

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal**

**No.2006/303//02**

**Shri Bhikamsinh Chatarsinh Sapkal,  
Dwarka, Raigad Colony,  
Kelanagar, Khamgaon,  
Buldhana 444 303.**

**.. Apellant**

**V/s**

**Public Information Officer &  
Under Secretary, Water Resources  
Department, Mantralaya, Mumbai 32.**

**1<sup>st</sup> Appellate Authority & Deputy  
Secretary (Estt), Water Resources  
Department, Mantralaya, Mumbai 32.  
Respondents**

**..**

**GROUNDS**

Shri Sapkal, Superintending Engineer of Water Resources Department has given application under RTI Act on 21.12.2005 to PIO of Water Resources Department, Government of Maharashtra. He was caught in the Anti-Corruption Bureau's trap on 8.12.2003 and when the process in Mantralaya was going on for permission to prosecute him there was some correspondence between the Home Department and Water Resources Department particularly the letter from Home Department dt. 29.7.2004 and letter from Water Resources Department dt. 24.9.2004. The Applicant wants the copy of the letter written by the Irrigation Department to Home Department dt. 24.9.2004. The PIO has informed Shri Sapkal on 16.1.2006

that the required information cannot be given to the Applicant under the provision of section 8(1)(h) of RTI Act, 2005 which reads as follows:

“Exemption from disclosure of information – (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen: (h) information which would impede the process of investigation or apprehension or prosecution of offenders.”

Being aggrieved by the said order the Appellant has filed an appeal under Section 19(1) of RTI Act, 2005 with the Appellate Authority of the Water Resources Department. The Appellate Authority has replied that final decision about permission to prosecute Shri B.C.Sapkhal has not been yet taken and that is why the information sought cannot be given at this stage. Being aggrieved the Appellant has preferred Appeal under 19(3) of RTI Act on 16.3.2006 with this Commission. The hearing took place on 5.8.2006 when the Appellant Shri Sapkal was not present whereas the officers of the Water Resources Department were present and, therefore, appeal memo was taken into consideration. The Deputy Secretary stated that since the final permission regarding prosecution, has not yet been taken by the department, the information sought by the Appellant cannot be given at this stage because it could impede the process of investigation or apprehension or prosecution of offenders. Though in his appeal memo the Applicant has tried to make out the case that the trap laid by the ACB was flawed and, therefore, is strong case for refusing the permission for prosecution and to prove that he needs the copy of the letter dated 24.9.2004 setting aside all the contentions Home Department had made vide their letter dt. 29.1.2005 in which it is clearly stated that there is strong evidence for prosecution. In this

case only all the process has been completed and only the approval of the final authority is awaited. Therefore, at this juncture the information sought by the Applicant cannot be given.

Taking into consideration the appeal memo and the contention of the Water Resources Department, I find strong force in the argument of the department and uphold the stand taken by the department in not giving copy of the letter at this stage.

**ORDER**

The appeal is dismissed.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 16.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal & Complaint No. 2006/176/02  
No.2006/183//02**

**Managing Director,**

**Ahmednagar District Central Coop Bank Ltd.-**

**Ahmednagar.**

**.. Appellant**

**V/s**

**Divisional Joint Registrar,**

**Coop. Societies,**

**Nasik Division, Nasik.**

**Shri Babanrao Dhakne,**

**C/o Kedareshwar Coop Sugar Factory Ltd.,**

**Sumannagar, Bodhegaon, Tal.Shevgaon,**

**Dist. Ahmednagar.**

**.. Respondents**

**GROUND**

Shri Babanrao Dhakne, Former Chairman, Kedareshwar Coop Sugar Factory, Bodhegaon, Tal. Shevgaon, District: Ahmednagar had given application to PIO of District Central Coop Bank, Ahmednagar u/s 6 of RTI Act, 2005 on 6.12.2005. He has sought the information pertaining to loans given by the Bank to various sugar factories, the date of sanction of the loan,

quantum of the loan, and how much repayment is still outstanding. Similarly he has sought the information pertaining to Grushneshwar Coop Sugar Factory and he has asked the loan made available to this factory and the true copy of the resolution passed in this respect by the Board of Directors of the Bank. The bank by their letter dt. 16.12.2005 have refused to give this information and had given following reasoning for that purpose:

“Ahmednagar Bank is District Central Coop Bank and it has been registered under Bombay Coop Societies Act, 1925 and presently the Bank does not receive any financial assistance from the Government, therefore, Bank is not covered under Right to Information Act, 2005. The Bank is an Institution which runs on the confidence of its borrowers and the loan given by the Bank to the sugar factories is covered under Commercial Confidence and Trade Secrets. If Bank makes available the information pertaining to the loan the competitive position of the said sugar factory could be jeopardized. If the Appellant feels he can file an appeal within 30 days with the Appellate Authority & Divisional Joint Registrar, Coop Societies, Nasik Division, Nasik.

Being aggrieved by the decision of the Bank, Shri Babanrao Dhakne had preferred appeal under Section 19(1) of RTI Act, 2005 to the Regional Joint Registrar, Coop. Societies, Nasik Dn., Nasik on 26.12.2005. The Appellate Authority has upheld the appeal and directed the Bank to give the information to the Applicant immediately. Being aggrieved by this order the Bank has preferred the 2<sup>nd</sup> appeal with this Commission on 28.4.2006. Similarly, Shri Dhakne had also complained to the Commission that the order of the Appellate Authority is not being implemented by the Bank. The

Bank has requested to this Commission to give the stay order to the implementation of the Appellate Authority's order. Since the Appeal Memo mentioned legal points regarding provisions in RTI Act, 2005, Maharashtra Coop Societies Act, 1960, Banking Regulation Act, 1949 and Bankers' Books Evidence Act, 1891, it was decided to give the stay order to deal extensively with the issues raised and to put an end to the uncertainty of applicability of RTI Act, 2005 to the District Central Coop Bank while giving the decision and heard the appeal on 10.5.2006. Before that the Commission had also given hearing to the concerned parties pertaining to the complaint of the Applicant.

The first point made by the Bank that as a matter of fact the Appellate Authority i.e. the Joint Registrar, Coop Societies, Nasik Dn. Nasik has no jurisdiction to hear and decide the said appeal because as per the orders issued by the Commissioner for Cooperation, Maharashtra State Pune on 21.9.2005 the Appellate Authority for Coop Societies having jurisdiction of a District is the concerned District Deputy Registrar. The said circular was particularly addressed to all the Joint Registrars, Coop Societies including the Joint Registrar, Coop Societies, Nasik Division, Nasik. It is the contention of the Appellant that the Appellate Authority for the District Central Coop Bank, Ahmednagar having the jurisdiction of district only is the District Deputy Registrar, Coop Societies of the concerned district, therefore, the said appeal ought to have been decided by the District Deputy Registrar, Coop Society, Ahmednagar instead of the Joint Registrar, Coop Societies, Nasik Division, Nasik. The Divisional Joint Registrar contended that as per the orders dt. 26.7.99, the Cooperation & Textiles Dept., GOM has modified Government Order dt. 7.8.93 so far as it relates to the exercise

of the powers of the District Central Coop Banks. This order has made the modification for the area of operation of Divisional Joint Registrar, Coop Societies as per below:

For Division Joint Registrar of Coop Societies in the Division area shown is Division including all the District Central Coop Banks in the Division.

The order of the Coop. Department dt. 26.7.99 is under section 3 of Maharashtra Coop Societies Act, 1960 which devolves the powers of Registrars on certain subordinate offices and in pursuance of this, the Divisional Joint Registrar has been empowered to exercise the powers pertaining District Central Coop Banks in their respective Division's jurisdiction whereas the order dt. 21.9.2005 of Registrar of Coop Societies is specifically pertaining to designate Assistant PIOs and Appellate Authority in Coop. Dept. under RTI Act, 2005. In this order the Appellate Authority for District level organization is District Deputy Registrar. Therefore, the District Dy. Registrar is the correct Appellate Authority for Coop Societies including District Central Coop. Bank since the order dt. 21.9.2005 pertains to the implementation of RTI Act, 2005. But still the fact remains that the Applicant Bank which, rejected the application of the Appellant Shri Babanrao Dhakne dt. 6.12.2005 in their rejection letter dt. 16.12.2005 themselves have mentioned in that order that the appeal could be filed within a period of 30 days with the Divisional Joint Registrar, Coop Societies, Nasik Dn. Nasik. The Ahmednagar Dist Central Coop Bank itself was under the impression that the Divisional Joint Registrar of Coop Societies is the Appellate Authority and has guided the applicant Shri Babanrao Dhakne

accordingly. Therefore, it is none of his fault that he approached the Joint Registrar, Nasik Dn., Nasik in appeal u/s 19(1) under RTI Act, 2005.

In view of this peculiar situation and since the Divisional Joint Registrar is a superior officer to the District Dy. Registrar and since all the powers of the Registrar under Coop Societies Act have been conferred in so far as District Coop Banks within their jurisdiction are concerned on Divisional Joint Registrar I take into consideration the order passed by the Divisional Joint Registrar as a valid order taking into consideration the peculiar circumstances in this particular case. However, I direct the Registrar of Coop Societies that they should specifically issue instructions to the officers of the Coop Dept as regards who should exercise Appellate Authority powers in respect of the District Central Coop Bank under Right to Information Act, 2005 since I find that many officers of the department and District Central Cooperative Banks are confused about this issue.-

The 2<sup>nd</sup> point which needs to be decided whether the Right to Information Act, 2005 is applicable to District Central Coop Banks since it is contended that the District Central Coop Banks are not public authorities. The Advocate on behalf of the Applicant has argued in great details and the points, which he has mentioned are given as below:

1. The Ahmednagar District Central Coop Bank Ltd has been registered as a Coop Society under the provisions of the Bombay Coop Societies Act, 1925. It is now deemed to have been registered under the provisions of the Maharashtra Coop Societies Act, 1960. The Bank possesses the banking license

issued by the Reserve Bank of India. The bank has its bye-laws which are approved by the Registrar of Coop. Societies. The bank is controlled and managed by the elected Managing Committee members and the Committee is constituted as per the provisions of bye-laws of the Bank.

2. The main aims and objects and the functions of the Bank are to accept deposits, to provide loans to the societies or individuals, to make recovery of the loan amount and to carry on banking business. The Bank is, therefore, regulated and functioning in accordance with (1) the Maharashtra Coop Societies Act, 1960 and the Rules of 1961. (2) the Banking Regulation Act, 1949 and allied rules there-under; (3) the Banker's Books Evidence Act, 1891.

3. That the Right to Information Act, 2005 has been brought into force on 15<sup>th</sup> of June, 2005. The said Act provides for:

“An Act to provide for setting out the practical regime of Right to Information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the Constitution of Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.”

4. That as per the provisions of Sec. 4 of the said Act, obligations of public authorities has been laid down:

Section 2(h) of the said Act, defines "Public Authority" the definition is given herein below:

Section 2(h) : "Public Authority means, any authority or body or institution of self government established or constituted:

- a) by order under the Constitution;
- b) by any other law made by the Parliament;
- c) by any other law made by the State Legislature;
- d) by notification issued or order made by the appropriate government and includes any –
  - i) body owned, controlled or substantially financed;
  - ii) non-government organization substantially financed directly or indirectly by funds provided by the State Government.

Notes: It defines "Public Authority" including self governed institutions, such as Municipalities established under the Constitution, statutory enactment or by notification and includes bodies controlled substantially financed bodies or non-governmental organizations substantially financed bodies or non-governmental organizations substantially financed directly or indirectly by funds provided by the government.

5. It would be evident from the above definition of the “Public Authority” that the institution to be covered by the provisions of the Right to Information Act, 2005, has to be self governed, establishment, constituted under the Acts of parliament or state legislature. For non-governmental organization it has to be substantially financed directly or indirectly by funds provided by the government.
  
6. So far as the Ahmednagar District Central Coop Bank Ltd. Is concerned it is not a body or institution of self government. So far as non-government organization is concerned it is not substantially financed directly or indirectly by funds provided by the State Government. Therefore, the Bank cannot be treated as “Public Authority” and therefore, there is no obligation as contemplated under sec. 4 of the said Act on the Bank. The provisions of the Right to Information Act, 2005 therefore, cannot be made applicable.
  
7. It would be also necessary to take into consideration Sec. 8(d) of the Right to Information Act, 2005 wherein there are exceptions from disclosure of information. The activity of the Bank being of commercial confidence, trade secret, the same is therefore, covered by the exception and therefore, there is no obligation cast on the bank to supply the information to the applicant.

8. The Ahmednagar District Central Coop Bank Ltd. Is also governed by the Banking Regulation Act, 1949. Section 34A, of the Banking Regulation Act has put up a restriction on the bank regarding the supply of information and production of document. The provisions of the Right to Information Act, 2005 cannot overwrite the provisions of Section 34A of the Banking Regulation Act, 1949 which is a special Act. There is also no provision under the Right to Information Act, 2005 to that effect.
9. That there is a specific provision under section 6(3) of the Banker's Books Evidence Act, 1891 giving a protection to the banks regarding the production of the books at the trial or giving notice of their intention to show cause against such order. The said provision gives protection to the activity of the bank and the bank can reserve its right to supply of the information and the documents.
10. That the Ahmednagar District Central Coop Bank Ltd. being a Coop Society registered under the Societies Act is functioning in accordance to the provisions of the Coop Societies Act, Rules and the byelaws.
11. Section 32 of the Maharashtra Coop Societies Act, 1960 giving right to a member to see the books. Rule 27 and 30 of the Rules of 1961 prescribes the fees for supply of the copies and the inspection of the documents. As per the provisions of

Section 32 member has right to seek information from books of the banks concerning with his transaction and account. He can seek the copy of the bye-law, the last audited annual balance sheet, the profit and loss account, list of members of the committee, the minutes of the general body meeting etc. There is no provision under section 32 to seek information of public at large and or each other and every transaction of the bank.

12. In view of the above, since the Ahmednagar District Central Coop Bank Ltd is not covered by the definition of “Public Authority” as it is not authority or body or institution of self government nor is it established under the Constitution or law made by Parliament or State Legislature nor is it controlled, owned or substantially financed by the State Government, the provisions of Right to Information Act, 2005 are not at all applicable. There is therefore no obligation on the bank to supply the information sought for by the applicants under the provisions of the Right to Information Act, 2005.

The Applicant Shri Babanrao Dhakne and the officers of the Cooperation Department have contended that the Registrar of Coop Societies and Commissioner for Cooperation by his order dt. 8.2.2006 in respect of applicability of RTI Act, 2005 to various cooperation institutions have clearly stated that Maharashtra State Coop Banks, District Central Coop Banks and Primary Multi-purpose Coop Societies receive share capital from Government and Government also gives bank guarantee to such institutions in respect of loan advanced

by them, therefore, RTI Act, 2005 is very much applicable to the District Central Coop Banks. Shri Dhakne has also contended that Audit of the Bank ordered by Government. When Government gives various concessions to the Agriculturists such concessional amount is distributed to the Bank, when there are over-dues of Coop Banks their recovery is done by governmental organization and in case of misuse of the authority by the bank or for certain other reasons, Government can enquire into the matter and also appoint Administrator on the Bank.

Shri Dhakne also contended that District Central Coop Bank gives loan to the Agriculturists at village level, effect the recovery, gives loans to various coop organizations, implementation of various schemes of Government, therefore, Government has direct and indirect control and say in the functioning of the banks, therefore, Right to Information Act is applicable to them.

I have separately asked the Government of Maharashtra Secretary (Cooperation) of Cooperation, Marketing and Textiles Department as regards Government's stand regarding applicability of RTI Act to the District Central Coop Banks. The Secretary (Coop & Marketing) has informed that Government fully agrees with the order issued by Commissioner (Cooperation) dt. 8.2.2006 making applicable RTI Act, 2005 to Maharashtra State Coop Banks, District Central Coop Banks and Primary Multi-Purpose Coop Societies. The reasoning given by the Government is that the Supreme Court has also ruled that in the State there will be only one State Coop Bank.

Moreover, in every district there will not be more than one District Central Coop. Bank. Therefore, these two banks enjoy the monopoly status and, therefore, it is apt to make applicable this Act to these banks. Coop Dept has also made it clear that State Coop Bank, District Banks and Primary Multi-Purpose Coop Societies receive refinance facility from NABARD at a concessional rate. The institutions getting finance also gets Government's direct and indirect assistance, therefore, District Coop Banks are covered as Public Authorities under RTI Act.

Commission has noted that under Maharashtra Coop Societies Act, 1960, Government controls Cooperative Societies to a large extent. The D.C.C.Banks are governed by this Act. Section 81 of the Act deals with Audit, Section 83 deals with powers of inquiry into constitution, working and financial conditions of a Society by Registrar, Section 88 deals with power of Registrar to access damages against delinquents promoters etc. Section 89A deals with powers to inspect working of Society. All these provisions show recourse of good control by the Government over Societies – D.C.C. Bank thus meeting the requirement of Bank being public authority.

Under Section 8(j) proviso the information which cannot be denied to the Parliament or the State Legislature cannot be denied to any person. I had asked the Government in Coop. Dept. as to whether MLAs/MLCs have been raising issues pertaining to the District Central Coop Banks and whether they are taken up in the State Legislature. The Government in Coop Dept by their letter dt. 7.3.2006

has replied to the Commission enclosing a large number of replies to the questions asked by MLAs/MLCs which have been given by the Government pertaining to the District Central Coop Banks. Since the MLAs/MLCs have been asking large number of questions in the Legislature and Government has been replying these questions pertaining to the affairs of the District Central Coop Banks it is absolutely clear that this RTI Act is applicable in respect of the District Central Coop Banks.

Having thus made clear that RTI Act covers District Central Coop Banks, various provisions which have been quoted by the Appellant Bank from Banking Regulation Act, 1949 and Banker's Regulation Act, 1891 needs to be examined. Taking into consideration peculiar nature of the banking system the privacy in respect of certain banking transactions is not be jeopardized. Various provisions of the said Act and reading the following sections from the RTI Act, 2005 "Section 8 (1)(d) – There shall be no obligation to give any citizen 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; 8(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," the Commission is of the opinion that harmonious interpretation of the provisions of all these 3 Acts is possible and still large information could be available to the public in respect of the bank.

Coming to the specific nature of the information sought by the Applicant, the Applicant has in his application dt. 6.12.2005 has brought the information as to which sugar factories have been financed by the District Central Coop Bank, Ahmednagar? How much loan has been given? Date of such loans to the sugar factories and what are the outstanding amounts? Similarly the Applicant seeks information pertaining to the quantum of loan given to Ghrushneshwar Coop Sugar Factory and is also seeking copy of the resolution passed by the Board of Directors of the Bank. It will not be out of place that the District Central Coop Bank have just before commencement of RTI Act, 2005 gave certain information to the Applicant, Shri Babanrao Dhakne in respect of Ghrushneshwar Coop Sugar Factory by their letter dt. 27.9.2005. Therefore, what is the difficulty for the bank in giving the information under RTI Act, 2005? In fact when the Maharashtra State Coop Bank or District Central Coop Bank give loan to various sugar factories they insist that Government Guarantee should be available and the officers of the Coop Dept. have told at the time of hearing that such bank guarantee by the Government is a rule rather than exception. Therefore, the loans given under bank guarantee by the Government are of a public nature. They could be discussed in the Legislature. The contention of the bank that the information sought by the applicant should be taken by him from the sugar factory and not by the bank, cannot be entertained. If the bank has given the loan and if they have the documents and complete information pertaining to the loan and the nature of this loan is such that it does not violate any of the exception

provisions under Banking Regulations Act, RTI Act, there is absolutely no reason why the information asked cannot be given. In view of the above, I pass the following order:

**ORDER**

Appeal is dismissed and stay vacated. District Central Coop Bank, Ahmednagar should give the information asked in his application dated 6.12.2005 by Shri Dhakne within 10 days after receipt of this order.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 8.8.2006

**Before the State Information Commission, Maharashtra – Complaint  
section 18 of RTI Act, 2005.**

**Complaint**

**No.2006/307//02**

**Shri Vana Ramchandra Patil,  
Block No. A/160, Room no.319,  
Near Guru Nanak High School,  
Kurla Camp, Ulhasnagar 421 004.**

**.. Appellant**

**V/s**

**Commissioner,  
Ulhasnagar Municipal Corporation**

**.. Respondents**

**GROUND**

Shri Vana R. Patil has made application to the Information Commission on 13.5.2006 stating that he had applied on 16.12.2004 to the Ulhasnagar Municipal Corporation regarding giving him the copy of Panchnama of demolition of unauthorized construction done on 3.4.2000. A reply was given to him by the UMC on 4.1.2005 that this Panchnama is not available in the office and hence cannot be given. Since he complained to this Commission that the Municipal Corporation is intentionally not giving him the copy of the Panchnama and since it was not clear under which Act he had applied to the Municipal Corporation, I decided to enquire into the matter and the inquiry was fixed on 9.8.2006 when the Additional Commissioner, Ulhasnagar Municipal Corporation was present. It was informed by the Addl Commr, Ulhasnagar Municipal Corporation that there are litigations between Shri Vana R. Patil on one hand and his niece Smt. Hirabai and her deceased father. The Application was made under the now defunct Maharashtra Right to Information Act on 16.12.2004. They have

also told that they have searched the papers again but the copy of the Panchnama is not available in the file, hence it cannot be given.

Firstly the original application is not under RTI Act, therefore, this Commission does not have jurisdiction to enquire into the matter and secondly senior officers like Additional Municipal Commissioner has stated that inspite of strenuous search copy of this Panchnama is not available.

**ORDER**

Under such circumstances the application of Shri Vana R. Patil is filed.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.  
DateL 9.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/316//02**

**Shri Manohar R. Vaidya,  
3/11, Samarth Nagar,  
Chunabhatti (East)  
Mumbai 400 022.**

**.. Appellant**

**V/s**

**PIO, Office of the Commissioner  
For Cooperation, Central Building,  
Opp. Sasoon Hospital,  
Pune 411001.**

**Addl Commissioner & Spl. Registrar,  
Cooperative Societies, Maharashtra State,  
Pune.**

**.. Respondents**

### **GROUNDS**

Shri M.R.Vaidya of Chunabhatti, Mumbai 400 022 has by his application dt. 26.12.2005 has sought the following information from PIO of Commissioner's Office for Cooperation, Pune:

“1. Whether your dept is preparing panel of Administrators and Liquidators?

1. The procedure and guidelines, principles prescribed by the dept. while empanelling Administrators and Liquidators and what are their qualifications?
2. To which authority in your department the Administrators and Liquidators who are accountable
3. List of Administrators and liquidators who are on panel as of today.

He has not received any information pertaining to this Application, therefore, he has filed appeal with the 1<sup>st</sup> Appellate Authority on 10.2.2006. In the meantime by letter dt. 3.2.2006, PIO has supplied the information. Therefore, the Appellate Authority by their letter dt. 28.2.2006 had dismissed the appeal giving the reason for the said dismissal that the information sought has now been made available.

Aggrieved by the said order Shri Vaidya has preferred 2<sup>nd</sup> appeal with this Commission on 13.3.2006 under Section 19(3) of RTI Act, 2005. The hearing took place on 10.8.2006. The Appellant Shri Vaidya and representative of the Commissioner of Cooperation's office were present. The Appellant stated that though the matter stands clarified now, his only grievance is that the Appellate Authority ought to have given him hearing before dismissing his appeal and second that the information given is delayed by 8 days. The representative of the Commissioner's/ office clarified that since the information was already provided, it was felt by the Appellate Authority that the Appellant should not be called all the way from Mumbai to Pune for hearing of appeal, therefore, hearing was not fixed. As regards the delay there is no sound reasoning. I, therefore, pass the following order:

The PIO is severely warned that any recurrence of any such delay will be viewed extremely seriously and penalty will be levied.

## **ORDER**

Appeal is disposed off in terms of above. The reasoning given by the Appellate Authority in not giving hearing of the 1<sup>st</sup> Appeal and disposing off the appeal is accepted.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 10.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/301//02**

**Shri Kartikeya Gupta,  
5/68, Hill View Society,  
Sardar Nagar No.4,  
Sion, Koliwada,  
Mumbai 400 037.**

**.. Appellant**

**V/s**

**Director of Medical Education &  
Research, Govt. Dental College &  
Hospital Building,  
St. George's Hospital Compound,  
Mumbai 400 001.**

**.. Respondent**

### **GROUND**

Shri Kartikeya Gupta by his application under section 6 of RTI Act, 2005, dt. 1.7.2006 applied to the Directorate of Medical Education and Research requesting to give the question papers, answer papers and answer key in respect of entrance examination MHT-CET-2006. The applicant was informed by the Directorate by their letters dt. 1.7.2006 that as per the decisions of the Bombay High Court it is not necessary to give the question papers to the candidates. However, a copy of the answer sheet and answer key will be made available on the applicant applying under MHT-CET – Rule Book – Rule No.9.5 in Annexure-L. Accordingly Shri Gupta applied and he got the copies of the answer sheet and answer key. Since the question papers were not supplied Shri K. Gupta had appealed u/s 19(1) of RTI Act, 2005 by his application dt. 11.7.2006 requesting the question

papers. The 1<sup>st</sup> Appellate Authority and Director of Medical Education by his letter dt. 12.7.2006 has informed him that as per the decisions in various petitions of Bombay High Court the question papers will not be given to him. Being aggrieved by this decision Shri Gupta has preferred 2<sup>nd</sup> appeal to this Commission on 15.7.2006 which was heard on 21.7.2006 when Mr. Gupta and his mother and Dr. S.M.Deshpande and Dr. A.S.Vyas from DMER were present.

The short question to be decided here is whether Shri K.Gupta is entitled to get copies of the questions papers. The High Court in their decision in Petition Nos.. 1446/2002, 1558/2002. 1467/2002, 1472/2002, 1473/2002, 1512/2002, 1496/2002.has given the following decision:

“As far as the contention of the Learned Counsel for the Petitioners that Respondent No.2, the Director of Medical Education was directed to disclose even the question paper as per directions given in the aforesaid Jimmy Abraham Thomas (supra), if one were to see the directions, the Director of Medical Education of Research was directed “to consider publishing questions and correct answers”. Accordingly the Director of Medical Education of Research – Respondent 2 has considered all aspects and taking into account the pros and cons and finally the expert body has decided to disclose only model answer key and actual answer sheet of the petitioners and not the question paper. In the above, we do not find anything irrational and arbitrary on part of the Respondents declining to provide the question paper. As has been held by the Apex Court, the students do not have right to be part of the evaluation system of their performance or to verify the correctness of the evaluation made by the examiners and certain

amount of secrecy and confidentiality will have to be maintained, over and above particularly in the examination of this nature almost 83,000 students have appeared and if there is no finality in such examination it may lead to gross and indefinite uncertainty and it would be a chaotic state of affairs and even on this issue the judgment of the Apex Court has held that the results of public examinations when published should have a finality and it cannot go on endlessly etc. We are also in the full agreement with the reasons incorporated in Ex. "I" in the affidavit in reply dated 26<sup>th</sup> June, 2002 in Writ Petition No. 1446 of 2002 for non disclosure of the question paper."

Under the aforesaid facts and circumstances of the case especially in view of the judgment of Aurangabad Bench of Bombay High Court and also in view of the aforesaid observations and categorical judgment of Supreme Court in a case of Paritosh (supra) and for the reasons set out hereinabove we do not find anything illegal, arbitrary or unreasonable on the part of the respondents in not disclosing the question paper to the petitioners.

These petitions are devoid of merits. Hence the Rule stands discharged. However, there will be no orders as to costs."

It has been told by Applicant Shri Kartikeya Gupta that from the answer key and answer sheet the marks calculated by the Applicant, Shri Kartikeya Gupta and marks declared at the time of declaration of the result tally. However, Mr. Gupta's contentions that if question papers are given then he could verify whether answer key is correct or not. Since the authorities ensures all the safeguards while preparing yearly papers, key to answers, evaluation of answer sheets such eventuality will be quite rare.

Moreover, various courts had also given emphasis that examination process cannot go on indefinitely and has to reach finality at certain stage. In view of very clear verdict by the various courts, advent of R.T.I. will also not make any fundamental difference. The following order is passed.

**ORDER**

Appeal is dismissed.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 11.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/339//02**

**Shri Kewal Semrani,  
52, Jolly Maker Chamber No.2,  
P.O.Box No. 11688,  
Nariman Point,  
Mumbai 400 021.**

**.. Appellant**

**V/s**

**Chief Engineer (Roads & Traffic),  
MCGM, Municipal Head Office,  
Annex Building, 6<sup>th</sup> floor,  
Mahapalika Marg, Fort,  
Mumbai 400 001.**

**.. Respondents**

### **GROUND**

Shri Kewal Semrani by his application under the Right to Information Act, 2005, dt. 13.4.2006 has asked the following information to the PIO and Chief Engineer (Road & Traffic), MCGM:

“(i) Subject matter of information – Meetings of members of Standing Technical Advisory Committee (STAC) (Merani Committee) held since submission of the Report i.e. December 2004 till date.

(ii) The period to which the information relates: From 1<sup>st</sup> April 2004 till date;

(iii) Description of the information required – True copies of:

(a) Date and time when such meetings have been held;

- (b) True copies of minutes of each such meeting held;
- (c) If the meetings are not held, reasons recorded for the same;
- (d) Any other information, relevant to the above;
- (e) The information should be provided in print format as well as e-format (CD or floppy), if available.”

In reply to this, it was informed to Shri Semlani by Shri M.R.Kadam, CE (Roads & Traffic) vide letter dt. 6.5.2006 that the STAC Committee Reports are available in their office on payment of Rs. 2,000 + VAT and it could be collected after paying the necessary charges. Since Shri Semlani had not sought the copy of the STAC Report and since he wanted the minutes of the meetings held after submission of the report he felt that he has been given misleading and knowingly incorrect information and had approached this Commission with a complaint to impose penalty on the PIO.

This case was heard on 10.8.2006 when Shri Semlani as well as Shri Kadam, Chief Engineer (Roads & Traffic) were present. Shri Kadam explained that probably he felt that full report would be more useful to the Applicant and under that impression in good faith he had given the reply dt. 6.5.2006 and there was absolutely no intention of giving misleading or incorrect information. Shri Kadam had brought along with him not only the minutes of the meeting held after submission of the report but all the minutes of the meetings held and handed it over to Shri Semlani. Having being satisfied Shri Semlani did not raise the issue of imposition of fine. Shri Kadam's

explanation has been accepted, however, he is cautioned to be absolutely careful about studying the contents of the Application and giving the replies accordingly.

**ORDER**

Application is disposed off in view of above.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 11.8.2006

**Before the State Information Commission, Maharashtra – Complaint  
section 18 of RTI Act, 2005.**

**Complaint No.2006/19//02**

**Shri Bomi M. Mistry,  
C/o Dhunjishaw Bhedwar & Co.,  
Behramji Mansion, 2<sup>nd</sup> floor,  
Sir P.M.Road, Fort,  
Mumbai 400 001.**

**.. Appellant**

**V/s**

**P.B.Khandare,  
Assessor & Collector,  
MMC, Mumbai.**

**The Joint Municipal Commissioner,  
MCGM, Annexe Bldg., 3<sup>rd</sup> floor,  
Mahapalika Marg,  
Mumbai 400 001.**

**.. Respondents**

### **GROUNDS**

Shri Bomi M. Mistry has given complaint application to this Commission dt. 13.7.2006 stating as follows:sa

“By my application dt. 24.4.2006 addressed to the PIO, Assessor & Collector, Brihanmumbai Mahanagarpalika, I requested for information under the RTI Act, 2005 regarding the reports called for by and submitted to the higher authorities on my representations made to the Addl. Municipal Commissioner, Jt. Municipal Commissioner and Assessor & Collector between 2002-2003 pleading for reduction in the rate of return to be adopted while formulating proposals for determining Rateable Value of land based on the Contractor’s test method.

This request was refused by the Assessor & Collector vide his reply No. AC/559/AO(SC) dated 22.6.2006 on the ground that:

“Final decision on the referred representation is not taken so far. Hence as per Rule 8(i) of Right to Information Act, 2005 information cannot be furnished.d”

In reply to the above refusal by my letter dt. 23<sup>rd</sup> June, 2006 it was pointed out to the concerned PIO that the total number of Rules were only five, that there was no Rule 8(i) and that there cannot be any such rule exempting giving of information for want of final decision overriding the provisions of the parent Act which does not exempt disclosure on this ground. By my said letter I also asked for inspection of the documents of which copies were sought. My said letter has remained unreplied.

The information desired by me is from the record of the Corporation and I am entitled to its copy or transcript regardless of the final decision thereon.

I submit that an appeal in this matter is nsot an adequate and efficacious remedy. The PIO’s refusal appears to be influenced by the promptings of his superiors who would be sitting in appeal.”

The Applicant has requested the Commission to take appropriate action and pass suitable orders. This was kept for hearing on 10.8.2006 when the Applicant Shri Bomi Mistry and Shri Khandare, Assessor &

Collector, MCGM were present. At the time of hearing, Shri Mistry informed that his Appeal under RTI Act, 2005 has been heard by the Joint Municipal Commissioner and he has directed the PIO to give all the information possible within 7 days.

In view of the above decision Shri Mistry stated that he does not want to pursue the complaint application. The proceedings are, therefore, closed without going into the merits of the case. There is no action needed on the part of the Commission.

**ORDER**

The Application is disposed off in terms of above.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 11.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/262//02**

**HOPE Organisation,  
305/3, Gr.Floor, N.G.Compound,  
College Road,  
Dhamankar Naka,  
Bhiwandi 421 305.**

**.. Appellant**

**V/s**

**The Head Master,  
Shree Satyanarayan Hindi High School,  
College Road,  
Dhamankar Naka,  
Bhivandi 421 305.**

**.. Respondents**

### **GROUND**

HOPE Organisation, Bhiwandi has preferred 2<sup>nd</sup> appeal seeking the following information from the Head Master, Shree Satyanarayan Hindi High School, Bhiwandi. From the appeal it was not very clear whether opportunity of first appeal have been availed or not. Regarding the application, the head master of the school has only replied that your application is improper. The hearing in this Commission took place on 10.8.2006 when the following were present: 1) Shri K.P.Upadhyaya,Head Master, 2) Shri Ramesh A.Patel of HOPE Organisation.

On going through the information, it appears that answers to a large number of questions and explanations have been sought instead of seeking information, which reads as follows:

“Details of information needed:

1. What is the foundation year of this school? Is this granted/funded by local state and central government? If yes, what are total amount of grant and for what purpose the grant is given? For past 10 years how much of the fund have you utilized and for what purpose.
2. What is the total strength of the students in your school from I standard to X standard? Do you charge any fee from student? For what?
3. What is the total area of your school building? How many class rooms does it have? How many students are in each class and in each section? What are the areas of each classroom? Does your school have a separate practical laboratory for science subject? Does your school have separate computer laboratory? Does syour school have telephone connection? Does your school have separate library? If yes, where? What are the books and
4. Who are the teaching and non teaching staff of your school? In which basis have you recruited them? Have you advertised in local/state newspaper about the vacancy available? Have you informed to state employment exchange about the recruitment? Have you recruited them through selection procedure? If yes, give evidence and list all teaching staff of your school, their date of recruitment and basis of recruitment, etc? Give category (SC/ST/OBC/NTA/Open) of all teaching and non-teaching staff of your school. Date of appointment of all staff of your school , salary of them paid till today. A;so specify how many teaching

and non-teaching staff are relatives of trustees, member of said trust running school and teachers, ex-teachers, principal of said school. We've heard about Mr. Vishwakarma Harikesh is teaching in your school at secondary section, is it correct? If yes, have you allowed him to run coaching classes under brand name "Suvidha Coaching Classes"? If it is correct that he is teaching in your school, by what rights have you appointed him? Have you informed state government about this? If you have appointed him what salary are you offering to him? Have you allowed Mr. Harikesh and other teachers to run coaching classes/take private tuitions? If no, why haven't you taken action on them on having evidence against them?

5. It is true that you don't give bonafide certificate to ex-students of your school? If yes, on what basis? Specify the law, which prohibits you to do so. If you haven't refused to do so, why have you refused Mr. Jain Vikas Amrutlal ex student of SSC of 1999 batch and Patel Rameshkumar Amarnath of same batch?
6. How much fee do you charge for giving leaving certificate, bonafide certificate and supplying SSC pass/fail marksheet and board certificate? Do you give receipt to students/donors after accepting money/fee from them? If yes, please keep for disposal before me. I want to personally examine all these documents (Under the Right to Information Act, 2005, which allow to examine any document and place of work to the interested citizen). If you don't give receipt, why? What is the reason?
7. Does your school hold parents meeting every month? If not, why?

8. Do you have hall or auditorium to perform play and other activities? If not why? If you have tied up with other organization, give their name and memorandum of agreement signed between you and them.
9. Have you submitted your trust's audited account before Charity Commissioner for subsequent 3 years (past and current)? If no, why? If yes, show it to me.
10. Who are the trustee/management/governing committee of the school? Give details.
11. Is it true that one of your clerks Mr. Pandey is running a school under name "Shree Ram Hindi High School?" If yes, has he rights to do so (becoming a full time servant, he is also holding post of principal of the said school and president of the said school's trust)? If not, have you ever given him show cause notice? If yes, when? Attach evidence and if not, why?
12. What are the educational qualification and experience of all teaching staff and non-teaching staff working with your school "Shree Satyanarayan Hindi High School"? We want to take their teaching ability test in presence of qualified Government Authority in subject, which they are teaching tell the date when should we do this?
13. What are the assets (movable, immovable, bank accounts and all) of the school, trust and in whose name is it? What are the assets, property do all trustees, principal and teachers hold? In whose name? Where? Attach all documents regarding this.

14. We've heard that you have expelled Mrs. Choudhary Minakshi some years ago from your school/she has left your school, if yes, for what reason?
15. How do you pay salary to your staffs (teaching and non-teaching)? Through cash or cheque? If through cash, give me the photocopy of all the receipt for past 5 years. Also state why don't you pay all staff's payment through cheque/DD to direct to their account? Give reason."

Head Master stated that applications/appeal of the Applicant was not suitably stamped as per the rules of the Government of Maharashtra and, therefore, were returned. I asked the Head Master whether the school suo moto has done the voluntary disclosure of the information under section 4 of RTI Act, 2005. The Head Master told that they have not done so. It is my observation that, large number of privately managed but substantially Government aided Educational Institutions, have not made such disclosure of the information under section 4. Commission had also separately taken up with Education Department that they should see to it that the Head Masters of such schools are properly trained in the implementation of the RTI Act, 2005. The Head Master agreed that by 31.8.2006 such information under section 4 would be prepared and made available to the public at large. The Applicant has also agreed to seek any further information from the School only after going through the information made available by the School under Section 4 of the RTI Act, 2005. I, therefore, pass the following:

**ORDER**

Appeal is disposed off in terms of above.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 14.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/135//02**

**Deepali M. Hodge,  
7/77, Old P & T Colony,  
Gultekdi,  
Pune 37.**

**.. Appellant**

**V/s**

**Registrar,  
Pune University,  
Ganesh Khind,  
Pune 411 007.**

**.. Respondent**

### **GROUND**

Ms Deepali M. Hodge, Pune had applied to PIO, Pune University asking for the following information under the Right to Information Act 2005 on 7.12.2005:

“(i) Xerox copy of answer paper of Zoology Theory Paper I (21512), S.Y.B.Sc. Exam held in May 2005; (ii) Model answer along with marking scheme for the same paper.”

The PIO, Pune University by his letter dt. 27.12.2005 has rejected this application stating that in Pune University there is facility of re-totalling and re-valuation and as per the Ordinance 149(8) of Pune University the answer sheet Xerox copy cannot be made available. Similarly he has stated that model answers along with marking scheme for the same paper cannot be made available being of confidential nature.

Being aggrieved by this order, the Applicant filed appeal under Section 19(1) of RTI Act, 2005 to the Appellate Authority of the University of Pune. The Appellate Authority has partly acceded to the appeal and directed that the copy of model answer sheet and scheme of marking should be given to the Applicant. However, Xerox copy of the answer sheet cannot be given.

Being aggrieved by the said order dt. 10.2.2006, the Appellant filed 2<sup>nd</sup> appeal with the State Information Commission on 22.2.2006 which was heard on 7.5.2006. The following were present:

1. Shri B.D.Udhane, PIO, Pune University
2. Dr. D.D.Deshmukh, Registrar, Pune University
3. Prof. Dr. Atul Bagul – Representative of Deepali Hodge.

The short question to be decided in this case is whether the student is entitled to get copy of the answer sheet under RTI Act? The verdict on whether the copies of answer sheet could be made available to the candidate has been pronounced by the Supreme Court and also the Bombay High Court on various occasions and they have held that the students do not have the right to know about their performance or to verify the correctness of the valuation made by the examiners and certain amount of secrecy and confidentiality will have to be maintained. Moreover there has to be some finality in such examinations otherwise it may lead to gross and indefinite uncertainty and it would be a chaotic state of affairs.

The Universities & Boards have various safeguards to ensure that the valuation made is correct and Pune University has got the mechanism of revaluation. If any candidate feels that his answers were not evaluated properly he can take recourse to revaluation. The model answer sheets have been made available to the candidates and, therefore, candidates can assess their performance to some extent. The question is whether as a matter of fundamental right or RTI the student can rightfully get the copies of the answer sheets has to be answered in negative in view of the various verdicts by the Courts. The Appeal is, therefore, rejected.

**ORDER**

Appeal is rejected.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 16.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/344//02**

**Shri D.K.Deshpande,  
Deputy Commissioner (Entertainment Duty)  
Divisional Commissioner Office,  
Nagpur Division,  
Civil Lines, Nagpur.**

**.. Appellant**

**V/s**

**Joint Secretary,  
General Administration Department,  
Mantralaya, Mumbai.**

**.. Respondents**

**GROUNDS**

Shri D.K.Deshpande, Deputy Commissioner (Entertainment Duty), Regional Commissioner's Office, Nagpur has given application under Section 6 of RTI Act on 20.3.2006 to the PIO of GAD seeking information on point pertaining to the list of Deputy Collectors being considered for selection in Indian Administrative Service in 2005. The PIO has informed that out of 6 points mentioned, 3 points viz. item nos. 1,5 and 6 pertain to R&FD and his application for replying on those points has been sent to R&FD. Item nos. 2, 3 and 4 have been considered in GAD and certain information has been given.

Being aggrieved by incompleteness of the information given the Applicant has filed appeal with the Appellate Authority and Joint Secretary, GAD on 3.7.2006. The Appellate Authority on 10.7.2006 gave its order

stating that it agrees with the information given by the GAD as regards its correctness and completeness.

Being aggrieved by this order the Applicant, Shri Deshmukh has filed 2<sup>nd</sup> appeal with this Commission on 21.7.2006 which was heard on 21.8.2006. Out of 3 points considered by GAD only points on which Shri Deshmukh still has got grievance and is demanding that he should be given the statement of candidates sent to UPSC in 2005 for consideration of selection of Deputy Collectors in IAS along with evaluation of the candidates' CRs. GAD has stated that such proposal is received by GAD from R&FD, which does not contain the evaluation of CRs of the Officers under consideration. The process of sending the proposal to UPSC is done by the Committee comprising of UPSC, Central Government and State Government representatives. On hearing the appellant it is felt that he has more grievance about his name being included first and then deleted in the list of 18 candidates. On enquiry with the Joint Secretary, it was told that the list of 2005 nominees to IAS has still not been finalized. Since this process is not yet complete and taking into consideration the purpose of the Confidential Report and since it is not in the public interest to disclose how each member of the evaluation committee evaluated the CRs of the candidates the Appeal filed by the Applicant is rejected. The Applicant has got further queries as regards how some of the officers in the list of 18 candidates have been appointed as CEOs of ZPs even though they have not yet been selected in IAS, he was informed that he may take up this matter with the Government.

**ORDER**

Appeal is rejected.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 21.8.2006

**Before the State Information Commission, Maharashtra – Appeal under section 19(3) of RTI Act, 2005.**

**Appeal No.2006/362//02**

**Shri Sardar Harjitsingh Tirthsingh Sahani,  
5-1-55/1, Usmanpura, Near Post Office,  
Aurangabad**

**.. Appellant**

**V/s**

**Superintending Engineer,  
MSEDC, Mill Corner,  
Aurangabad**

**.. Respondent**

### **GROUND**

The applicant has asked documents for permitting (sanction) connection AG-60963 and AG 60960 (Agr.Pumps) on 1.10.2005 from SE, MSEDC under RTI Act, 2005.

The relevant papers are not available and even after strenuous search (S.E. has brought the papers to show which employee had conducted the search in the office), the papers could not be located.

Under such circumstances, one has to reluctantly agree that the Applicant cannot be helped.

It was told that papers pertaining to 1971 connection were available and given to the Applicant. This shows no malafide intention on the part of the office is not able to give papers pertaining to much later date.

**ORDER**

Appeal is disposed off in terms of above.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 25.8.2006

**Before the State Information Commission, Maharashtra – Appeal  
under section 19(3) of RTI Act, 2005.**

**Appeal**

**No.2006/332//02**

**Shri Sachin B. Dhumal,  
57, Safalaya,  
N.M.Joshi Marg,  
Mumbai 400 013.**

**.. Appellant**

**V/s**

**Deputy Chief Engineer (Bldg. Proposal)  
Western Suburbs,  
Babha Hospital Building,  
1<sup>st</sup> floor, R.L.Patkar Marg,  
Bandra (West), Mumbai 400050.**

**Director (Engg. Services & Projects)  
MCGM,  
Mahapalika Marg,  
Mumbai 400 001.**

**.. Respondents**

**GROUNDS**

The Applicant Shri Sachin B. Dhumal has applied to BMC under section 6 of RTI Act, 2005 on 19.1.2006 regarding the information required as described below:

- i) Certified copies of the IOD with plan;
- ii) Certified copy of the C.C.
- iii) Certified copies of BCC with plan;
- iv) Certified copies of occupation certificate with plan of the file under reference.

The Applicant has requested the above said information in respect of BMC file bearing no. GB/586/A, dt. 12.11.1963 or 9.1.1968.

In response to the application, the search was taken in the office of the Deputy Chief Engineer (Building Proposal Dept.), Bandra (W) and it was seen that the file was not traceable. Accordingly, applicant had been replied on 7.2.2006 that the information requested by him is very old i.e. more than 20 years old and not traceable.

Subsequently, the Applicant had made appeal to Dir. (E.S.&P) under Section 19(1) of RTI Act, 2005 regarding the above subject matter. The said appeal was replied under No. Dir. (ES&P)/15/MRI, dt. 22.2.2006 by Dir. (ES&P) informing the applicant and directed PIO to take the diligent search of the file and to inform the applicant accordingly.

As per the direction of Appellant Authority i.e. Director (ES&P) a diligent search has been taken to trace out the file referred by the Applicant. From the available record with Building Proposal, BMC it was seen that the file was recorded on 15.4.1968 and inspite of diligent search the same was not traceable. Accordingly, the applicant was replied on 20.3.2006.

Being aggrieved by this, Appellant had preferred 2<sup>nd</sup> Appeal under section 19(3) of the Act to this Commission, which was heard on 31.8.2006.

Appellant was not present. From BMC Shri Khanolkar, PIO was present.

Even after diligent search, if the file is not traceable, unfortunately the Appellant cannot be helped. However, Commission directs Municipal Commissioner to set the record of this very important department in order so that information seekers are not deprived of their lawful right to see the files. The copy of this order should also be sent to the Municipal Commissioner, MCGM.

**ORDER**

The appeal is disposed off in terms of above.

MCGM Municipal Commissioner to take action in respect of the records of the Building Proposal Department as mentioned above.

**(Dr. Suresh V. Joshi)**  
**Chief Information Commissioner**

Place: Mumbai.

Date: 31.8.2006