

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1825 OF 2013

Subhash Bajirao Khemnar

... Petitioner.

Vs.

Shri Dilip Nayku Thorat & Ors.

... Respondents

Mr. S.A. Sawant for the Petitioner.

Ms. A.D.Vhatkar, AGP, for the Respondent Nos. 2 & 3.

CORAM : SMT. VASANTI. A. NAIK, J.

DATE : 22nd AUGUST, 2013

P.C. :-

Rule. Rule, made returnable forthwith. The Petition is heard finally at the stage of admission, as the notice for final disposal was issued to the respondents and the respondents are duly served with the notice.

By this petition, the petitioner impugns the order of the State Information Commissioner, Circuit Bench, Nashik dated 04.12.2012, allowing the second appeal filed by the respondent no.1 and directing the Information Officer to supply the personal information about the petitioner's assets on payment of necessary charges by the respondent no.1.

The respondent No.1 had filed an application under

the Right to Information Act, seeking a copy of the service book of the petitioner and also the income tax returns and information about the petitioner's assets. The information was not supplied by the Information Officer in view of the provisions of section 8 (1) J of the Right to Information Act, 2005. The respondent no.1 preferred the appeal before the first appellate authority. The appeal was dismissed. The respondent no. 1 then filed an appeal before the State Information Commissioner and the State Information Commission by the impugned order dated 04.12.2012, allowed the appeal filed by the respondent and directed the concerned departments to supply the necessary information to the respondent no.1 on payment of necessary fees and/or charges. The petitioner has impugned the order in the instant petition.

It is submitted on behalf of the petitioner that the State Information Commissioner was not justified in directing the Information Officer to supply the personal information in regard to the petitioner's assets and income tax returns unless the Chief Information Commissioner was satisfied that the disclosure of such information was necessary in the larger public interest. It is submitted that the Chief Information Commissioner has not recorded in the impugned order that the disclosure of the personal information in regard to the petitioner was necessary in larger public interest. According to the petitioner, the respondent no.1 was allegedly involved in extortion and

the petitioner's brother-in-law had filed a complaint against the respondent no. 1 for extortion and the court had rejected the application filed by the respondent no.1 for grant of anticipatory bail. According to the learned counsel, the information could not have been supplied under section 8 (1) (J) of the Act unless the authority was satisfied that the disclosure of the information was necessary in larger public interest. The learned counsel relied on the order of the Hon'ble Supreme Court dated 3rd October, 2012 in Special Leave Petition (Civil) No. 27734/2012 to substantiate his submission.

On hearing the learned counsel for the petitioner and on a perusal of the provisions of the Act, it appears that the Chief Information Commissioner was not justified in directing the Information Officer to supply personal information in respect of the service record, income tax returns and assets of the petitioner unless the Commissioner was satisfied that the disclosure of the information was justified in larger public interest. It appears, on a reading of the impugned order, that there is no finding in regard to the satisfaction of the Commissioner that the disclosure of the personal information in respect of the petitioner was justified in larger public interest. Under section 8(1) J of the Act, there is no obligation on the Information Officer to give personal information, the disclosure of which has no relationship with any public activity or interest, or which would cause unwarranted

invasion on the privacy of the individual unless the authority is satisfied that the disclosure of such information is justified in larger public interest. In the absence of any finding about the involvement of larger public interest, the State Information Commissioner could not have directed the Information Officer to supply the personal information about the petitioner.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is hereby quashed and set aside. The second appeal filed by the respondent no.1 before the State Information Commissioner stands dismissed. Rule is made absolute in the aforesaid terms with no order as costs.

(VASANTI. A. NAIK, J.)

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spb/-