

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 2522/2016**

Dominic S/o Gabriel Philip,  
Aged about 60 years, Occ. Service,  
R/o 103, Indira Apartment, Rahate Colony,  
Wardha Road, Nagpur.

**PETITIONER**

**.....VERSUS.....**

1. State Information Commission, Nagpur  
Bench Nagpur, 1st Floor, Administrative  
Building No.2, Civil Lines, Nagpur.  
Through its Registrar.
2. The Principal and Information Officer,  
St.John's High School, Mohan Nagar,  
Nagpur.

**RESPONDENT**

---

Shri G.M. Shitut, counsel for petitioner.  
Shri Bernard John, counsel for respondent no.2.

---

**CORAM : A.S. CHANDURKAR, J.**

**DATE : 26<sup>TH</sup> JUNE, 2019.**

**ORAL JUDGMENT**

**RULE.** Heard finally with consent of counsel for the parties.

2. It is the grievance of the petitioner that while entertaining a complaint under Section 18(1)(e) of the Right To Information Act, 2005 (for short, 'the said Act') in the context of non-supply of relevant information as directed, the initial order that was passed in the complaint directing supply of such information has been revoked. According to the petitioner, this exercise is beyond the jurisdiction of the State Information Commission.

3. The petitioner sought information under the provisions of the said Act from the respondent no.2 by moving an application on 04.05.2013. Reply was given to the petitioner that since the respondent no.2 was not a public authority, the information sought was not liable to be supplied. The petitioner on 14.06.2013 reiterated his request for supply of said information and as the same was not provided, filed an appeal before the First Appellate Authority under Section 19(1) of the said Act. On 30.08.2013, the first Appellate Authority directed the respondent no.2 to supply the requisite information within a period of seven days. A further appeal came to be filed by the petitioner under Section 19(2) of the said Act on the ground that the said information as directed to be supplied was not furnished. In the said appeal, the Information Commission on 15.01.2015 while allowing that appeal directed the respondent no.2 to show cause why action under Section 20 including imposing of penalty should not be ordered on account of non-compliance of the earlier directions. Since that order was not complied with, the petitioner moved a fresh complaint under Section 18(1)(e) of the said Act and by the impugned order dated 19.10.2015, the State Information Commissioner has held that the respondent no.2 was not liable to furnish the requisite information as initially directed. Being aggrieved, the present writ petition has been filed.

4. Shri G.M. Shitut, learned counsel for the petitioner submitted that the grievance of the petitioner was in respect of non-compliance of the directions issued in the order dated 30.08.2013 as well as the earlier appeal on 15.01.2015. The said complaint was therefore within the ambit of Section 18(1)(e) of the said Act and it was not open for the State Information Commission to hold that the initial complaint as filed did not deserve adjudication as it was beyond the scope of the said Act. He submitted that the earlier orders passed against the respondent no.2 were not challenged and therefore on that count, the impugned order was liable to be set aside.

5. On the other hand, Shri Bernard John, learned counsel for the respondent no.2 supported the impugned order. According to him, since all requisite information was provided to the petitioner, there was no reason to file a further complaint under Section 18(1)(e) of the said Act. He submitted that as since it was brought to the notice of the State Information Commission that the Institution was not receiving any grant-in-aid, it was rightly held that the provisions of the said Act were not applicable. He therefore submitted that no interference with the impugned orders was called for.

6. On hearing the learned counsel for the parties, it can be seen that the initial complaint filed by the petitioner came to be allowed by virtue of the orders passed by the first Appellate Authority on 30.08.2013 as well as the subsequent order dated 15.01.2015 passed by the State Information Commission. Since according to the petitioner, the requisite information was not supplied, a fresh complaint under Section 18(1)(e) of the said Act came to be moved on 29.08.2015. In said proceedings, what was required to be adjudicated was whether the petitioner had been supplied incomplete, misleading or false information under the said Act. However, the State Information Commission while passing the impugned order has in fact exercised the power of review. It has observed that since the respondent no.2-School was not receiving grant-in-aid, it was not a public authority and therefore no information was liable to be supplied. It is to be noted that the earlier orders dated 30.08.2013 and 15.01.2015 directing the information to be supplied had not been challenged by the respondent no.2. The State Information Commission therefore was required to consider the subsequent complaint as filed on 29.08.2015 within the purview and scope of the provisions of Section 18(1)(e) of the said Act. By passing the impugned order, the State Information Commission has in fact set aside the order which was operating in favour of the petitioner without the same being challenged by the respondent no.2. The power of review not being an inherent power and the same not

having been conferred under the provisions of the said Act, its exercise by the State Information Commission is beyond its jurisdiction. It is thus clear that the impugned order suffers from exercise of jurisdiction not conferred. A fresh consideration of the said proceedings is therefore warranted.

7. Accordingly, the order dated 19.10.2015 passed by the respondent no.1 is set aside. The said complaint is restored for being adjudicated in the light of provisions of Section 18(1)(e) of the said Act. To enable such adjudication, the parties shall appear before the State Information Commission on 12.07.2019. All the points are kept open for being urged before the said Authority.

8. The Writ Petition is allowed in aforesaid terms. Rule is made absolute in aforesaid terms. No costs.

**(A.S. CHANDURKAR, J.)**

APTE