



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

945 WRIT PETITION NO. 4075 OF 2015

Narsing Ganpatrao Ankushkar
Age : 50 years. Occ.Service,
R/o. Aamkeshwar Nagar, Barshi Road,
Latur, Dist. Latur.

VERSUS

1. Balaji Pandharinath Thorat
Age : Major, Occ. Nil
R/o. At Patharad (Railway Station)
Post Mughat, Tq. Mudkhed, Dist.Nanded.
2. Additional Superintendent of Police,
Anti-Corruption Bureau, Nanded.
3. Superintendent of Police,
Anti-Corruption Bureau, Nanded Region,
Nanded, Dist. Nanded.

Advocate for Petitioner : Mr. Aditya G. Chavan h/f. Mr. Khandare N.B.
AGP for Respondent/State : Mr. G.A. Kulkarni
Advocate for Respondent No.1 : Mr. Suryawanshi G.G.

CORAM : ABASAHEB D. SHINDE, J.

DATE : 08.04.2026

FINAL ORDER :

. Heard.

2. Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally at the admission stage.

3. By this Writ Petition, the petitioner has challenged the impugned order dated 15.01.2015 passed by the Commissioner, State Information Commission, Bench at Aurangabad in Appeal No.2014/RMA/ Appeal/CR/3593 by which the said Appellate Authority has directed the Information Officer to provide the information in respect of service record of the petitioner.

4. Learned counsel for the petitioner would urge that the petitioner initially was appointed as Police Sub-Inspector and at the relevant time, he was working as Deputy Superintendent of Police at Anti-Corruption Bureau, Latur. The respondent No.1 herein who infact has no concern whatsoever to seek the information about service record of the petitioner nor belongs to the caste of the petitioner, applied for seeking information in respect of service record of the petitioner from the Information Officer as per the provisions of Section 11 of 'The Right to Information Act, 2005 (hereinafter referred in short 'the RTI Act')

5. It is further contended that the application filed by the

respondent No.1 was rejected by the Information Officer so also the First Appeal filed by him before the first Appellate Authority came to be rejected on 02.09.2014. He would submit that respondent No.1 thereafter, preferred Second Appeal before the Commissioner, State Information Commission, Bench at Aurangabad (hereinafter called as 'Second Appellate Authority'). The Second Appellate Authority has shown total disregard to the provisions of Section 8(1)(j) of the RTI Act, as if at all the personal information of the petitioner was to be supplied, the Second Appellate Authority ought to have arrived at a subjective satisfaction as to whether the personal information of the petitioner regarding his service record involves a larger public interest.

6. He further submits that since the information sought is in respect of a third party (petitioner herein) therefore, in view of Section 11 of the RTI Act, the petitioner ought to have been given sufficient opportunity of hearing. He therefore, urged that the Writ Petition deserves to be allowed by setting aside the impugned order.

7. *Per contra*, learned counsel Mr. Suryawanshi appearing for respondent No.1 submits that the information was pertaining to the social status of the petitioner as according to learned counsel for respondent No.1, the petitioner has secured employment from reserved category. He would further submit that in order to ascertain whether the tribe validity certificate submitted by the petitioner while securing the said employment is genuine or not, the Respondent No.1 felt it necessary to seek information in that regard.

8. He would further submit that securing public employment on the basis of so called validity certificate, have affected the public at large and particularly those who are belonging to Scheduled Caste. He therefore, urge that the Second Appellate Authority has rightly allowed the appeal filed by respondent No.1 thereby, directing the Information Officer to supply the information about the service record of the petitioner.

9. Having heard rival submissions advanced by learned counsel for the petitioner and learned counsel appearing for

the respondent No.1 as well as learned AGP, the provision of RTI Act that falls for consideration reads thus :

“8. Exemption from disclosure of information-(1)
Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any Court of law or tribunal or the disclosure of which may constitute contempt of Court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over.

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

[(j) information which relates to personal information:]

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.”

10. The provisions of Section 8 speaks of exemption from disclosure of information wherein, certain informations have been exempted from the purview of disclosure which includes the information in relation to personal information. It could thus be seen that the information relating to a

personal information has been exempted from being supplied.

11. So far as the aspect with regard to granting an opportunity of hearing to a third party whose information is sought to be supplied, Section 11 contemplates issuance of notice to third party and offering sufficient opportunity of hearing to him. Section 11 of the RTI Act reads thus :

“11. Third party information.-(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information 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 Central Public Information Officer or State Public Information Officer, 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 Central Public Information Officer or State Public Information Officer, as the case may be, 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 secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the Interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.”

12. In the light of provisions of Section 11 of the RTI Act, it is abundantly clear that when an information in respect of third party is sought to be disclosed, then the same cannot be done without complying with the mandatory requirement of Section 11 of the RTI Act. In the present case, admittedly, the Second Appellate Authority has not given notice of the appeal to the petitioner who infact is an affected party. I am therefore, of the considered view that the Second Appellate Authority has failed to comply with the said mandatory requirement of Section 11 of the RTI Act. With regard to the compliance of mandatory provisions of Section 11 of the RTI Act, this Court in the case of **Skill Infrastructure Pvt.Ltd. And another vs. State Information Commissioner and others** reported in **2010(3) Mh.L.J.193** observed thus :

7. Further we find that neither the First Appellate Authority nor the Second Appellate Authority gave notice of the appeal to the petitioner who is vitally affected by any order passed by it. Any order passed by a quasi judicial authority affecting the rights of third party could not have been passed without such third party being a party in the proceedings and/or party in the proceedings without being given notice or even if not strictly a formal party without being given a reasonable opportunity. From a reading of section 11 it must follow, that if any person who seeks information of a third party, in the event the original Authority rejects the application will have to add such a third party as party. No appeal without such party can be proceeded with. Also such third party if aggrieved could challenge the order. This view would be supported by the specific provisions of section 19(4) of the Act which reads as follows:-

“19(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a reasonable opportunity of being heard to that third party.”

It is thus clear that the third party must have an opportunity of being heard and this could be done only in the event such a party is made a party in the proceedings before the Appellate Authority.”

13. The Hon'ble Apex Court in the case of ***Central Public Information Officer, Supreme Court of India vs. Subhash Chandra Agarwal*** reported in **(2020) 5 SCC 481** while answering the said issue has held that, in case where the information sought is a personal information within the meaning of Section 8(1)(j) of the RTI Act, the mandatory provision contemplated under Section 11 of RTI Act needs to

be complied with before passing an order by issuing notice as well as giving an opportunity of hearing to the third party.

14. It is also pertinent to note that whenever an information in respect of a third party is to be supplied which falls within the ambit of exemption by virtue of Section 8(1)(j) of the RTI Act, the Information Officer or the Appellate Authority as the case may be, has to arrive at a satisfaction that disclosure of the said personal information involves a larger public interest. The Hon'ble Apex Court in the case of **Girish Ramchandra Deshpande Vs. Central Information Commissioner and Ors.** reported in **2013(1) SCC 212** while considering the provision of Section 8(1)(j) of the RTI Act has observed thus :

“13. We are in agreement with the CIC and the courts below that the details called for by the Petitioner i.e. copies of all memos issued to the third Respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in Clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the

disclosure of such information, appropriate orders could be passed but the Petitioner cannot claim those details as a matter of right.”

15. Similarly, this Court in the case of ***Subhash Bajirao Khemnar vs. Shri Dilip Nayku Thorat and Ors.*** decided on 22.08.2013 in **Writ Petition No.1825 of 2013** while considering the issue with regard to supplying of the personal information, has reiterated that unless the Chief Information Commissioner or the first Appellate Authority or the Second Appellate Authority are satisfied that the disclosure of such information is necessary in the larger public interest, the personal information cannot be supplied.

16. From the above legal position, I am of the considered view that the impugned order passed by the second Appellate Authority is not only contrary to the provisions of Section 8 (1) (j) as the information relates to service record of the petitioner i.e. his personal information and has been clearly exempted from the purview of disclosure, but also contrary to the provisions of Section 11 of the RTI Act as the Second Appellate Authority before directing to supply the personal information of the petitioner, has not given sufficient opportunity of hearing to the petitioner which is

mandatory as per the provisions of Section 11 of the RTI Act.

17. I therefore, pass the following order :

ORDER

i) The Writ Petition is allowed.

ii) The impugned order dated 15.01.2015 in Appeal No.2014/RMA/ Appeal/CR/3593 passed by the Commissioner, State Information Commission, Bench at Aurangabad is hereby quashed and set-aside.

iii) Rule is made absolute in above terms.

(ABASAHEB D. SHINDE, J.)

V.S.Joshi