

IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.20 OF 2012

Public Concern for Governance Trust Petitioner

Vs.

State of Maharashtra Respondent

Mr. Jamshed Mistry with Mr. Dipesh Siroya for the Petitioner.

Mr. P.P. Kakade, GP, with Mr. B.V. Samant, AGP, for the Respondent-

State. CORAM: S.C. DHARMADHIKARI & R.I. CHAGLA, JJ. DATE : DECEMBER 03, 2019 P.C:

1. The petitioner has filed this PIL so as to seek an effective enforcement and implementation of The Right to Information Act, 2005 ("RTI Act, 2005").

2. From time to time certain orders were passed in this PIL to ensure that this enactment does not become a dead letter.

3. The enactment is in larger public interest. It is not as if the right to information is a right derived by the citizens from the RTI Act, 2005. Be it known to everybody that right to information is implicit and inbuilt in the right and freedom Page 1 of 3 suresh 904-PIL-20.2012.doc guaranteed to a citizen under Article 19(1)(a) of the Constitution of India. The right to free speech and expression includes within it the right to obtain information. That is how this constitutionally recognised and permitted right is made meaningful and its enforcement is now serving a larger public purpose. It is only the enforcement machinery which is created by the RTI Act, 2005.

4. Now because the information has to be provided and the denial is only in exceptional cases, that the State suddenly finds itself in a fix for thousands of applications are received day in and day out by not only the State Government but all such entities and agencies discharging the obligations and functions of the State. It is, therefore, clear that the local bodies and all those authorities having the trapping of a State are covered by the law. As far as the State Government is concerned, it was handicapped for want of staff. On account of this PIL and certain directions by the Hon'ble Supreme Court of India, Now the Recruitment Rules have been framed. Though the Recruitment Rules are of 2018, the affidavit filed today assures us that the State Government will duly abide by these Rules and fill up the posts or vacancies arising from time to time.

5. The affidavit informs us that the process is ongoing Page 2 of 3 suresh 904-PIL-20.2012.doc and merely because there are vacancies, the State Government or the machinery will not deny information to the members of the public if that is otherwise to be made available. In other words, save and except the exceptions carved out by the law, the information will be provided and in a timely and orderly manner. For that purpose, staff will be recruited and today the position, as recorded in para 14 of this affidavit, is that out of the sanctioned posts (138 in number), 124 have been filled in and 14 are vacant.

6. As far as these vacant posts are concerned, Mr. Samant assures that the process will be initiated in terms of the Recruitment Rules and duly completed. 7. For that purpose, we place this matter on 14-1-2020. We hope and trust that by that time further progress will be made.

(R.I. CHAGLA, J.) (S.C. DHARMADHIKARI, J.)