचे अर्ज स्विकारण्याची पर्यायवती व्यवस्था केलेली नाही व सर्वसाधारण नोंदणी शाखेत अर्ज स्विकारल्यावर तो अर्ज संबंधित माहिती अधिकारी यांचेकडेस मुळांत विलंबाने सादर केला जातो व तीस दिवसांत माहिती पुरविण्याचा कालावधी कमी होतो.

दुसरे कारण म्हणजे माहिती अधिकारी हे काही कार्यालयांमध्ये अतिशय कनिष्ठ स्तरावर नियुक्त करण्यांत आलेले आहेत. व त्यांना अधिनियमांतील तरतुदींचे आकलन पण नाही व प्रशिक्षण दिलेले दिसून येत नाही. व वरिष्ठ अधिकाऱ्यांना त्याबाबत जबाबदारी नसल्याने अंमलबजावणीकडे उदासिनता दिसून येते व त्यांना हया अधिनियमाच्या तरतुदींची माहिती सुध्दा नाही.

माहितीचे अर्ज भरपूर प्रमाणांत दाखल होत असले तरी सर्वच अर्ज हे माहितीचा अधिकाराचा प्रामाणिकपणे वापर करणारे असतातच असे नाही. तसेच अर्ज दाखल झाल्यापासून त्याबाबतची छाननीची प्रक्रिया ही अधिनियमाचे तरतुदींप्रमाणे क्रमशः केल्यास व विहित मुदतीत कळविल्यास अनाठायी अर्जांची संख्या कमी होते व प्रथम अपील किंवा द्वितीय अपीले किंवा तक्रारी ह्या कमी होतात.

परंतु छाननीची प्रक्रिया योग्य रितीने व मुदतीत केली जात नसल्यानेच अपीले व तक्रारींची संख्या वाढत जाते.

कोणत्याही सार्वजनिक प्राधिकरणांतील प्रथम अपीलीय अधिकारी यांनी प्रथम अपीलाचा निर्णय हा जनमाहिती अधिकारी यांचे जबाब घेऊन माहिती उपलब्ध करुन देण्याच्या दृष्टीने देणे आवश्यक असते. (कलम १९ (५)) 'माहिती ही द्यावी लागते' ही बाब माहिती अधिकाऱ्यांनासुध्दा माहित आहे, त्यामुळे 'माहिती द्यावी' असा प्रथम अपिलाचा आदेश निरर्थक ठरतो. अपीलार्थी यांस माहिती उपलब्ध झाली नाही म्हणून प्रथम अपील दाखल केले जाते त्यामुळे अपीलार्थी गैरहजर आहे या कारणास्तव प्रथम अपील निकाली काढणे योग्य नसते. 'माहिती अपुर्ण मिळाली' असे अपीलाचे कारण असेल तरच अपीलार्थीचा खुलासा करणेसाठी आवश्यकता असते. अन्यथा कलम १९(५) प्रमाणे जनमाहिती अधिकारी यांची माहिती दिली किंवा नाही हे सिध्द करण्याची जबाबदारी असते. याबाबत प्रथम अपीलीय अधिकारी यांचे प्रशिक्षण आवश्यक आहे.

माहितीचा अधिकार अधिनियम २००५ चे प्रास्ताविकेतच माहिती मागणे व इतर सार्वजनिक हितसंबंध, शासनाचे काम्कुशल कार्यक्षमरित्या चालणे, मर्यादित राजकोषीय साधनसंपत्तीचा इष्टतम वापर होणे, संवेदनक्षम माहितीची गोपनियता राखणे याप्रमाणे परस्पर विरोधी हितसंबंधाचा समन्वय / मेळ घालून समतोलता राखणे असा उल्लेख दिला आहे.

परिशिष्ट - २५.३

पोलीसखात जन माहिती अधिकारी, प्रथम अपीलीय अधिकारी यांचे प्रशिक्षण हे अ
अजीत ज्या प्रमाणे माहिती मागतात त्यानुसार वस्तुस्थितीवर आधारित झाल्यास माहि
अधिकार अधिनियमाची अमंलबजावणी योग्य रितीने करण्यासंदर्भात महाराष्ट्र राज्य उ
आहे, असे म्हणता येईल.

बहुतांश कार्यालयांमध्ये कार्यालयाने स्थलांतर किंवा नस्ती गहाळ होण्याची कार
माहिती उपलब्ध करुन देण्याचे खापतीत दिली जातात.

परंतु माहितीचा अधिकार अधिनियम २००५ व महाराष्ट्र सार्वजनिक अभि
अधिनियम २००५ हे अमलांत येऊन ५ वर्षे होऊन गेलेली आहेत परंतु बहुतांश कार्यालय
अभिलेखे जतन करण्याची / नोंदण्याची कार्यपद्धती व जबाबदारी निश्चित करण्यांत अ
नाही. त्यामुळे नस्ती आढळून येत नाही म्हणून कारणास्तव माहिती देता येत नाही. ह्या बाबत
कार्यालयांमध्ये प्रथम अपिलीय अधिकारी यांनी करून शोध घेऊन नस्ती नव्याने तयार
किंवा जबाबदारी निश्चित करुन महाराष्ट्र सार्वजनिक अभिलेख अधिनियम २००५
तरतुदींप्रमाणे कारवाई करुनच आयोगापुढे सादर करणे आवश्यक आहे. तसेच अभि
वर्गीकरणाप्रमाणे जतन करण्याचा कालावधी हा प्रत्येक कार्यालयांत निश्चित करण्यांत
असून त्याकरिता शासन निर्णय आहेत. त्याप्रमाणे कागदपत्रांचे जतन करणे किंवा
करण्यांकरिताची कार्यपद्धती अवलंबिली जात नाही किंवा त्याबाबत कोणते आदेश काढले
नाहीत किंवा नोंदी ठेवल्या जात नाहीत व त्यामुळे माहितीच्या अंतर्गत नस्ती आढळून येत न
गहाळ झाली अशी उत्तरे दिला जातात त्याकरिता अभिलेखे जतन / नष्ट करण्
कार्यपद्धतीबाबत काटेकोर पालन करावे असे आदेश प्रत्येक सार्वजनिक प्राधिकरणाने
आवश्यक आहे.

अद्यापपर्यंत अभिलेख्यांचे वर्गीकरण व दस्तऐवजांच्या प्रवर्गांचे विवरण बह
कार्यालयात आढळून येत नाही. त्याबाबत कार्यवाही सर्वच प्राधिकरणांमध्ये करणे आव
झाले आहे.

सोबत अर्ज दाखल झाल्यापासून आयोगाकडे द्वितीय अपीलाचे सुनावणीपर्यंत
माहिती अधिकारी व प्रथम अपीलीय अधिकारी यांनी करावयाच्या प्रक्रियेचे संक्षिप्त मुद्दां
विवरण दिलेले आहे. त्या टिप्पणी प्रमाणे प्रशिक्षण व कार्यवाही होणे गरजेचे आहे.

कल्याण-डोंबिवली महानगरपालिका
उप आयुक्त (सा.प.) यांचे कार्यालय
दि. 18 FEB 2011
क्र. : १२, १३, १४, १५, १६, १७, १८.
CRA/SD30

21-2-11

(विलास पाटील)
राज्य मुख्य माहिती आयुक्त

महानगरपालिका / नगरपालिका

मा.आयुक्त बृहन्मुंबई महानगरपालिका, मुंबई यांचे पत्र क्र.सी.पी.ए./गोपा/८८१५ दि.२१.०१.२०११ व तात्कालीन मा.आयुक्त यांचे पत्र क्र.एजीसी/ए/८०३ दि.१५.१०.२००८ च्या अन्वये केलेल्या सूचनांचे संदर्भात राज्य माहिती आयोगाने नव्याने निर्गमित करण्यात येणा-या नोटीसांच्या प्रारूपाकडे लक्ष देण्यात येते.

नव्याने निर्गमित करण्यात येणा-या नोटीसातील क्र.६ मध्ये "जन माहिती अधिकारी यांनी व्यक्तिश: व प्रथम (अपिलीय) अधिकारी यांनी लेखी प्राधिकृत अधिकारी / प्रतिनिधीद्वारा संपूर्ण कागदपत्रे, पत्रव्यवहार, अभिलेखासह हजर राहणे आवश्यक आहे, याची नोंद घ्यावी" असे नमूद केलेले आहे.

माहितीचा अधिकार अधिनियम, २००५ च्या कलम २१ (५) प्रमाणे माहिती नाकारली किंवा कसे हे सिध्द करण्याची जबाबदारी ही जन माहिती अधिकारी यांची आहे. तसेच कलम २० (१) चे परंतुकाप्रमाणे सुध्दा शास्ती लादण्यापूर्वी जन माहिती अधिकारी यांचे म्हणणे ऐकून घेणे बंधनकारक आहे व त्यामुळे जन माहिती अधिकारी यांची आयोगापुढे उपस्थिती अनिवार्य आहे. प्रथम अपीलाच्या निर्णयाविरूध्द द्वितीय अपील आयोगाकडे दाखल करणेची तरतुद आहे. त्यामुळे प्रथम अपीलाबाबत झालेल्या कार्यवाहीचे व निर्णयाबाबतची कागदपत्रे आयोगाकडे दाखल करणे आवश्यक असल्याने ती प्रथम अपिलीय प्राधिकारी यांनी स्वत:च दाखल करावी असे नाही.

महानगरपालिकांमध्ये प्रामुख्याने कर विभाग, बांधकाम विभाग, जल विभाग या संदर्भात माहिती मागण्याचे प्रमाण ८०% आहे. आयोगाकडील दर १० अपीलांमधील ६ अपीले महानगरपालिकेच्या बांधकाम विभागाशी संबंधित असतात. परंतु इमारती व प्रस्ताव व इमारती व कारखाने या विभागातील माहिती अधिकारी हे सहाय्यक अभियंता व अपिलीय अधिकारी हे कार्यकारी अभियंता आहेत.

बांधकाम विभागांत विशेषत: इमारतींच्या संदर्भात अधिकृत /अनधिकृत बांधकामे याबाबत माहितीची अपेक्षा असते.

बहुतांश इमारतींना OC नाही व OC मिळाल्यावर सुध्दा अनधिकृत बांधकामे प्रत्येक इमारतीत होतच असतात, त्याबाबत कारवाई करण्याचे संदर्भात तक्रारी करून माहिती मागितली जाते. परंतु त्या तक्रारींची चौकशी होतेच असे नाही व त्यामुळे माहिती देण्याची टाळाटाळ केली जाते किंवा भ्रष्टाचार केला जातो असे आरोप होतात.

बांधकाम विभागातील अधिका-यांचे संगन मतानेच अनधिकृत बांधकामे होतात असा मोठया प्रमाणावर नागरिकांचा समज आहे. तो वाढीस लागण्याचे कारण म्हणजे अभिलेखांचे जतन योग्य रितीने केलेले नसते किंवा अर्जदारास कोणती माहिती अपेक्षित आहे हे समजून न घेता अर्जाचे विनाकारण हस्तांतरण केले जाते किंवा नस्त्यांचे निरिक्षण करावे व माहिती उपलब्ध करून घ्यावी असे कळविले जाते व निरिक्षणास संबंधित नस्त्यासुध्दा उपलब्ध करून दिल्या जात नाहीत.

D:\manual\Report 5\Department.doc

माहिती सादर मागितली असेल तर वरती निरिक्षणास कळविणे योग्य आहे. परंतु सर्वच अर्जाचेबाबतीत निरिक्षणाला कळविले जाते.

अधिनियमाचे तरतुदीप्रमाणे कोणतीही कार्यवाही मुदतीत केली जात नाही. तसेच निरिक्षणाकरिता व अपिलपत्रांच्या तपासणिकत प्रतिकरीता व वाहतुक खर्चाची आकारणी नियमबाहय की खर्चाची आकारणी केली जाते ही प्रामुख्याने तक्रार बहुतेक अपीलकर्त्यांची असते.

D Annual Report 09-10.doc.

श्री. विलास पाटील
मुख्य माहिती आयुक्त

Shri Vilas Patil
Chief Information Commissioner

कार्यालय
१३ वा मजला
नवीन प्रशासन भवन
मंत्रालयासमोर, मुंबई ४०० ०३२
दिनांक

No
13th Flr
New Admn. Building
Opp. Mantralaya, Mumbai 400 032
Dated :

मागितलेली माहिती पुरविणे हा सार्वजनिक प्राधिकरणातील कार्यालयाच्या कामकाजाचा एक हिस्सा आहे. परंतु अशी पूर्ण माहिती शोधून काढावयाची म्हटले तर, जुन्या रेकॉर्डचा शोधाशोध करण्यामध्ये कार्यालयाच्या बराच वेळ जाणार किंवा अर्जदारास ही माहिती पुरविताना त्या त्या सार्वजनिक प्राधिकरणाला रोजच्या व कायद्यातील कर्तव्य करावा लागणार त्यामुळे माहिती पुरविताना याची सजग आवश्यकता आहे. प्रति होईल कामात अशा प्रकारे कार्यपद्धती सजग आवश्यकताची आहे.

BPL कार्ड हे सक्षम अधिकाऱ्याचे असावे.

BPL कार्ड धारकास माहिती ही विनामूल्य पुरवायची आहे. त्यांनी मागितलेली माहिती ही अति व्यापक प्रमाणात असेल व शासकीय अनुदान त्या कामासाठी उपलब्ध नसेल तर अर्जदारास स्वतः (सहकारी प्रतिनिधी नाही) कागदपत्रांची पाहणी करून छायांकित प्रति उपलब्ध करून घ्याव्यात म्हणून कळवावे व त्याहीपेक्षा जास्त खर्च येत असेल व खर्चाची तरतूद नसेल तर माहितीची नोंद घ्यावी व ती जबाबदार अधिकारी / कर्मचारी यांनी त्यांच्या स्वाक्षरीने तपासून घ्यावी. कागदपत्रांची तपासणी / पाहणीची परवानगी दिल्यावर तपासणी / पाहणी सुरु असताना कार्यालयाच्या जबाबदार अधिकारी / कर्मचारी यांच्या समक्ष व्हावी.

अधिनियम कलम ८ प्रमाणे कोणती माहिती प्रकट करता येणार नाही हे दिलेले आहे. त्या प्रत्येक कलमाच्या निकषाशी अर्जातील माहिती तपासूनच कारणमिमांसा देणारा निर्णय घ्यावा.

अर्जाची छाननी करताना हे अपवाद तपासून पहावे. कलम ७ (९) व कलम ८ (१) (ज) प्रमाणे माहिती संकलीत करण्यास शासकीय साधन सामुग्रीचा वापर मोठा अपव्यय व सार्वजनिक व्यापक हित या दोन निकषांप्रमाणे विशेषतः तपासून पहावे. (सार्वजनिक व्यापक हित व खाजगी माहिती)

माहिती विशिष्ट स्वरूपात मागितलेली असली तरी शक्य तो ती ज्या स्वरूपात (साहित्याच्या) उपलब्ध आहे त्या स्वरूपात पुरविणे योग्य माहिती तयार करून देणे अपेक्षित (नस्तीमधून काढून) नाही.

अनेक नस्त्यांमधून माहिती संकलित करून देताना चूक होऊ शकते व त्यामुळे त्या त्या नस्तीतील दस्तऐवजाची छायांकित प्रत पुरविणे. मुद्देनिहाय माहिती उपलब्ध करून देताना होय / नाही अशा स्वरूपात न देता कागदपत्रे उपलब्ध असल्यास त्यांच्या छायांकित प्रती उपलब्ध करून द्याव्यात. निष्कर्ष काढून देवू नये. माहिती अधिकारी या नात्याने नव्याने कोणतीही माहिती निर्माण करून अर्जदारास

श्री. विलास पाटील
मुख्य माहिती आयुक्त

Shri Vilas Patil
Chief Information Commissioner

आयोग
१३ वा मजला
नवीन प्रशासन भवन
मंत्रालयासमोर, मुंबई ४०० ०३२
दिनांक:

No.
13th Flr.
New Admn. Building
Opp. Mantralaya, Mumbai 400 03.
Dated

पाहिजे. सार्वजनिक प्राधिकरणात माहितीच्या स्वरुपात (उदा. कागदपत्रांच्या स्वरुपात इत्यादी) उपलब्ध असलेलीच केवळ माहिती छायांकित प्रतीच्याच स्वरुपात शुल्कासह पुरवणे अपेक्षित आहे.

प्रश्न दोन प्रकारचे (१) ज्या प्रश्नातून कागदपत्रे उपलब्ध होणू शकत असतील असे प्रश्न त्यातून कागदपत्रे उपलब्ध करुन घ्यावीत. (२) ज्या प्रश्नामध्ये का/कसे/केव्हा विचारले असेल त्याबाबत प्रश्न विचारुन मत/अभिप्राय विचारलेले असल्यास माहिती व माहितीचा अधिकार या संज्ञेच्या व्याख्येत का व कसे अशा प्रकारची उत्तरे देणे तरतुदीप्रमाणे नाही, अपेक्षित नाही. त्याकरिता मुळे निहाय छाननी करावी. काय ? किती ? अशाप्रकारे माहिती विचारल्यास प्रश्न विचारले म्हणून नाकारु नये. त्यासंदर्भात जी टिप्पणी किंवा दस्तऐवज असेल तो व सांख्यिकी स्वरुपात माहिती द्यावी.

माहिती अधिकारी यांच्या ताब्यात माहिती असते. जन माहिती अधिकारी हा माहिती पुरवणारा अधिकारी आहे. यामुळे निर्णय (चूक किंवा बरोबर) प्रक्रियेबद्दल मत देणे अपेक्षित नाही. माहिती अधिकारी यांचेकडे माहितीची अभिलेखे, दस्तऐवज असतीलच असे नाही. त्याकरीता ज्या अधिकारी /कर्मचारी / शासन यांचेकडे असतील त्याचे कलम ५ (४) प्रमाणे सहाय्य घ्यावे. लेखी पत्र द्यावे व पुरावा ठेवावा.

वरील प्रकारे कोणत्याही प्रकारचा निर्णय घेतला तर ते अर्जदारास विहीत मुदतीत कळविणे आवश्यक आहे. कोणत्याही प्रकारचा जन माहिती अधिकाऱ्यांचा निर्णय हा कारणासहीत असावा. (Reasoned Order)

अर्जदाराने विचारलेली माहिती ती व्यापक व जुनी असल्यास संकलित करण्यास विलंब लागत असल्यास त्याप्रमाणे सुरुवातीच्या ५ दिवसात अर्जदारास कळविणे आवश्यक आहे.

स्पष्टतेकरिता किंवा खर्चाची रक्कम भरण्याकरिता अर्जदारास पत्र व्यवहार केला असला तरी खुलासा येई पर्यंत किंवा खर्चाची रक्कम भरे पर्यंतचा कालावधी ३० दिवसातून वगळता जावू शकतो.

प्रयत्न व्यक्तीशी केलेला पत्र व्यवहाराचा कालावधी ३० दिवसातून वगळता जावू शकतो अर्जदाराने मूळ अर्जात व्यक्तीश: येवून माहिती ताब्यात नमुद केले असले तर त्यास व्यक्तीश: माहिती देताना पोच घ्यावी. (घरी माहिती पोहचवू नये)

दूरध्वनी : ०२२-२२८५ ६० ७८ फॅक्स: ०२२-२२०४ १३ १०
website: www.sic.maharashtra.gov.in

श्री. विलास पाटील
मुख्य माहिती आयुक्त

Shri Vilas Patil
Chief Information Commissioner

क्रमांक
१३ वा मजला
नवीन प्रशासन भवन
मंत्रालयासमोर, मुंबई ४०० ०३२
दिनांक

No.
13th Flr.
New Admn. Building
Opp. Mantralaya, Mumbai 400 032
Dated

परंतु अर्जदार जेव्हा ज्या वेळेस माहिती घेण्यास येईल त्या त्या वेळेस त्यांच्या उपस्थितीची नोंद त्यांचे सहीने घ्यावी. अन्यथा अर्जदार माहिती घेण्यास आले नाही तरी तशी नोंद करावी व ही सर्व प्रक्रिया सहायक माहिती अधिकारी नियुक्त करुन त्यांचेकडे माहिती अधिकारातील अर्जाचे भायक/जावक नोंदवही असल्यास शक्य होईल.

पोस्टाने मागितली असेल तर रजिस्टर पोस्टाचा खर्च कळवून / घेवून रजिस्टर पोस्टाने माहिती पाठवावी. पोस्टाचा व जावक रजिस्टरचा पुरावा ठेवावा.

माहिती पुरविण्याचा निर्णय देताना माहिती ने समाधान न झाल्यास प्रथम अपिलीय अधिकाऱ्यांकडे ३० दिवसात प्रथम अपील करावी असे स्पष्ट माहिती अधिकाऱ्याचे सहीने कळवावे. प्रथम अपीलीय अधिकाऱ्यांचा पूर्ण तपशील द्यावा. अर्ज नस्तीबध्द करण्यात येत आहे असे लिहू नये. जन माहिती अधिकारी तथा. . . . . .

प्रथम अपीलीय अधिकाऱ्याकडे दाखल केल्यापर तो प्रथम अपील ३० दिवसात किंवा विशिष्ट परिस्थितीत ४५ दिवसात निकाली काढावे लागते.

अर्जदार व माहिती अधिकारी यांना नोटीस काढून सुनावणीस उपस्थित राहण्यास कळवावे.

प्रथम अपीलाची सुनावणी घेताना जन माहिती अधिकाऱ्यांच्या निर्णयाचा किंवा माहितीची छाननी करुन निर्णय कारणासहित आदेश द्यावे.

प्रशासकीय पध्दती प्रमाणे माहिती अधिकाऱ्यास परस्पर माहिती द्या अशा प्रकारचे पत्र पाठवू नये. प्रथम अपीलाचा निर्णय प्रथम अपीलीय अधिकारी तथा . . . . असा असावा. अपीलकर्त्यास पोस्टाने कळवावा. नोटशिटवर निर्णय करु नये.

शक्य तो प्रथम अपीलाचे पातळीवरच माहिती उपलब्ध करुन देण्याचा प्रयत्न करावा.

अपूर्ण, चुकीची माहिती दिल्यास व तसा खुलासा व पुरावा अपीलकर्ता यांनी दिल्यास पुरविलेल्या माहितीची छाननी करुन निर्णय द्यावा.

प्रथम अपीलाचे निर्णयाचे आदेशात खाली राज्य माहिती आयोगाकडे ९० दिवसात अपील करता येईल असे निदर्शनास आणावे.

दूरध्वनी : ०२२-२२८५ ६० ७८ फॅक्स: ०२२-२२०४ ९३ ९०
website: www.sic.maharashtra.gov.in

Supreme Court of India
N. Natarajan vs B.K.Subba Rao on 3 December, 2002
Author: R Babu
Bench: S. Rajendra Babu, Arun Kumar.

CASE NO.:
Appeal (crl.) 556 of 1995

PETITIONER:
N. Natarajan

RESPONDENT:
B.K.Subba Rao

DATE OF JUDGMENT: 03/12/2002

BENCH:
S. RAJENDRA BABU & ARUN KUMAR.

JUDGMENT:

J U D G M E N T RAJENDRA BABU, J. :

An application under Section 340 of the Criminal Procedure Code was laid by the respondent in the Designated Court at Bombay. The appellant had been conducting the cases as the Chief Public Prosecutor before the Designated Judge in what is popularly known as "Bombay Blast Cases". The respondent urged in his petition that the appellant before us being a public prosecutor had an onerous duty and had to act in a fair manner and at one stage of the proceedings both orally and in writing had submitted to the court that the material on record was sufficient to frame charges against various offences arising under Chapter VI of the Indian Penal Code like waging war against the State, etc., after adverting to the decisions of this Court. However, at a later stage of the proceedings in the same case, the appellant urged the Designated Court to drop the charges under Sections 121 and 121A IPC against all the 157 accused as there was no material. Thus he made statements which were contradictory to the earlier stand taken by him and left the matter to the discretion of the court to accept one or the other version to be true in order to secure the ends of justice. Apart from misconduct on the part of the appellant arising under the Advocates Act, it is contended that the same would amount to criminal contempt of court. The contention advanced on behalf of the respondent was that the charge of waging war against the State without reasonable or sufficient material on record results in grave injustice and injury to some of the accused and if he had carried out his functions with due care and caution, such injustice would not have occasioned. He contended in the course of the application as follows :

" Having opened the case under Section 226 CrPC and having proceeded quite far under Section 227 CrPC in respect of framing charges, for the prosecutor to come up with a plea not to frame the charges for lack of material on record amounts to making a mockery of the administration of justice. The conduct of the CBI prosecutor Mr. Natarajan has polluted the course of administration of justice, notwithstanding the fact that there is material or not to frame the charge. This kind of conduct on the part of the public prosecutor if not dealt with according to law would leave wide

scope in our judicial system to injure and cause injustice to ill place citizens. Therefore a judicial examination of the conduct of the CBI prosecutor Mr. Natarajan will be in public interest, as it would act as a deterrent against public prosecutors indulging in unfair practices."

The respondent also submitted that he was not concerned with the outcome of the case but more in the conduct of the public prosecutor in making contradictory submissions. He submitted that this conduct on the part of the appellant would attract the provisions of Section 192 to 196 and 227 CrPC.

On receipt of the application, the learned Designated Judge directed the Registry to post the matter for hearing on the question of locus standi of the respondent to file an application under Section 340 CrPC and whether that court had jurisdiction to entertain the application. The Designated Judge held that he was satisfied that the court could entertain an complaint even at the instance of a stranger in order to address his grievances as offences affecting the administration of justice. Though the appellant was not notified of the said application, the learned Designated Judge heard Mr. R.K.H.Sharma, Special Public Prosecutor, in the matter and noted that he had not challenged the locus standi of the respondent in presenting the application but had emphasised that if the court entertains such petition without ascertaining its merit, it would open flood gates and any person would walk in the court with such petitions. Before the learned Designated Judge, it was contended by Mr. Sharma that there can be only two parties before the court, that is, the public prosecutor or the complainant, as the case may be, and on the other side the accused represented by his advocate and in those circumstances the respondent could not be heard in the matter. However, the court by an order made on 21.2.1995, recorded its satisfaction as to the locus standi of the respondent and directed to register the application and to issue notice to the public prosecutor returnable on 10.3.1995. The public prosecutor noted to have taken notice of the matter. Against this order of the Designated Judge, the present appeal has been filed by the appellant.

This Court, on 8.3.1995, directed to issue notice to the respondent and also granted an ad-interim stay of the order made by the Designated Judge on 21.2.1995 and it was also made clear that the pendency of these proceedings will not debar the petitioner from functioning as a prosecutor in the case known as the Bombay Blast Case. Thereafter leave was granted and the interim order granted was affirmed.

When the matter was set down for final hearing, the respondent appeared in person and contended that this Court should not entertain a petition on appeal under Article 136 of the Constitution inasmuch as the order passed by the Designated Judge being under TADA and is an interim order and no appeal lies against such order in view of Section 19 thereof. He further contended that inasmuch as an appeal lies under Section 341 CrPC against an order made under Section 340 CrPC in the event of a complaint having been made against the appellant. In this context, he also drew our attention to the provisions of sub- section (2) of Section 340 CrPC to point out that the power conferred on the court under Section 340(1) CrPC in respect of an offence could be exercised by an appellate court in case the subordinate has neither made a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint. He, therefore, submitted that the powers of this Court under Article 136 should not be exercised as exercise of such

power would affect a statutory right of appeal.

Article 136 of the Constitution enables this Court to exercise in its discretion appellate powers by granting special leave from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in India. This power is conferred on this Court notwithstanding the provisions for regular appeal from proceedings in different enactments being available and there may remain some cases where justice might require interference by this Court with the decisions of the High Courts or the tribunals of the land. The power of this Court to grant leave to appeal from any decision of any court or tribunal is not subject to any limitation and is left entirely to the discretion of this Court. Though this Court is circumspect in its exercise of its jurisdiction under Article 136 it has a duty to interfere in cases of grave miscarriage of justice. It is trite to say that the extraordinary power conferred under Article 136 of the Constitution cannot be taken away by any legislation, short of constitutional amendment. The nature of the statute or limitations imposed within a statute cannot deter this Court from exercising its jurisdiction. It is not even restricted by the appellate provisions enumerated in Criminal Procedure Code or any other statute. Therefore, contentions urged, which are preliminary in nature, cannot detain us in entertaining this matter or examining the correctness of the proceedings before the Designated Judge. However, the respondent urged that in A.R.Antulay vs. R.S.Nayak, 1988 (2) SCC 602, this Court had held that one of the considerations in exercise of its power by this Court is not to deprive any party of a statutory appeal and if such deprivation occasions then the matter will have to be reopened as was done in that case. This argument proceeds on a misconception of the position in law. An appeal lies when a matter is finally and conclusively decided by a court or a tribunal. If the High Court or the Supreme Court, in exercise of the extraordinary jurisdiction under Article 226 or Article 136 of the Constitution or Section 482 Cr.P.C., as the case may be, quashes certain proceedings, a party cannot complain that his right to statutory appeal had been deprived. Therefore, this contention deserves to be rejected.

Mr. K.K.Venugopal, learned Senior Advocate appearing for the appellant, submitted that the respondent has a habit of making such complaints and he is not a person who is interested in the matter in any way and no public interest would be served by entertaining an application made by him and he is a total stranger to the proceedings. In fact, he described the respondent as 'busy body or interloper' in the proceedings. In answer to this contention, the respondent relied upon the decisions in Bhagwandas Narandas vs. D.D.Patel & Co., AIR 1940 Bombay 131 and Harekrishna Parida & Ors. vs. Emporer, AIR 1929 Patna 242, to contend that even a stranger to a cause can lodge a complaint under Section 340 CrPC.

In our view it is not necessary to pursue the approach of either of the party. It is well settled that in criminal law that a complaint can be lodged by anyone who has become aware of a crime having been committed and thereby set the law into motion. In respect of offences adverted to in Section 195 CrPC, there is a restriction that the same cannot be entertained unless a complaint is made by a court because the offence is stated to have been committed in relation to the proceedings in that court. Section 340 CrPC is invoked to get over the bar imposed under Section 195 CrPC. In ordinary crimes not adverted to under Section 195 CrPC, if in respect of any offence, law can be set into motion by any citizen of this country, we fail to see how any citizen of this country cannot approach

even under Section 340 CrPC. For that matter, the wordings of Section 340 CrPC are significant. The Court will have to act in the interest of justice on a complaint or otherwise. Assuming that the complaint may have to be made at the instance of a party having an interest in the matter, still the court can take action in the matter otherwise than on a complaint, that is, when it has received information as to a crime having been committed covered by the said provision. Therefore, it is wholly unnecessary to examine this aspect of the matter. We proceed on the basis that the respondent has locus standi to present the complaint before the Designated Judge.

What we have to see is whether the different statements at different stages of the case made by the public prosecutor would amount to any offence attracting the provision of Section 340 CrPC. We repeatedly asked the respondent as to how two different stands taken by a counsel would be covered by the offences referred to in provisions of Section 195 CrPC. He tried to explain that there is distinction between submissions made on law and on facts. Submissions based on facts, which would affect the life and liberty of innocent persons are not legal submissions but would amount to causing circumstances to exist so as to amount to fabricating evidence within the meaning of Section 192 IPC.

Supposing a counsel presents a preposterous argument or blatantly wrong argument which, he later on corrects himself on realizing the incorrectness of his submission or in a converse situation, having made a correct argument realising that the same would defeat the claim of his client, takes a diametrically opposite stand, could it be said that the said stand would lead to fabricating evidence before the court in any manner which attracts the offences adverted to under Section 195 CrPC. By no stretch of imagination, can we say that the stand of a counsel, howsoever inconsistent it may be at different stages of the proceedings, can amount to offences adverted to under Section 195 CrPC. If the courts begin to issue notice for prosecution or as to why the inquiry should not be made in the matter or to launch a prosecution, no Advocate can function with safety nor can he assist the court with the necessary fearlessness which is required of him. It is not unknown that even in criminal cases even after committal proceedings are over at the stage of sessions trial before charges are framed by the court or at the stage of final arguments, many public prosecutors have entered NOLLE PROSEQUI in cases where they thought that a charge could not be framed or the concerned accused should be acquitted. However, that does not mean that such a stand could not have been taken or attracts wrath of Section 340 CrPC.

In the present case, the hearing as to framing of charges has gone on for nearly eight months. Considering the nature of the charges to be framed in the case, the voluminous record of the case presented before the court, the seriousness and magnitude of the matter when several hundred of persons have been killed and property worth crores of rupees has been destroyed, in what manner the case should be conducted is a very serious affair. If the public prosecutor had been supporting at one stage of the proceedings the charge sheet that had been laid in respect of the offences arising under Sections 121 and 121A Indian Penal Code, later on he realises that evidence is not available at that stage of the case, seeks that for the time being these charges need not be proceeded with, and if further investigation discloses such offences as having been committed, supplementary charge sheet would be filed before the court later, we fail to understand as to how such shift in the stand would attract offences enumerated under Section 195 CrPC.

The stand of the respondent that we should not interfere in this matter as relevant facts are before the Designated Court and not before this Court does not hold water. What we are examining is whether the complaint made by the respondent, taking it as a whole, deserves to be proceeded with.

Though the respondent has grievance as to the manner of disposal of the case in Dr. Budhi Kota Subbarao vs. Mr. K. Parasaran & Ors., 1996 Supp. (4) SCR 574, the fact remains that he attacked the Attorney General personally in that case when he furnished his satisfaction in a matter and now the appellant herein. Though this Court castigated the respondent in that case, did not proceed further to impose any cost upon him or to debar him from presenting such petitions thereafter. This is one of those rare cases where we think that we ought to exercise our powers in the interests of administration of justice to restrict the hands of the respondent to engage in this kind of vexatious litigation. On half-baked knowledge of law, he proceeds to present argument before the court with an analysis of facts which is tendentious and waste the time of the court by trying to cite decisions which have no relevance to the case. In the present case too, he did not the same. He drew our attention to one case where a Sub-Judge, who had tampered with the proceedings before the court to facilitating substitution of the written statement, pursuant to a complaint being filed, was prosecuted under Section 340 CrPC; to another case where a pleader had instigated the witnesses to tender false evidence before the court; to cases where the witnesses have changed their stand from time to time. All those cases, in our opinion, have no bearing at all on the present case.

We are amazed at the manner in which the learned Designated Judge dealt with this matter. While holding that the respondent had locus standi to present the petition, he ought to have applied his mind further as to whether he should proceed further in the matter at all. If he had thoroughly perused the petition, it would have appeared that the submissions made by the learned public prosecutor - however contradictory they may be - in a case cannot amount to fabrication of evidence by any stretch of imagination. The substance of the complaint should have been looked into and should have been decided. If such caution had been exercised, we are sure, he would not have proceeded further in the matter.

We are conscious of the fact that the learned Designated Judge has not exercised his power under Section 340 CrPC as yet to lodge a complaint nor has he proceeded to hold an inquiry but at the same time we must notice that issue of notice on an application of this nature would have serious impact upon the public prosecutor in conduct of the case particularly when at every stage he has got to be conscious whether any of his statement would attract Section 340 CrPC. This is not the kind of atmosphere where a public prosecutor can function effectively, independently and fearlessly. In the conduct of the case a public prosecutor must have full freedom and he can even give up certain cases and request the court to discharge or acquit any accused. If that kind of autonomy is to be enjoyed by the public prosecutor, he cannot be fettered in conducting the proceedings. By initiating the proceedings against him, the learned Designated Judge has crippled the freedom of the public prosecutor in functioning effectively and such a matter certainly results in serious miscarriage in administration of justice and no Advocate would be safe if such proceedings are initiated on the basis of the allegations of the nature made in the complaint. Either the learned Designated Judge has not applied his mind or he has not understood the scope of the application and if he had done either, he would have dismissed the application. That we do now.

In the result, we allow this appeal, set aside the order made by the learned Designated Judge and dismiss the application filed by the respondent under Section 340 CrPC. At the same time, we make it clear that the respondent shall not engage in this kind of litigation hereafter and he is restrained from making any applications of this nature and if any such application is made before any court, the same shall be dismissed in limine and appropriate proceedings be initiated against him.

The appeal is allowed accordingly.

BRIHANMUMBAI MAHANAGARPALIKA

D.M.C/R.E./141 dt. 12.04.2013

Office of Dy. Municipal Commissioner, (Removal of Encroachments) Near Vardhaman Heights, A.G. Pawar, Marg, Off. Dr. Babasaheb Ambedkar Marg, Kala Chowki, Byculla, Mumbai- 400 027.

Sub : Standard operating procedures (SOPs) for detection and demolition of unauthorized structures.

*****

As per the amendments made in MMC Act 1888 and MRTP Act 1966, 64 Asstt. Engineers (B&F) are appointed as Designated Officers under Section 351 (1) of the M.M.C. Act 1888. Gazette notification for the same is published on 11.04.2013. These newly appointed designated officers will start functioning with effect from 15.04.2013. As the scope of work of Asstt. Engineers (B&F) of wards has been changed, following Standard operating procedures (SOPs) are being issued as guidelines-

I) **Detection of unauthorised construction**- Each Designated Officer and the staff working under him will have to detect all types of unauthorized constructions in their jurisdiction irrespective of ownership of the land, including slum area.

i) **Sources of detection**- The ongoing and completed unauthorized constructions can be detected through various sources i.e. Self detection, detection by the staff of B&F dept., public grievances, complaint/references by councillors/MLAs/MPs and other authorities, complaints from citizens, references from higher authorities, proposals rejected by B.P. Dept., complaints received through various control rooms, other resources.

ii) **Detection** - Once the complaint is received, the same should be entered into the register. After registration of complaint, the designated officers and concerned staff should immediately visit the complaint site and find out the authenticity of the complaint matter. Photographs of the site, should be taken about the complaint site. Inspection report should be prepared. Designated Officer shall monitor the detection work carried out by his subordinate staff daily, also to check the complaints/grievances of unauthorized constructions receiving from various sources. For authenticity of such complaints and to get acquainted with genuinity of complaint or detection report of subordinates, designated officer has to inspect the site himself. After site visit, details of same in all respects i.e. dimensions,nature of construction, area details, photographs of sites from different angles with time and date, particulars of persons responsible etc., should be taken. If the construction activity is under progress, then immediately on the spot Notice u/s.354 A should be served to the Offender, if that area is under his jurisdiction.

iii) **Jurisdiction of the complaint**- After finding out the genuineness of the complaint matter, the designated officer should confirm the jurisdiction of authorities. If the complaint is pertaining to the jurisdiction of other special planning authorities i.e. MMRDA, MHDC, DRP, etc., a reply should be sent to the complainant informing him the authority to which it pertains and complaint should be forwarded to concerned supervisory/monitoring authority. Subsequently, the complaint file should be sent to Asstt. Commissioner of the ward for approval to record the complaint. After inspection if it is found that, the complaint structure is authorized or carried out as per the permission granted by the competent authority, a reply should be sent to the complainant accordingly and after approval of Asstt.Commissioner of the

ward, the complaint should be recorded.

iv) **Jurisdiction of MCGM** – If the complaint pertains to the unauthorized construction notice under Sec.351, 354A of MMC Act or under Sec.53 to 56 of MRTP Act as per applicability should be prepared along with details, map etc. and issued immediately.

If the unauthorized structures is situated on municipal slum area, a report should be prepared by designated officer and it should be submitted to Asstt. Comm. of the ward for necessary orders under Maharashtra Slum Areas (Improvement, Clearance and Redevelopment Act, 1971 (MAH.XXVIII of 1971). AEBF and his staff will assist the Asstt. Commissioner of the ward to detect unauthorized construction in municipal slum areas, prepare notice under slum act and demolition of unauthorized work after following due process of law.

v) **Registration**- Designated Officer shall maintain(i) Detection Register, (ii) Notice Register (iii) Court Injunction Register and (iv) Demolition Register in which all cases shall be registered systematically and kept as permanent record in the respective Ward Offices for future reference. These registers should be inspected every week to determine the cases of unauthorized works that have not reached demolition stage and to ascertain the reasons thereof.

The Designated Officer will be personally responsible, at all times, for safe custody of these registers as Designated Officer is Public Record Officer for the registers maintained under his jurisdiction.

II) **Unauthorized structures on the sites approved by BP dept.**- If any unauthorized constructions is carried out beyond the approval of E.E.(B.P.),it will be the primary responsibility of the concerned building proposal dept. staff i.e. E.E.B.P. to inform in writing to concerned designated officer A.E.B.F. about the unauthorized work. After intimation from E.E.(B.P.) or self detection, Designated Officer will issue stop work notice or any other notice applicable under MRTP Act or MMC Act.

III) **Jurisdiction, control, reporting system and work procedures of designated Officers (AEBF)**-

1. Each Designated Officer shall exercise powers under MMC Act 1888 sections 351, 352, 352A & 354A and under MRTP Act sections 53 - 56 within the jurisdictions notified for them. They will be responsible on behalf of the Planning Authority, the MCGM, for all categories of unauthorized constructions, (irrespective of the ownership of land.) In respect of slums, the officers appointed/designated as Competent Authority under Sec.3 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment Act, 1971 (MAH.XXVIII of 1971) under gazette notification no.Gavasu.1301/CR-375/Zopasu-1 dt. 25th October 2001 and 21st September 2004 will be responsible for taking action in respective declared slum area. If any complaint is received pertaining to the areas of Competent Authorities mentioned above, the Designated Officer should send the complaint to concerned authorities with suitable letter for taking necessary action under Slum Act and get it acknowledged.

2. Designated Officers will have two functions; a) to detect unauthorized constructions; and b) to deal with complaints of unauthorized constructions. Thus Designated Officer shall hold PG meeting in every week at his level to hear complaints/grievances of unauthorized constructions and take suitable action in accordance with the relevant provisions of law. In addition he will also have the responsibility to detect unauthorized constructions in his jurisdiction.

3. In performing these functions, Designated Officers will have jurisdiction in all types of unauthorized constructions, whether done in absence of any permission from Building Proposal, or in excess of permissions granted by Building Proposal, or after grant of OC/ before OC by Building Proposal, or in violation of any conditions of permissions.

4. Once the Designated Officer has detected unauthorized construction or taken cognizance of a complaint/grievance it will be the duty of the ward and the Building Proposal department to render all assistance to the Designated Officer to enable him to discharge his duties effectively. The Designated Officer may call for papers and documents that would have to be submitted to him to enable him to discharge his duties effectively. Once any notice is issued, the Designated Officer should inform, the Asstt. Law Officer of the ward to immediately make efforts for not getting any status quo order to the offender from the court.

Procedures/guidelines issued under Cir. no. DMC/RE/6418A dt. 18.02.2012 and DMC/RE/6618 dt.15.03.2012 should be followed strictly for taking action under MMC Act 1888. Circular issued under no. ACRE/City/OD/349 dt.14.12.2012 should be followed to take action under Sec.53 of MRTP Act 1966. Copies of the circulars are enclosed herewith, for ready reference.

5. Designated Officer shall perform his duties diligently and shall pass speaking orders under the aforesaid sections as applicable to the case after going through the documents produced and hearing the concerned parties if needed except in case where they are required to exercise summary powers under Sec.342. While passing orders, Designated Officer must give comments on each and every documents submitted by the party or by office.

6. The Designated Officer may record a detection or complaint if it is found without basis, or may proceed to deal with it in accordance with the aforesaid 8 sections. In case of constructions on going under the permissions of Building Proposal, the Building Proposal department shall act in accordance with the orders of Designated Officers, and ensure that the developers comply with the said orders before granting further CCs.

7. As per amended section 515 A of the MMC Act, 1888 any notice issued or order passed, direction issued by the designated officer under section 351 or 354 A of the MMC Act shall not be questioned in any suit or other legal proceedings. Similar provision already exists as per section 149 of the MRTP Act. Therefore, the civil courts are not supposed to grant any stay / statusquo order on the action of designated officers under MMC or MRTP Acts. Inspite of that if any civil court issues any such order, the provisions of the act be immediately brought to the notice of concerned court to get such orders vacated. Even after so pointing out the court does not vacate it, an appeal be filed in the High Court to get these vacated. The designated officers to take prompt actions accordingly through ward Asstt. Law Officer in this regard.

8. The Designated Officer after following the due procedure contained in the relevant sections, pass final orders for the demolition of unauthorized constructions. Thereafter, demolitions shall be carried out by Designated Officers/staff with the logistical support from the Assistant Commissioners. The process flow diagrams (Visio Diagrams) as enclosed herewith shall be adopted by the Designated Officers.

9. Building Proposal department staff shall not exercise powers under sections 352, 352A and 354A of MMC Act and Sections 53 to 56 of MRTP Act henceforth. These powers shall be exercised by the Designated Officers only. Once Designated Officer starts to deal with a complaint or detects unauthorized construction, Building Proposal department shall cooperate with submission of relevant files and information and not pass any orders contrary to the ongoing proceedings before Designated Officers. Building Proposal department shall take into account all the orders and directions of Designated Officers before proceeding in the matters before them, where a proceeding has been instituted under the aforesaid 8 sections.

10. The administrative control of Designated Officers shall vest in the Assistant Commissioner of the ward and supervisory control shall vest in the zonal DMC. For the purposes of monitoring the work of Designated Officers, D.M.C.(R.E.) shall perform the role of central agency and compile

and collate data from all sources and place it for review by the Municipal Commissioner. D.M.C. (R.E.) shall also get developed suitable IT systems for effective monitoring.

11. There shall be a grievance redressal mechanism to deal with the complaints of acts of commission or omission by the Designated Officers. This will be in the form of a Grievance Redressal Committee (GRC) at the zonal level, to be headed by DMC of the zone. Asstt. Commissioner of concerned ward, Asstt. Commissioner (Removal of Encroachment), Deputy Chief Engineer (Building Proposal), Deputy Law Officer, shall be members of the said committee. A.O. to DMC Zone will provide secretarial assistance. DCP will be the invitee member. Zonal Grievance Redressal Committee meeting will be held every month. D.M.C.(R.E.) shall collate data from these committees, compile the same and place them before the Municipal Commissioner for review.

12. As per Sec. 57 and Sec.53(6)(b) of MRTP Act, the Designated Officers shall recover any expenses incurred by MCGM for demolition and other activities under Sec.53, 54, 55 and 56 from the person in default or the owner of the plot.

13. As per Section 490,491 and 351 (2) of MMC Act the Designated Officer shall recover the expenses incurred for any demolition/other activities for exercising powers under Sec.351, 352, 352A and 354A.

14. AEBF of wards will continue to carry out all routine works like detection of dangerous and dilapidated buildings, helping other HODs in the wards, all other assignments being carried out presently.

Designated Officers should send monthly report in the prescribed format to ACRE's office for compilation and onward submission to higher authorities.

sd/-10.04.2013	sd/-10.04.2013	sd/-10.04.2013	sd/-10.04.2013
A.C.(R.E.)	D.M.C.(R.E.)	A.M.C.(City)	M.C.

To :

All Assit.Commissioners/Designated Officers

Assit.Commissioner _____ Ward

cc to : All Zonal D.M.C.

Zone _____

A.O. to D.M.C.(R.E.)

MUNICIPAL CORPORATION OF GREATER MUMBAI.

No. EY.Ch.E./10340/Traffic of 14.12.99

SUB: Granting permission on R.L. D.P. and other roads for PSC blocks, Vayamshala, Stalls etc.

In this connection a circular was issued by Ch.Eng.(D.P.) under No. Ch.Eng./4643/DPC of 27.2.96. As per the condition No.10 of the said circular no stalls/centres are to be permitted within the road lines existing/proposed. Subsequently the said condition No.10 was modified by the D.P. Deptt. vide circular issued under No. Ch.Eng./4064/DPC|Gen. of 31.3.98. As per the said modified condition stalls/centres may be permitted where roads are not likely to be widened in near future and subject to obtaining remarks from E.E.T. & C that there is no necessity of widening road in future.

As per the AMC (ES)/MC orders under No.MGC|E/2126 of 15.11.99. No structure temporary/permanent are allowed on road/ footpath. Hence no permission is to be granted on roads/footpath whether it is D.P./R.L. road.

A photocopy of note put up by AMC (ES) to M.C. and MC's order there on is forwarded here with for ready reference please.

In view of M.C.'s above orders all zonal Jt.M.C.|D.M.C/ A.C. are requested not to grant any stall/centres/temp.structure etc. on Municipal roads/footpath.

14/12/99
Chief Engineer
(C.C.Rds.& Tr.)

Copy forwarded for information please.

DMC E-I/E-II/E-III/E-IV/ /E-XI/E-XII/W.O. A,B,C,D,E, F|S,F/N, S|S, H/C) H/W, K/W, K/E, H/W, H, P/N, P/S, R/N, R/S, S.T.

लोकाभिमुख प्रशासनच्या दृष्टीने जनतेच्या तक्रारींची दखल घेणे, त्यांचे वेळेत निराकरण करणे, तक्रारदारांना सन्मानाची वागणूक देणेबाबत

महाराष्ट्र शासन

गृह विभाग

शासन निर्णय क्र. एमआयएस २०१६/प्र.क्र.९७/पोल ११

गृह विभाग, दुसरा मजला, मंत्रालय, मुंबई ३२.

दिनांक १७ जून, २०१६

प्रस्तावना :-

प्रशासन अधिकाधिक लोकाभिमुख बनविण्यासाठी जनतेच्या तक्रारीची दखल घेणे, त्यांचे वेळेत निराकरण करणे, तक्रारदारांना सन्मानाची वागणूक देणे, आवश्यक आहे. त्याचप्रमाणे खोटया, दिशाभूल करणाऱ्या अनेक तक्रारी समाजातील कुप्रवृत्तीचे लोक करत असल्याचे शासनाच्या निदर्शनास आलेले आहे. अशा खोटया तक्रारींचा शासनाच्या साधनसंपत्तीवर, अधिकारी / कर्मचारी यांच्या मनोबलावर विपरीत परिणाम होत आहे. यास्तव खोटया / दिशाभूल / तथ्यहिन तक्रारींना / तक्रारदारांना चाप बसावा त्याचप्रमाणे जनतेच्या Genuine तक्रारींचे तक्रार निवारण करण्याच्या दृष्टीने शासन आता पुढील प्रमाणे निर्णय घेत आहे.

शासन निर्णय :-

जनतेने त्यांच्या तक्रारी संबंधित सहाय्यक पोलीस आयुक्त / पोलीस उपअधिक्षक यांचेकडे व्यक्तीश: (By Hand), पोस्टाव्दारे (स्पीड पोस्ट, नोंदणीकृत डाकेने, साध्या टपालाने), ई-मेल व्दारे जमा करावयात. जनतेकडून अशा तक्रारी प्राप्त झाल्यानंतर त्यांची नोंद त्याचदिवशी त्या कार्यालयाच्या आवक नोंदवहीमध्ये घेणे बंधनकारक आहे. सदर तक्रारींचे निवारण करणे ही, सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांची जबाबदारी आहे. त्यांनी तक्रारींच्या निवारणाकरीता पुढील पध्दतीचा अवलंब करावा.

१) समुपदेशन (Counselling)

२) तक्रारीच्या अनुषंगाने प्राथमिक चौकशी करण्यासाठी संबधित पोलीस ठाणेस लिखीत आदेश देणे .

३) तक्रारीमध्ये तथ्य आढळून आल्यास त्याअनुंषगाने संबंधित पोलीस ठाणेस कार्यवाही करण्यासाठी लेखी आदेश देणे.

४) सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांनी तक्रारदारांच्या तक्रारीतील प्रत्येक मुद्यांबाबत केलेल्या कार्यवाहीचा अहवाल तयार करणे व सदर अहवालाची एक प्रत तक्रारदारांना उपलब्ध करून देणे.

५) तक्रार अर्ज प्राप्त झाल्याच्या दिनांकापासून तीन आठवडयांच्या आत अर्जदारांस त्यांच्या तक्रारीबाबत केलेल्या कार्यवाहीचा अहवाल उपलब्ध करून देणे बंधनकारक आहे.

६) ज्या प्रकरणांबाबत / तक्रारींबाबत अर्जदारांस तीन आठवडयांच्या आत अहवाल उपलब्ध करून देण्यास संबंधित सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक असमर्थ ठरलेले आहेत अशा प्रकरणांची यादी संबंधित अपर

पोलीस आयुक्त / पोलीस महानिरीक्षक संबंधिताकंडून प्राप्त करून घेऊन ती अपर मुख्य सचिव (गृह विभाग, मंत्रालय) यांना प्रत्येक महिन्याच्या पाच तारखेला सादर करतील. अशा प्रलंबित तक्रारींचा निपटारा जलदगतीने करणेबाबत तसेच अर्जदारांस कार्यवाहीचा अहवाल उपलब्ध करून देणेबाबत अपर मुख्य सचिव (गृह) संबधित अपर पोलीस आयुक्त / पोलीस महानिरीक्षक यांना निर्देश देतील.

७) कोणतीही तक्रार जर तीन महिन्यांपेक्षा अधिक काळ प्रलंबित राहिल्यास अर्जदार / तक्रारदार यांनी अशा तक्रारी, उपसचिव (पोल- ११,१२,१३) गृह विभाग, मंत्रालय यांना सादर कराव्यात. उपसचिव (पोल -११,१२,१३) यांनी अशी प्रकरणे अप्पर मुख्य सचिव (गृह विभाग) यांचे निदर्शनास आणून त्यावर त्यांच्या आदेशाप्रमाणे कार्यवाही करावी.

८) अर्जदारांना / तक्रारदारांना त्यांच्या तक्रारीतील प्रत्येक मुद्यांनुसार केलेल्या कार्यवाहीचा अहवाल तीन आठवडयांच्या आत उपलब्ध करून देण्याची सर्वस्वी जबाबदारी संबंधित सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांची असली तरीही तक्रारदारांनी प्रथमत: संबंधित पोलीस ठाणेस भेट देऊन लेखी तक्रार देऊन आपल्या तक्रारी निवारण करण्याचा प्रयत्न करावा.

९) वारंवार तक्रार करणाऱ्या तक्रारदारांबाबत त्यांच्या तक्रारीतील मुद्दयांची पडताळणी करून, त्यापैकी केवळ यापुर्वी कार्यवाही न झालेल्या मुद्यांबाबताची कार्यवाही करून त्याचा अहवाल तयार करावा व तो अर्जदारांस उपलब्ध करून द्यावा. तक्रार अर्जातील सर्व मुद्यांवर यापूर्वी कार्यवाही केलेली असल्यास तसे अर्जदारांस लेखी कळवावे, त्याच प्रमाणे अर्जदारांचे समुपदेशन / Counselling करावे.

१०) ग्रामिण भागात बहुतांशी प्रलंबित महसूली प्रकणांमुळे, भांडणे, मारामाऱ्या व तत्सम फौजदारी प्रकरणे उद्भवतात. तक्रारीमध्ये महसूली तसेच फौजदारी बाबींचा संबंध असल्याचे आढळून आले असता त्याबाबत सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांनी संबधित उपजिल्हाधिकारी यांचेशी संपर्क साधावा. याकरीता, सहाय्यक पोलीस आयुक्त / पोलीस उपअधिक्षक यांनी दर पंधरा दिवसांनी / शक्य तितक्या लवकर संबंधित उपजिल्हाधिकारी यांची भेट घेऊन, प्रकरण निहाय त्यांचेशी चर्चा करून उपजिल्हाधिकारी यांचेशी झालेल्या चर्चेमध्ये ठरलेल्या अथवा चर्चिले गेलेल्या बाबींच्या त्यांच्या अहवालामध्ये उल्लेख करावा.

११) तक्रारदारांचे योग्य पध्दतीने समुपदेशन करण्यासाठी सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांनी स्वत: चालू घडामोडींबाबत (उदा. शासन निर्णय, न्यायालयीन निकाल) अद्ययावत रहाणे आवश्यक आहे. याकरीता पोलीस महासंचालक यांनी सहायक पोलीस आयुक्त / पोलीस उपअधिक्षक यांचे शिबीर / चर्चासत्र / Workshop चे वेळोवेळी आयोजन करावे.

सदर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक क्र. २०१६०६१७१५०७१५९९२९ असा आहे. हा आदेश डिजिटल स्वाक्षरीने साक्षांकीत करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

Suresh Mahadeo Khade

Digitally signed by Suresh Mahadeo Khade
DN: c=IN, o=Government Of Maharashtra, ou=Deputy Secretary, postalCode=400005, st=Maharashtra, cn=Suresh Mahadeo Khade
Date: 2016.06.17 15:11:40 +05'30'

(सुरेश खाडे)
उपसचिव, गृह विभाग, महाराष्ट्र शासन

प्रत,

१) राज्यपालांचे सचिव
२) महानिबंधक, मा.उच्च न्यायालय, महाराष्ट्र राज्य, मुंबई
३) मुख्य सचिव, महाराष्ट्र राज्य, मुंबई
४) मुख्यमंत्री यांचे प्रधान सचिव.
५) सर्व मंत्री / राज्यमंत्री यांचे खाजगी सचिव,
६) सर्व सन्माननीय विधानसभा / विधानपरिषद व संसद सदस्य
७) सर्व मंत्रालयीन विभागाचे प्रमुख
८) सर्व पोलीस महानिरीक्षक व अपर पोलीस आयुक्त
९) सर्व जिल्हाधिकारी
१०) सर्व पोलीस अधिक्षक, पोलीस उपआयुक्त
११) सर्व पोलीस उपअधिक्षक, सहाय्यक पोलीस आयुक्त
१२) सर्व उपजिल्हाधिकारी, तहसिलदार
१३) निवडनस्ती पोल-११.

BRIHANMUMBAI MAHANAGARPALIKA

No. :- CE/Conf./1332/Enq. of 20/11/03

21 NOV 20

CIRCULAR

Sub:- Punishment to be awarded in cases of Departmental Enquiries pertaining to offences committed while taking action against unauthorized works/unauthorized change of user under the provisions of B.M.C. Act. and /or M.R.T.P.Act.

A circular under No.AO/SV/780 dt. 7/6/1987 issued by the then Municipal Commissioner has broadly standardized the Departmental Enquiries and punishment awarded for offences committed by Municipal employees. In this circular, the punishment to be awarded to Municipal employees for offences committed while taking action against unauthorized works/unauthorized change of user are not explicitly mentioned. Hence, in continuation of the above circular, the following guidelines are issued :-

Sr. No.	Description	Maximum Punishment	Minimum Punishment
1.	Failure to detect unauthorised work/unauthorised change of user :		
	(a) (i) Unauthorised work of minor nature not involving addition to F.S.I. as well as those, not detrimental to the structure.	Fine upto Rs.1000/-	Censure
	(b) Unauthorised work not involving addition to F.S.I. but detrimental to the structure.	Removal from service.	Withholding of next increment for 1 year with permanent effect on future increment.
	(c) Addition to F.S.I. (i)Residential	-do-	Withholding of next increment for 1 year with permanent effect on future increment.
	(ii)Commercial	-do-	-do-
	(d) Change of user from Residential to Commercial and/or Industrial.	Withholding of next increment for 1 year with permanent effect on future increment.	Censure/Fine upto Rs.1,000/-
	(e) Change of user from Commercial / Industrial to Residential.	-do-	-do-
	(f) Change of user from Industrial to Commercial and vice a versa	-do-	-do-
2.	Work detected but action not taken	Removal from service	Withholding of next increment for 2 years with permanent effect on future increment.

3.	Action under the relevant provisions of Act taken but not pursued vigorously.	Removal from service	Withholding of next increment for 1 year with permanent effect on future increment.
4.	Action pursued in a defective way so as to ensure that action fails.	Dismissal from service.	Removal from service.
5.	Action withdrawn/dropped unauthorisedly without competent sanction. This includes tampering with records.	-do-	-do-

"सदर प्रत माहितीच्या अधिकार अधिनियम 2005 अंतर्गत देण्यात आली आहे"

Sd/20.9.2003
C. E.

Sd/-23.10.2003
A.M.C.(W.S.)

Sd/2.11.2003
M. C.

Copy to मुख्य लेखापाल (आँडिट सेल)
न.अ. यांचे अवलोकनार्थ कार्यालय
for information & necessary action please.

Administrative Officer (Gen.)
City Engineer's Office.

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शासकीय कार्यालयामध्ये प्राप्त झालेल्या निवेदनांवर
ठरा आठवडयामध्ये कार्यवाही करण्याबाबत.....

महाराष्ट्र शासन

सामान्य प्रशासन विभाग,
शासन परिपत्रक क्रमांक : संकीर्ण २०१३/प्र.क्र. ८ /१८ (र. व का.),
मंत्रालय विस्तार, मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मुंबई-४०० ०३२, दिनांक :- १८ जानेवारी, २०१३.

प्रस्तावना :-

जनतेच्या गा-हाणी व तक्रारींची तातडीने दखल घेण्याबाबत शासन परिपत्रक, सामान्य प्रशासन विभाग, क्र.संकीर्ण-१००३/२४८/प्र.क्र.७/१८ (र.व का.) दि.२६.८.२००३ अन्वये सूचना देण्यात आलेल्या आहेत. तसेच, जनतेची शासकीय कार्यालयातील कामे / निर्णय लवकर होण्याच्या दृष्टीने शासनाने महाराष्ट्र शासकीय कर्मचाऱ्याच्या बदल्यांचे विनियमन आणि शासकीय कर्तव्य पार पाडताना होणाऱ्या विलंबास प्रतिबंध अधिनियम, २००५ राज्यात दि. ०१.०७.२००६ पासून लागू केला आहे. या अधिनियमातील प्रकरण-तीन मधील कलम १० मध्ये धारिका निकाली काढण्यासाठी कालमर्यादा निश्चित केली आहे व या कालमर्यादेचे पालन न झाल्यास शिस्तभंगाची कारवाई करण्याची तरतूद केलेली आहे. परंतु या तरतुदीची प्रभावी अंमलबजावणी होत नसल्याचे मा.मुंबई उच्च न्यायलय, मुंबई येथे दाखल झालेल्या रिट याचिका क्र.६७३१/२०१२ च्या अनुषंगाने दिसून आले आहे. या याचिकेमध्ये मा उच्च न्यायलयाने श्री. राजेश के. गोडांबे यांच्या प्रकरणाच्या अनुषंगाने जनतेच्या निवेदने/अर्जांचा निपटारा शासन परिपत्रक,महसूल व वन विभाग, क्र.संकीर्ण-०२/२०१०/प्र.क्र..२९/अ-२ दि. १६.२.२०१० मधील तरतुदीनुसार १२ आठवडयात करण्याच्या सूचना सर्वांना देण्याचे निर्देश दिलेले आहेत. त्यानुसार पुढील प्रमाणे सूचना देण्यात येत आहेत.

शा स न प रि प त्र क

१) शासनाकडे आलेल्या निवेदने/अर्जावर शासन परिपत्रक,महसूल व वन विभाग, क्र.संकीर्ण-०२/२०१०/प्र.क्र..२९/अ-२ दि. १६.२.२०१० मधील तरतुदीनुसार १२ आठवडयात निर्णय घेऊन अंतिम उत्तर देण्यात यावे. अपवादात्मक परिस्थितीत त्या प्रकरणी १२ आठवडयात अंतिम उत्तर देणे शक्य नसल्यास अशा परिस्थितीत त्या प्रकरणी अंतिम उत्तर देणे का शक्य नाही याचा खुलासा संबंधित अर्जदारास करण्यात यावा.

२) अशी निवेदने/अर्जाच्या अनुषंगाने अर्जदाराने न्यायालयात याचिका दाखल केल्यास अशी याचिका दाखल केल्यापासून ४.आठवडयात सदर अर्जावर कोणत्याही परिस्थितीत अंतिम निर्णय घेण्यात यावा व अर्जदारास अंतिम उत्तर देण्यात यावे.

३) वरीलप्रमाणे कार्यवाही करण्यासाठी प्रत्येक कार्यालयात जनतेच्या निवेदने/अर्जाच्या नोंदीकरिता स्वतंत्र नोंदवही (Register) ठेवण्यात यावे.

४) उक्त नोंदवहीत नोंदविलेल्या निवेदने/अर्जावर कार्यवाही केली जाते किंवा नाही याचा आढावा कार्यालय प्रमुख/विभाग प्रमुखाने दरमहा घ्यावा.

५) दरमहा केलेल्या गोळा केलेल्या आढाव्यांचा सविस्तर अहवाल प्रत्येक अधिकाऱ्यांनी त्यांच्या वरिष्ठ अधिकाऱ्यांकडे सादर करावा. उदा. जिल्हाधिकारी/मुख्य कार्यकारी अधिकारी यांनी विभागीय आयुक्तांकडे, विभाग प्रमुखांनी विभागाच्या सचिवांकडे.

६) जनतेच्या निवेदने/अर्जांच्या निपटारा-संबंधात अधिकारी/कर्मचारी हेतुपुरस्सर दुर्लक्ष करीत असेल अगर निर्णय घेण्यास टाळाटाळ करीत असेल तर अशा अधिकारी/कर्मचारी यांच्याविरुध्द नियमानुसार शिस्तभंगाची कारवाई करण्यात यावी.

७) उक्त १ व २ मध्ये नमूद केल्याप्रमाणे त्या निवेदने/अर्जांच्याबाबत कार्यवाही करावयाची आहे. त्यामध्ये नोकरी अगर सेवाविषयक पत्रांचा अंतर्भाव करण्यात येऊ नये.

८) वरील सूचनांचे सर्व स्तरावरून काटेकोर पालन करण्यात यावे.

२. या परिपत्रकाची प्रत शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध केली असून, त्याचा संगणक क्रमांक २०१३०११८११०२५५१००७ असा आहे.

महाराष्ट्राचे राज्यपाल यांचे आदेशानुसार व नावाने,

(जयन्त कुमार बाँठिया)
मुख्य सचिव

वृहन्मुंबई महानगरपालिका

सामान्य प्रशासन विभाग

परिपत्रक

क्र. एमओएम/२०७४ दि. १६.०१.२०२४

विषय:-शासकीय कार्यालयामध्ये प्राप्त झालेल्या निवेदनांवर बारा आठवड्यामध्ये कार्यवाही करण्याबाबत.

संदर्भ:-शासन परिपत्रक क्र.संकीर्ण-२०१३/प्र.क्र.८/१८(र.व का.) दि.१४.०१.२०१३

श्री.जयन्त कुमार बाँठिया, मुख्य सचिव यांचे संदर्भाधीन सोबत जोडलेले परिपत्रक कृपया पहावे.

सदर परिपत्रकातील सूचनांच्या अनुषंगाने सर्व खाते प्रमुख/ सहायक आयुक्त यांनी त्यांच्या अखत्यारीतील सर्व खात्यांना/विभागांना कार्यालयामध्ये प्राप्त झालेल्या निवेदनांवर कार्यवाही करण्याबाबतचे निदेश द्यावेत.

सही/-११.१२.२०२३	सही/-१३.१२.२०२३	सही/-२०.१२.२०२३	सही/-१२.०१.२०२४
(रिमा ढेकणे)	(मिलिन सावंत)	(डॉ.अश्विनी जोशी)	(डॉ.इ सिं चहल)
प्रमुख कर्मचारी अधिकारी	सह आयुक्त (सा. प्र.)	अतिरिक्त महानगरपालिका आयुक्त (शहर)	महानगरपालिका आयुक्त

प्रकअ/७१
२०२३-२४

सामान्य प्रशासन विभाग
क्र. एमओएम/ २०७४ दि.१६.०१.२०२४

प्रत:----------यांना
माहितीसाठी व योग्य त्या कार्यवाहीसाठी रवाना.

(श्रीम. लीना ता. शिंदे)
रचना व कार्यपध्दती अधिकारी (आयुक्त कार्यालय)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No. 6018 OF 2018

1. Mrs. Pushpa W/o Devendra Sood,
Aged about 58 Years, Occ. Legal Practice

2. Devendra S/o Hansraj Sood,
Aged about 58 years, Occ. Business,
Both residents of 918-B, Thapar Marg,
Clarke Town, Nagpur 440 004. : PETITIONERS

...**VERSUS**...

1. The State of Maharashtra through
The Chief Secretary, General
Administration Department,
Mantralaya, Mumbai – 400 032

2. The State Chief Information
Commissioner,
The Maharashtra State Information
Commission, 13th Floor, New
Administrative Building,
Opposite Mantralaya, Madam
Kama Road, Hutatma Rajguru Chowk,
Mumbai 400 032.

3. The Maharashtra State Information
Commission through State Information
Commissioner & Second Appellate
Authority, Nagpur Bench, Nagpur
1st Floor, New Administrative Building
No.2, Opposite Zilha Parishad,
Civil Lines, Nagpur 440 001. : RESPONDENTS

Smt. Pushpa D. Sood in person.
Shri K.L. Dharmadhikari, AGP for the respondent nos. 1 to 3.

CORAM : SUNIL B. SHUKRE AND S.M. MODAK, JJ.

DATE : 30th JULY, 2019.

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

2. The issue involved in this petition is as to whether or not under Section 15(4) of the Right to Information Act, 2005 (herein after referred as "the RTI Act, 2005" for the sake of brevity), the State Chief Information Officer has power to prescribe the limitation period for filing a complaint under Section 18 of the RTI Act, 2005 or to curtail the limitation period prescribed for filing of second appeal under Section 19(3) of the RTI Act, 2005.

3. The occasion to file this petition has been provided by three circulars issued by the State Chief Information Commissioner on 10th October, 2013, 11th February, 2014 and 4th September, 2015. By these three circulars limitation period has been prescribed by the learned Commissioner for filing of complaint as well as second appeal. The circular dated 10th October, 2013 prescribes limitation period of one year for filing of complaint under Section 18 and also filing of second appeal under Section 19(3) of the RTI Act, 2005 and it lays down that limitation period is to be counted from the date of original application. Second circular

dated 11th February, 2014 reduces the limitation period to six months and third circular dated 4th September, 2015 further reduces limitation period to three months.

4. Section 18 of RTI Act, 2005 deals with the powers and functions of Commissioner and Section 19 of RTI Act, 2005 is about filing of the appeals. Bare perusal of Section 18 of RTI Act, 2005 would disclose that it does not prescribe any limitation period for filing of complaint by an aggrieved person to the Central Public Information Officer or State Public Information Officer or Senior Officer specified, as the case may be. Section 19(3) of RTI Act, 2005 stipulates the limitation period, for filing of an appeal and it is of 90 days from the date on which decision should have been made or was actually received with the Central Information Commission or the State Information Commission. There is also a provision made for condonation of the delay. Both these provisions of law are statutory in nature and therefore, would not fall within the delegated authority of the State Information Commissioner.

5. No doubt, the State Information Commissioner has been conferred with power under Section 15(4) of the RTI Act, 2005 for exercising general control over the affairs of the State Information Commission and also issuance of necessary directions to do all such

acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any authority under the Act. For the sake of convenience the provision of Section 15(4) of the RTI Act, 2005 is reproduced herein below :-

> " 15. **Constitution of State Information Commission.**:
> (1) to (3) ...
> (4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act."

This provision has been pressed into service by the respondent for issuing the impugned circulars. But even a cursory reading of the provision shows that it does not give any authority to issue any direction by way of a subordinate legislation. Undoutedly prescription of limitation period, as has been done here, is an instance of subordinate legislation. All that is given under Sub Section 4 of Section 15 of RTI Act, 2005 is power of general superintendence, direction and management of the affairs of the State Information Commission to the State Chief Commissioner and

the provision makes it clear that the Commissioner would be assisted by the State Information Commissioner in his exercise of control and superintendence and discharge of his duties as the State Chief Information Commissioner. Therefore, the impugned circulars herein would have to be treated as being without jurisdiction deserving their being quashed and set aside.

6. Learned counsel for the petitioner has also pointed out to us the difficulties being faced by the applicant in seeking information under RTI Act and not receiving it within time the copies of the order passed by the various Officers and Commissioners appointed under the scheme of Right to Information Act. According to her, there have been occasions when the orders of the State Information Commission or the Appellate Information Authorities have been received by the applicant after three or six months or even after one year from the date of passing of the order and in such a scenario, stipulation of the limitation period would bring great injustice to the applicant. We would only say that the State Chief Information Commissioner shall give a thought to the difficulty being faced by the litigants and exercise his power under Section 15(1) of the RTI Act, 2005 Act for improving the efficiency of the Information Commissioners, instead of spending every time

on giving directions or issuing circulars in the nature of subordinate legislation.

7. In this view of the matter, we are inclined to allow the petition.

8. Accordingly, Writ Petition is allowed.

9. The impugned circulars dated 10th October, 2013, 11th February, 2014 and 4th September, 2015 issued by the respondent no.2 are quashed and set aside.

10. Respondent no.3 is directed to entertain the complaints dated 26.03.2018, 06.04.2018, 06.04.2017 and 02.04.2018 and shall decide the same in accordance with law as expeditiously as possible.

Rule is made absolute in aforesaid terms. No order as to costs.

JUDGE **JUDGE**

sknair

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: 17th September, 2010

Date of Order: September 24, 2010

+Crl.M.C. 2793/2009

% **24.09.2010**

Aniruddha Bahal **...Petitioner**

Versus

State **...Respondent**

Counsels:

Mr. Sidhartha Luthra, Sr. Adv. with Mr. Pramod Kumar Dubey, Mr. Arshdeep Singh, Mr. Kunal Sood, Mr. Yashpreet Singh, Advocates for petitioner.
Mr. Pawan Sharma, Standing Counsel for State with Mr. O.P. Saxena APP for State/ respondent with Mr. Jog Tirkey, Additional DCP

AND

+Crl.M.C. 3194/2009

% **24.09.2010**

Sushasini Raj **...Petitioner**

Versus

State **...Respondent**

Counsels:

Mr. Lalit Sibbal with Mr. Pradeep Chhindra for petitioner.
Mr. Pawan Sharma, Standing Counsel for State with Mr. O.P. Saxena APP for State/ respondent with Mr. Jog Tirkey, Additional DCP

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

JUDGMENT

1. These two petitions have been preferred by the petitioners with prayer for quashing of charge-sheet qua them and also for quashing of order dated 6th July, 2009 of taking cognizance and issuing summons against them as accused in C.C. No.189 of

2009 arising out of the said charge-sheet and the proceedings thereunder.

2. The petitioners had conducted a sting operation to expose the practice prevalent amongst some of the Members of Parliament of taking money for asking question in the Parliament. This practice was known to public for quite some time but was not brought to notice of the public at large with credible proof. The petitioners took upon themselves the responsibility of exposing such persons with documentary proof and conducted a sting operation. The result of this sting operation was made public by airing the same on TV channels on 12th December 2005 and the entire nation watched some members of Parliament accepting money for asking questions. After this operation was aired, a committee was constituted by Lok Sabha on 17th December 2005 to enquire into the allegations of conduct of those members of Parliament whose names figured in the operation. The Rajya Sabha also constituted a committee on 18th December 2005 for the same purpose. However, despite the corruption into which some members of Lok Sabha had indulged being publicly aired, no FIR was registered by the police of capital of this country immediately. It was only after about one and a half year of airing of the tapes of sting operation that an FIR was registered at Police Station Parliament Street under Section 12 and 13 of Prevention of Corruption Act and in this FIR the prime accused were the petitioners herein who had conducted the sting operation.

3. A petition under Section 482 Cr.P.C. was filed before this Court by the petitioners for quashing of FIR and this Court dismissed the petition for quashing of this FIR and observed as under:

> *"8. This Court can quash an FIR only if all the facts stated in it even if considered true, do not disclose commissioning of a cognizable offence. In the instant case, it is the admitted case of the petitioners that there was a cognizable offence committed, although their case is that the offence was not committed by them but it was committed by Members of Parliament. In any event, investigation has to be there in the commission of offence and police is bound to book all those who committed the crime. The protection, as claimed by the petitioners under Section 24 of the Prevention of Corruption Act and under Section 12 can be claimed only during trial and not at the stage of registration of an FIR.*

9. It is obligatory on the part of police to investigate into the crime in full and not in a piecemeal manner. The police is directed to book all those persons involved in the offence of taking bribe, their middlemen and to get them punished according to law. The police cannot book only the middlemen and the media persons and leave the real recipients of bribe untouched. If this is done, this would not only violate the principle of equality before law guaranteed under the Constitution of this Country but also would reflect subservient character of criminal justice system. This would also give a cause to the people to behave that giving and taking of bribe is a privilege of Members of Legislature".

This Court also passed following directions in above matter:

"(i) Police shall investigate into the entire offence involving middlemen, Members of Parliament and others who indulged into corruption and accepted bribe for asking and tabling questions in the Parliament. Since the entire investigation is document-based and the reports of the Committees are already there, the investigation must be completed within a period of 60 days from today and charge sheet be filed in respect of the offenders who committed the offences under Prevention of Corruption Act.

(ii) The petitioners, who claimed to have acted in the public interest are at liberty to seek protection from arrest, if they so desire under appropriate provisions of law.

(iii) The investigating agency shall not single them out and leave MPs from scope of investigation and action.

(iv) Protection and benefits under the provisions of Section 24 of Prevention of Corruption Act and under other provisions of law shall be available to the petitioners during trial"

4. By way of present petitions, the petitioners have sought that no cognizance of offence should be taken against them since they were not the offenders and the sting operation was conducted by them to expose corruption and not to commit a crime. They rather should have been arrayed as witnesses by the prosecution but instead of arraying them as the witnesses they were made accused with the sole aim to kill the case itself, so that case fails without witnesses. It is submitted by counsel for the petitioners that the petitioners cannot be placed in the category of accomplices in the offence and the learned trial court has wrongly taken cognizance against them. The petitioners were performing their duties as citizen of this country by exposing the rampant corruption and

bringing the same to the notice of authorities the offence was being committed by some of the Hon'ble Members of Parliament and middlemen.

5. The petitions are opposed by learned State counsel. During arguments the State counsel was asked to consider if the prosecution was prepared to use the services of the petitioners as witnesses and seek their discharge from the case. The State counsel, after consulting the government, did not agree to this proposal.

6. The question that arises in these petitions is whether a citizen of this country has a right to conduct such sting operation to expose the corruption by using agent provocateurs and to bring to the knowledge of common man, corruption at high strata of society.

7. The Constitution [Part-IVA] lays down certain fundamental duties for the citizens of this country and Article 51A(b) provides that it is the duty of every citizen of India to cherish and follow the noble ideals which inspired our national struggle for freedom. I consider that one of the noble ideals of our national struggle for freedom was to have an independent and corruption free India. The other duties assigned to the citizen by the Constitution is to uphold and protect the sovereignty, unity and integrity of India and I consider that sovereignty, unity and integrity of this country cannot be protected and safeguarded if the corruption is not removed from this country. Another duty of every citizen is to defend the country and render national service when called upon to do so. I consider that a country cannot be defended only by taking a gun and going to border at the time of war. The country is to be defended day in and day out by being vigil and alert to the needs and requirements of the country and to bring forth the corruption at higher level. The duty under Article 51A(h) is to develop a spirit of inquiry and reforms. The duty of a citizen under Article 51A(j) is to strive towards excellence in all spheres so that the national constantly rises to higher level of endeavour and achievements I consider that it is built-in duties that every citizen must strive for a corruption free society and must expose the corruption whenever it comes to his or her knowledge and try to

remove corruption at all levels more so at higher levels of management of the State

8. This Court can take judicial notice of the fact that of widespread corruption on a large scale which was unheard of before was now a common place. In *1988 (2) SCC 602 (Antulay's case), Justice Sabyasachi Mukharji* observed as under:

> *"Values in public life and perspective of these values in public life, have undergone serious changes and erosion during the last few decades. What was unheard of before is common place today. A new value orientation is being undergone in our life and in our culture. We are at the threshold of the cross-roads of values. It is, for the sovereign people of the country to settle those conflicts yet the Courts have vital roles to play in such matters."*

These observations were made in 1988. Situation today is much worse.

9. I consider that it is a fundamental right of citizens of this country to have a clean incorruptible judiciary, legislature, executive and other organs and in order to achieve this fundamental right, every citizen has a corresponding duty to expose corruption wherever he finds it, whenever he finds it and to expose it if possible with proof so that even if the State machinery does not act and does not take action against the corrupt people when time comes people are able to take action either by rejecting them as their representatives or by compelling the State by public awareness to take action against them.

10. This Court had considered as to whether a person making complaint regarding corruption can be considered as an accomplice or not in *State* v *P.K. Jain and another 2007 Crl. L. J 4137* and observed as under:

> *10. I consider that observations of learned A.S.J brandishing the complainant in a trap case as accomplice amounts to discrediting the criminal justice system itself and portrays that the criminal justice system cannot respect the witnesses. This country is facing unprecedented rise in corruption. Situation has come to a stage that MCD officials, due to the corrupt practices, have turned the whole city into a slum by allowing all types of unauthorized construction, encroachment, squatting over public land. Engineers*

of local body who were supposed to check the unauthorized construction and encroachment of the public land, encroachment of roads, encroachment of pavements, turn a blind eye to all this, since their pockets are warmed and palms are greased. Similarly the observation of the trial Court that complainant and his son are interested witnesses and not trust worthy, is unfortunate. In case of a legitimate trap, the persons and police officials taking part in trap, in no
sense can be said to be accomplice or un-credit worthy witnesses so that their evidence would require, under law to be corroborated by independent witness. The rule of corroboration is not a rule of law. It is only a rule of prudence and the sole purpose of this rule is to see that innocent persons are not unnecessarily made victim. The rule cannot be allowed to be a shield for corrupt. Moreover, the corroboration need not be by direct oral evidence and can be gathered from circumstantial evidence. The sole evidence of a complainant is sufficient to convict a person, if it is reliable, acceptable and trust worthy. There was a stage under our criminal justice system when the victim of rape was also considered as an accomplice. However, the law rectified itself over the time and gradually it was realized that it was unjust to consider and brand, a victim as an accomplice and seek corroboration of her testimony. Ultimately, Supreme Court laid down that sole testimony of a victim of rape, if trustworthy, was sufficient to convict the accused. In case of bribe giving and taking, normally people do not report the instances of bribe because it suits them to give bribe as they get their illegal works done. Only few persons come forward who either do not believe in giving bribe or who are on the right track or who are fed up by giving bribe. It requires great courage to report a matter to the Anti Corruption Branch in order to get a bribe taker caught red handed. In our judicial system complainant sometime faces more harassment than accused by repeatedly calling to police stations and then to court and when he stands in the witness box all kinds of allegations are made against him and the most unfortunate is that he is termed as an accomplice or an interested witness not worthy of trust. I fail to understand why a witness should not be interested in seeing that the criminal should be punished and the crime of corruption must be curbed. If the witness is interested in seeing that there should be corruption free society, why Court should disbelieve and discourage him. The witness who reported the demand of bribe so as to trap the culprits cannot be considered as an accomplice or non-trust worthy or interested witness. There is no reason for the court insisting upon an independent corroboration of the complainant's evidence in regard to the demanding of bribe before the trap was laid. When a given complainant first visits a public servant for doing or not doing some task for him, he does not go to him as a trap witness. He goes there in a natural way for a given task. To require him to take a witness with him at that stage would amount to attributing to the complainant a thought and foreknowledge of the fact that the accused would demand bribe. (Rajinder Kumar Sood Vs. State of Punjab, 1982 Cr. LJ 1338 (PandH). The necessity for court to search for independent witness in case of charges for corruption cannot be insisted upon.

Such crimes are committed in secrecy and normally bribe are not taken openly (although there are bold public servants who do even that). In case of trap where accused has not been lured and goaded in some form to accept bribe but the accused himself has created a situation so that he gets bribe money or the accused indulges in the harassment of the complainant to compel the complainant to give bribe and the complainant reports the matter, the absence of independent witnesses to support the version of the complainant cannot be a ground to acquit the accused".

11. It is argued by learned counsel for the State that the petitioners in this case in order to become witnesses should have reported the matter to CBI rather conducting their own operation. I need not emphasize that in cases of complaints against the persons, in powers how CBI and police acts. The fate of whistle blowers is being seen by the people of this country. They are either being harassed or being killed or roped in criminal cases. I have no doubt in my mind that if the information would have been given by the petitioners to the police or CBI, the respective MPs would have been given information by the police, before hand and would have been cautioned about the entire operation.

12. It is also argued by the counsel for the State that the petitioners did not act as a complainant in this case but they indulged into offering bribe and thereby committed offence under Prevention of Corruption Act. They can apply for becoming approver only under the said Act and they cannot be discharged. I consider that in order to expose corruption at higher level and to show to what extent the State managers are corrupt, acting as agent provocateurs does not amount to committing a crime. The intention of the person involved is to be seen and the intention in this case is clear from the fact that the petitioners after conducting this operation did not ask police to register a case against the MPs involved but gave information to people at large as to what was happening. The police did not seem to be interested in registration of an FIR even on coming to know of the corruption. If the police really had been interested, the police would have registered FIR on the very next day of airing of the tapes on TV channels. The police seem to have acted again as 'his master's voice' of the persons in power,

when it registered an FIR only against the middlemen and the petitioners and one or two other persons sparing large number of MPs whose names were figured out in the tapes.

13. The corruption in this country has now taken deep roots. Chanakaya in his famous work 'Arthshastra' advised and suggested that honesty of even judges should be periodically tested by the agent provocateurs. I consider that the duties prescribed by the Constitution of India for the citizens of this country do permit citizens to act as agent provocateurs to bring out and expose and uproot the corruption.

14. The prosecution in this case before filing charge-sheet was obliged to see as to what was the role and intention of the petitioners. The intention of the petitioners was made clear to the prosecution by airing of the tapes on TV channels and then by deposing truthfully before the two Committees of Parliament. The two committees of Parliament did not doubt the genuineness of the tapes or the intention of the petitioners. Under these circumstances, charging the petitioners with the offence under Prevention of Corruption Act would amount to travesty of justice and shall discourage the people of this country from performing their duties enjoined upon them by the Constitution of India as well as Criminal Procedure Code.

15. I, therefore, allow these petitions. The charge-sheet and order of taking cognizance and issuing summons against the petitioners as accused dated 6th July, 2009 in C.C. No.189 of 2009 arising out of the said charge-sheet and the proceedings thereunder qua petitioners are hereby quashed.

16. Both the petitions stand allowed.

September 24, 2010 **SHIV NARAYAN DHINGRA, J**
rd

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.04.2025

Orders Pronounced on : 28.04.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cont.P.No.2790 of 2024

--

1. Mrs.R.Lalithambai, D/o Sivapatha Mudaliar
2. Mr.K.S.Viswanathan, S/o Sivapatha Mudaliar

.. Petitioners

Vs.

Thiru.Anshul Mishra, IAS.,
The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwain Road, Egmore,
Chennai-600 008.

.. Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, to initiate contempt proceedings against the respondent for not implementing and violating the order of this Court, dated 22.11.2023 made in W.P.No.32843 of 2023 and award suitable punishment as this Court may deem fit and proper in the circumstances of the case.

For petitioner : Mr.K.V.Subramanian Associates

For respondent: Mrs.P.Veena Suresh,
Standing Counsel for CMDA

ORDER

This Contempt Petition is filed praying to initiate contempt proceedings against the respondent for not implementing and violating the order of this Court, dated 22.11.2023 made in W.P.No.32843 of 2023 and award suitable punishment as this Court may deem fit and proper in the circumstances of the case.

2. The petitioners have filed earlier a Writ Petition in W.P.No.32843 of 2023 praying to issue a Writ of Mandamus to direct the respondent therein to consider the petitioner's representation dated 10.05.2023 and consequently pass suitable orders as per law, after affording reasonable opportunities to the petitoners by way of personal hearing to be attended by their representatives/Advocates within the stipulated time in the interest of justice.

3. The above said Writ Petition was disposed of on 22.11.2023, directing the respondent to consider the representation made by the petitioners, dated 10.05.2023, after issuing notice to the petitioners as well as interested parties/rival claimants, if any, and thereafter conduct the inquiry and pass appropriate orders on merits and in accordance with law. The said exercise is to be completed within a period of two months from the date of receipt of a copy of

this order.

4. Alleging non-compliance of the above order, the petitioners have filed the present contempt petition.

5. According to the petitioners, the order under contempt was passed on 22.11.2023, and the petitioners have sent representation to the respondent and communicated the order under contempt and the reminder was sent on 02.05.2024 and thereafter, they have even issued legal notice on 21.06.2024, which was acknowledged by the respondent and inspite of the same, the order under contempt has not been complied with, leading to filing of the present Contempt Petition.

6. Since the respondent has not complied with the order under contempt, notice was directed to be issued to the respondent and the respondent had filed compliance report stating as follows:

(a) In consideration of the representation dated 10.05.2023, a letter in No.KI/9547/1996, dated 17.02.2025 was issued by the office of the Member Secretary, CMDA to the petitioners requesting them to attend the personal enquiry to be held on 21.02.2025 at the respondent's office. The petitioners attended the said enquiry on 21.02.2025 and requested the authorities to release

6.5 cents of land and re-convey, as they are aged and that the land was proposed to be taken for road widening, but the Revenue Records indicate the same to be "poramboke" and hence, re-conveyance of the said 6.5 cents of the subject land, was requested. In the subject representation, the petitioners had requested for re-conveyance of the land of an extent of 6.5 cents in S.No.56/4 of Koyambedu Village out of 17 cents acquired, vide Award No.13/83, dated 23.09.1983 of the Special Deputy Collector (LA), Tamil Nadu Housing Board, Ashok Nagar, Chennai-600 083. As per the above Award proceedings, the petitioner's land in S.No.56/4 in Koyambedu Village, measuring an extent of 0.17 acres, have been acquired, in which the rate of the land value had been fixed at Rs.99 per cent. All the lands under acquisition are low lying due to excavation of earth and wherein the level which required reclamation.

(b) The technical authorities have prepared necessary estimates for the reclamation of the land to bring them into level lands. The reclamation charges estimated by the technical authorities exceeds the market value of the lands at the rate of Rs.99/- per cents explained below:

S.No.	*Extent*	*Land value at Rs.99/- per cent*	*Reclamation charges*
56/4	017	1,683.00	9,095.00
57/2	2.92	28,908.00	41,975.00
59/4	0.70	6,930.00	15,040.00
63/1B	0.17	1,683.00	2,125.00

(c) As the reclamation charge exceeded the land value at Rs.99/- per cent, a nominal value of Re.1/- (Rupee one only) per cent shall be paid to acquire the right of ownership of the lands covered under the Award.

(d) Whereas, in respect of the subject lands in S.No.56/4, measuring an extent of 0.17 acres (17 cents) belonging to the petitioners and the extract of item No.2 of award proceedings had also been furnished in the compliance report, stating as under:

> "S.No.56/4 Classification - Wet, No. and name of the pattadar-6, Sivapatha Mudaliyar. The above land stands registered in the name of Sivapatha Mudaliyar, S/o Pachayappa Mudaliyar under Patta No.6 of Koyambedu Village. Thiru.K.S.Viswanathan, son of Sivapatha Mudaliyar appeared for the award enquiry and stated that the above land stands under Patta No.6 of Koyambedu Village in the name of his father. He has further stated that the land in question was his ancestral property and the Pattadar died in the year 1976. He has further stated that himself and his sister R.Lalithammal are the legal heirs of the Pattadar Tmt.Lalithambal also appeared for the enquiry and claimed that herself and her brother have equal share in the property and requested 1/2 of the compensation payable for this land in her name. His brother K.S.Viswanathan has also agreed for the payment of 1/2 share to his sister and requested the payment of balance of 1/2 share in his name. His major legal heirs have also given their consent for the payment of compensation in the name of their father. The land has been

under possession and enjoyment of the above said two persons. There are no trees, Well or structures in this land. The compensation amount of Rs.9.80 to each of the legal heirs of the Pattadar is ordered to be paid as shown below:

Land Value for 0.17 acre at Re.1/- (one only) per cent: 17.00

15% solatium 2.55

Total 19.55

Compensation payable to K.S.Viswanathan 1/2 share 9.80

Compensation payable to R.Lalithambal 1/2 share 9.80

19.60

(e) Since the above lands in S.No.56/4 Koyambedu Village, have been acquired as early as by the Tamil Nadu Housing Board, as per Award No.13/83, dated 23.09.1983, the entire amount of compensation for a total sum of Rs.19.80 had been kept in Revenue Deposit under the relevant Head of Account for payment of compensation to the respective land owners on production of original documents before the Land Acquisition Officer. A copy of the Extract of the Deposit Register had been requested from the TNHB and a copy of the letter received from the Special Tahsildar (LA) Unit III, TNHB are enclosed along with the compliance report, in which the necessary entries have been made by the Land Acquisition Officer and the Special Tahsildar (LA), Unit III, TNHB has stated that the Revenue Deposit chalan is not available as the Award

proceedings had been done as early as during 1983.

(f) In pursuant to the order of this Court, dated 22.11.2023 in W.P.No.32843 of 2023, an opportunity was given to the petitioners to hear the request of the petitioners for remaining land extent of 6.5 cents and were enquired by the respondent on 21.02.2025 and examined the request of the petitioners.

(g) As the land in S.No.56/4 measuring an extent of 0.06 acres (6.5 cents) are essentially required for widening of the Nesapakkam Road in Kaliyamman Koil Street, Koyambedu, the request of the petitioners was rejected by an order of the office of the respondent, dated 28.02.2025.

(h) As the lands in S.No.56/4 measuring an extent of 0.06 acres (6.5 cents) are essentially required for widening of the Nesapakkam Road in Kaliyamman Koil Street, Koyambedu and the request of the petitioners was rejected by order of the office of the respondent, dated 28.02.2025.

(i) The change of classification of lands as "poramboke" in Ward No.001, T.S.No.4/1, Block No.63 in S.No.56/3A, etc., inclusive of the subject lands in S.No.56/4, i.e. in the extract taken from e-service of Revenue Records, in the "Certificate" Extract from the permanent Land Register, has been carried out in the name of CMDA by the Tahsildar, Aminjikarai as per order of DRO, Chennai in Order No.J3/53592/06, dated 30.05.2011-TR, dated 02.08.2016.

(j) In compliance with the order of this Court in W.P.No.32843 of 2023,

dated 22.11.2023, enquiry dated 21.02.2025 has been conducted in consideration of the petitioner's representation and order dated 28.02.2025 has been passed.

(k) When the subject contempt petition was listed on 13.03.2025, and when compliance of the order of the High Court was informed, the Court has ordered for statutory notice of the contemnor's presence to explain the act of compliance of the order post receipt of contempt notice.

(l) The order came to be passed on 28.02.2025, subsequent to taking of notice in the subject contempt, as he has only recently been posted as Member Secretary in CMDA on 09.02.2025 and for some time in this respondent's Department, there has been certain administrative changes that had left the matter go amongst the officials and caused certain delay on the part of the respondent for an earlier compliance which the respondent request the Court to condone as the delay caused is neither willful nor wanton, but due to reasons as stated in the compliance report.

(m) The respondent stated that they have high regard and respect for this Court and there is no wilful disobedience of the order of this Court. At no point of time in his career, the respondent intended to violate or transgress the order passed by this Court.

7. Heard both sides and perused the materials available on record.

8. Admittedly, this Court passed order on 22.11.2023 itself, but however, only enquiry was conducted on 21.02.2025 and final order was passed on 28.02.2025. From the counter affidavit, it is clear that they have spoken about only merits of the case and the reasons assigned in the compliance report are not satisfactory and therefore, this Court finds that disobedience of the order under contempt, is wilful and wanton and the respondent has committed 'contempt' of the order of this Court, dated 22.11.2023 passed in W.P.No.32843 of 2023.

9. At this juncture, it is to be stated that the respondent, being public servant, is entrusted with a serious responsibility to act fairly, expeditiously, and in accordance with the law. Once a public duty is cast upon the respondent, particularly pursuant to the direction of a constitutional Court, they are bound to discharge such duty without fail.

10. Despite the petitioner having submitted a representation highlighting his grievance, the respondent neither acted on it within a reasonable time nor provided any response, compelling the petitioner to approach this Court by way of a writ petition. Upon hearing the matter and taking into account the rights of the petitioner, this Court had issued a direction to the respondent to consider the petitioner's representation and pass a reasoned order in accordance with law,

within a stipulated time frame. However, it is evident from the record that, despite considerable time being afforded and despite clear judicial mandate, the respondent/contemnor failed to comply with the Court's order. Even after issuance of statutory notice in these contempt proceedings, there has been no sincere effort to rectify the lapse. On the contrary, the contemnors has come forward belatedly with lame excuses, seeking condonation of delay without offering any genuine justification. This Court notes with concern that such conduct by public authorities is not an isolated incident. In numerous cases, it is seen that poor and aggrieved litigants, after approaching public authorities for redressal of genuine grievances, are forced to approach the constitutional Courts for directions. Even after judicial intervention, the concerned authorities, for reasons best known to them, either delay or altogether ignore compliance, compelling the litigants to resort to contempt proceedings for enforcement of their rights. Such repeated and consistent defiance by public officials is not only wrong but also challenges the fundamental principles of justice that the rule of law is meant to uphold. The confidence of the citizens in the justice delivery system rests upon the assurance that the orders of the Courts will be implemented promptly and effectively. Public service is not a privilege but a trust reposed in the officials by the people. Public servants are answerable not only to their immediate administrative superiors but ultimately to the law and the

Constitution. Once an order is passed by this Court, it is binding, and compliance is not optional. Any deliberate failure to act amounts to wilful disobedience and constitutes contempt of Court. This Court, therefore, is constrained to record that the respondent/contemnor has wilfully and wantonly disobeyed the orders passed by this Court. The excuses offered are neither bona fide nor satisfactory.

11. The respondent's actions, show a clear defiance of the Court's orders, cannot be allowed, and they must be held accountable for their conduct. Accordingly, this Court directs as follows:

12. Accordingly, the respondent herein is found guilty of the offence under Section 2(b) of the Contempt of Courts Act, as the respondent has committed 'civil contempt' and is liable to be punished under Section 12 of the said Act, and he is sentenced to undergo simple imprisonment for a period of one month and the respondent is liable to pay the compensation of Rs.25,000/- (Rupees twenty five thousand only) and the same has to be paid to the petitioner within a period of three weeks from the date of receipt of a copy of this order and failing to pay the compensation, the respondent shall undergo further period of simple (civil) imprisonment for ten days.

13. It is made clear that the compensation has to be paid from the personal salary of the respondent and the Government is directed to deduct the

compensation amount from his salary.

14. The above sentence of imprisonment shall stand suspended till the appeal period is over. After the appeal period is over and if no appeal is filed, the Registry is directed to take steps to secure the custody of the respondent/contemnor to undergo the sentence of imprisonment as observed above.

15. With the above observations/direction, the Contempt Petition is allowed.

28.04.2025

cs

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwain Road, Egmore,
Chennai-600 008.

2. The Registrar (Judicial), High Court, Madras.

3. Secretary to Government, Finance Department, Secretariat, Chennai-600009.

P.VELMURUGAN, J

cs

Pre-delivery Order in
Cont.P.No.2790 of 2024

Order pronounced
on 28.04.2025

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 3rd OF APRIL, 2025

WRIT PETITION No. 39771 of 2024

DR. JAYSHREE DUBEY

Versus

THE CENTRAL INFORMATION COMMISSIONER AND OTHERS

Appearance:

Dr. Jayshree Dubey - Petitioner is present in person.

Shri Dhananjay Kumar Mishra, learned counsel for the respondents.

ORDER

This petition is filed being aggrieved of order dated 24.06.2024 (Annexure P-5) passed by the Central Information Commission refusing certain information as sought by the petitioner under Right to Information Act on the ground that such information is hit by the provisions contained in Section 8(1)(j) of the Right to Information Act, 2005 and so also by the provisions contained in Section 11 of the said Act.

2. It is mentioned in the impugned order that information related to third party cannot be provided as denied by the third party and this information cannot be provided under Section 8(1)(h) of the RTI Act, 2005. It is further mentioned that information related to third party cannot be provided under Rule 11 of the RTI Act, 2005.

3. Shri Dhananjay Mishra, learned counsel for the respondents admit that the authority which passed the order has wrongly mentioned 'Rule 11' whereas it is 'Section 11'.

4. The application which was filed by the petitioner under the Right to Information Act is Annexure P-3, in which petitioner had sought following information:-

S. No.	Information sought by the applicant	Available Information
01	Total amount of alary and NPS contribution paid/given to Dr. Prateek Maheshwari	Information related to third party cannot be provided as denied by the third party.
02	Enquiry report by both the internal committees against the charge sheeted employees in relation to the illegal selection of Dr. Prateek Maheshwari	This information cannot be provided under Section 8(1)(h) of the RTI Act, 2005
03	Copy of relieving letter given to Dr. Pratek Maheshwari.	Information related to third party cannot be provded under Rule 11 of the RTI Act, 2005.
04	Details of any recovery made from the people responsible for illegal appointment and salary paid to the illegally ap0pointed person. Or the disciplinary action taken against them.	Not available.
05	Copy of application for the post of Associate Professor of Dr. Dhanya Bhasker and Dr. Nimai Das along with the documents related to experience (appointment and relieving letters).	Information related to the third party cannot be provided as denied by the third parties.
06	Reason behind non joining by Dr. Pankaj Kumar Shah and Dr. Narandra Singh Thakur who were waitlisted for the position of Associate Professor, Technical forestry.	Please ask specific documents under the clause 2(f) of the RTI Act, 2005.

5. Petitioner's case is that in the year 2000 certain selections were undertaken by the Indian Institute of Forest Management for giving appointments to the post of Associate Professor and Professor and it has come on record and has been admitted by the authorities that the appointment given to one Dr. Prateek Maheshwari on the post of Associate Professor was illegal, inasmuch as he was not having the necessary

qualification as can be seen from Annexure P-13, which is the proceedings of the meeting to review the recommendations of the Scrutiny Committee of Faculty Recruitment constituted vide order No. IIFM/PERS/PSC-51/2020/165 dated 30th January 2020, wherein the three member committee has admitted that "during the review it was found that the candidates who were not having post Ph.D. experience of 3 years' in case of Associate Professor and 7 years' experience in case of Professor were not shortlisted for interview which was |not mentioned in the qualification communicated by MoEF vide letter F No.12-6/2020-RT dated 20th November, 2012 while revising the Pay scales of faculty members of IIFM at par with the pay scales of IIMs/IITs as per the recommendations of 6th Central Pay Commission (6th CPC)."

6. Thus, it is pointed out that the information sought is in the domain of illegal appointments, expenditure made on such illegally appointed persons and in regard to qualification and experience certificates of persons who were given appointment, which according to the petitioner are illegal appointments.

7. Dr. Jayshree Dubey places reliance on the order of Central Information Commission (a Division Bench) in the matter of **Pratap Dabar Vs. PIO, Department of Post**, and submits that in the first paragraph of facts, it is mentioned that appellant sought information about the appointment details, educational certificates of Mr. Anil Kumar who was selected for the post of Branch Postmaster in 2015. The CPIO wrote letter to Mr. Anil Kumar seeking his consent but he did not provide his consent, therefore, information

sought by the appellant was denied by CPIO and such response was upheld by the FAA.

8. Thereafter, the Central Information Commission took a decision and held that "any document, which is a certification of educational qualification and is maintained in the register of an university or examining body, is a public record which means they can be verified by any person. The appellant sought the certified copies of educational qualifications, which are prescribed as eligibility criteria for selection to the post of Branch Postmaster. This information being related to process of selection and recruitment forms part of suo-moto disclosure under 4(1)(b) of RTI Act and DoPT O.M. dated 29.06.2015. Hence under any circumstances, educational qualification related information of selected candidate cannot be considered as third party information."

Thereafter in paragraphs 6 to 9, it is held as under :-

6. Public interest is involved in the point that only eligible candidates should be appointed and a citizen has a right to verify whether the appointed candidate is eligible or not. Therefore, even if it is assumed that the information sought is private in nature, it has to be disclosed in public interest. Thus Section 8(1)(j) cannot be involved.

7. Section 11 prescribes procedure for consulting the third party. If an applicant has requested for information supplied by a third party, then such third party has to be consulted only when it has been mentioned as confidential by that third party while giving it to the Public Authority. The CPIO should initiate process under Section 11 (1) when he intends to give

the information. The third party does not have a veto power as the CPIO has a duty only to consult him.

8. The CPIO has a duty to examine the disclosure and if public interest is involved, then such information has to be disclosed by communicating the same to the third party involved. In this case, educational qualification of Mr. Anil Kumar who was selected and appointed as Branch Postmaster, cannot be considered third party information, hence, he need not have invoked Section 11(1) of RTI Act. The CPIO did not get the purport of Section 11 and simply cited the provision to refuse the appellant's RTI. Hence, the Commission finds it a fit case to impose penalty upon the CPIO.

9. The Commission finds Mr. D.S. Bhausar, CPIO liable under Section 20 of RTI Act and imposes maximum penalty on him and directs him to pay a sum of Rs.25,000/- in 5 equal monthly instalments. The Appellate Authority of respondent Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mr. D.S. Bhausar, CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly instalments. The first instalment should reach the Commission by 17.03.2018 and the last instalment should reach by 17.07.2018. The. Demand Draft should be sent to Shri S.P. Beck, Joint Secretary & Addl. Registrar, Room No. 505, Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067."

9. Annexure P-6 is the Department of Personal and Training circular dated 29the June 2015, relevant provision contained in paragraph 4 reads as under -:

"**4**. In order to reduce the number of RTI applications relating to service matters, the information relating to recruitment, promotion and transfers should be brought into public domain promptly."

10. Annexure P-11 is another order of Central Information Commission dated 09.04.2021 passed in the matter of **Mr. Neeraj Kumar Vs. Mr. Jit Singh** and in this case the CIS took following decision :-

Decision cited by the Appellant

The appellant Mr. Neeraj Kumar has relied on the decision in CIC/WB/A/2007/00178 dated 23rd Feb. 2007. In this case the appellant had been denied following information about the selected candidates:

1. The educational, technical qualification and experience certificate of selection candidates.

2. File noting.

3. The Educational, Technical Qualification and experience certificate of selected candidates Ms. Rekha Barasha (SC).

In this case the Commission had ruled, in the present case information sought is clearly information on a public activity which is selection for the post of IIRM on 13th & 14th Sep.2006. Recourse, therefore, cannot be taken to sec. 8(1) (j) in providing information. Shri R.R. Kakde, CPIO is therefore, directed to supply point wise information to each question sought by appellant.

While deciding this case, the Commission agrees with the contention of the appellant that when a person "is holding a public office, getting salary from the public exchequer and discharging public functions in a public

institution, therefore whatever documents she has" submitted in pursuance of her appointment to public office in a public institution falls in public domain." The act of applying for a job or a selection process is not a private activity but is clearly Public activity, and disclosure of the documents and papers submitted to obtain the job cannot be held to be an invasion on privacy. This has also been held by the Commission earlier in decision CIC/WB/A/2007/00178, and the Commission agrees with the same. The Commission respectfully disagrees with the decisions relied on by the third party.

11. Similarly, vide order dated December 31, 2009 passed in CIC/OP/A/2009/000173-AD (Shri N.K. Maghala & Others Vs. Central Railway, Bhusawal), the CIS observed as under :-

"6. The Commission after hearing the submissions made by both sides holds that when an employee has been appointed in reserved category on the basis of caste certificates produced by him, the certificates can no longer be termed as personal or third party information and merit disclosure and accordingly directs the PIO to provide the information as sought by the appellants in their RTI application. The information to reach the appellant by 31.1.2010 and the appellants are directed to submit a compliance report by 07.02.2010."

12. Thus, it is submitted that the information sought by the petitioner being in public domain could not have been refused taking recourse to the provisions contained in Section 8(1)(h) or 8(1)(j) or Section 11 of the Right to Information Act.

13. I have perused the affidavit filed vide I.A. No.5646/2025 by the respondents No.2 and 3 and find that there is repetition of the stand, as is contained in Annexure P-3.

14. After hearing learned counsel for the parties and going through the record, Section 8(1)(h) provides that information which would impede the process of investigation or apprehension or prosecution of offenders, is exempt from disclosure of information. It is not mentioned that how revealing of information would impede the process of investigation. Therefore, provisions of Section 8(1)(h) is not applicable to the facts and circumstances of the case and it has been wrongly mentioned by Shri Vinod Kumar Tiwari, Chief Information Commissioner that under Section 8(1)(h) information is not liable to be given.

15. As far as, Section 8(1)(j) is concerned, it exempts information which relates to personal information, the disclosure of which, has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. However, in the present case as held by the CIC itself in three judgments enclosed as Annexures P-10, P-11 and P-12 that disclosure of qualification or appointment to a public office or educational certificates which in the opinion of this Court will also include experience certificates cannot be said to be a private information and that information is always within the public domain and that being the case, therefore, taking que from the order of CIC in the case of Mr. Neeraj **Kumar Vs. Mr. Jit Singh,** reproduced above, the educational, technical qualification and experience certificate of selected candidates, file noting, etc. cannot be

said to be hit by provisions contained in Section 8(1)(j) and that being an information on a public activity which is selection for the post, cannot be said to be exempt from the provisions contained in Section 8(1)(j) of the RTI Act. The Information Commissioner failed to take this vital aspect into consideration including the fact that it failed to take into consideration orders of the Central Information Commission and has failed to distinguish them before arriving at any conclusion.

16. As far as Section 11 is concerned, Section 11 of the RTI Act provides that where a Central Public Information Officer or the State Public Information Officer, as the case may be, intends to disclose any information or record, or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the CPIO or SPIO, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the CPIO or the SPIO, as the case may, intends to disclose the information or record or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secretes protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interest of such third party.

17. Thus, perusal of Section 11 of the RTI Act reveals that information which is treated to be confidential by that third party, notice is required to be issued, but proviso below sub-Section (1) of Section 11 provides that except in case of trade and commercial secret protected by law, disclosure ,may be allowed if the public interest in disclosure outweighs in importance and possible harm or injury.

18. In the present case, disclosure is in regard to educational, technical qualification and experience certificate, file noting etc. of the candidates in regard to whom information is sought and who had admittedly participated in the selection process and further there is an admission in regard to one of such candidates Dr. Prakeek Maheshwari that his appointment was illegal, then such information will fall within the proviso to Section 11 (1) of RTI Act and its disclosure outweighs in importance any possible harm or injury to the interests of such third party and, therefore, such information can be disclosed as held by CIC in its decisions cited above.

19. Therefore, the stand of CIC in the present case vide impugned order dated 24.06.2024 (Annexure P-5) is contrary to the precedents of the Chief Information Commissioner's Office, it appears to be an attempt for non-disclosure of information, appears to be an attempt to shield unscrupulous and ineligible persons, therefore, impugned order dated 24.06.2024 (Annexure P-5) is quashed.

20. It is directed that PIO shall furnish necessary information within fifteen days from today, this information will be provided free of cost to the petitioner. Respondents shall also bear cost of this litigation which is

quantified at Rs.25,000/- (Twenty Five Thousand Only) and this amount will be paid by the respondents No.2 and 3 in favour of the petitioner through a account payee cheque within aforesaid period of fifteen days.

21. In above terms, this petition is allowed and disposed of.

22. Shri Hemant Shrivastava, learned Senior Advocate submits that he was away to Delhi and he be granted an audience both in the matter of merit of the case as well as imposition of cost.

23. This prayer of Shri Hemant Shrivastava made after dictation of the order in the open Court in presence of the rival parties, behind the back of the petitioner cannot be accepted as petitioner is now no more available to answer to the pleas of the senior counsel and even otherwise there is no merit in this submission, therefore, request of Shri Hemant Shrivastava is hereby rejected.

(VIVEK AGARWAL)
JUDGE

MTK