

Presented on : 14-02-2020  
Registered on : 14-02-2020  
Decided on : 29-02-2020  
Duration : Y M D  
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BEFORE THE FIRST APPELLATE AUTHORITY AT NASHIK  
(Presided over by : Vikas S. Kulkarni)

R.T.I. Appeal No.- 04/2020

Exh.-04

**Shri. Nikam Digambar Hari.**  
Asst.Suptd.  
District Court,  
Nashik.

} ...Appellant

Versus

**The Information Officer-  
Cum Registrar,**  
District & Sessions Court,  
Nashik.

} ...Respondent

Appeal U/Sec.19(1) of the Rights to  
Information Act, 2005.

**ORAL JUDGMENT**

(Delivered on February 29, 2020)

1. This appeal u/Sec. 19(1) of the Central Rights to Information Act (for short 'the RTI Act'), emanates from order of rejection dated 18.01.2020 passed below RTI Application No. 138/2019 by the respondent.

2. Briefly stated factual-matrix, necessary for adjudication of the present appeal is as under :-

The appellant Asst. Supdt. of Dist. Court, Nashik sought information qua-

- (i) Notice of O.No. आस्था/३४/खानिचौ/७३९/१९ dated 01.11.2019,
- (ii) Reply thereto dated 04.11.2019 and
- (iii) Copy of office Note and order causing issuance of Notice (supra) or decision if any arrived at.

Said application came to be rejected by respondent on 18.01.2020. And appellant was communicated the decision vide O.No.555/2020. Hence, this appeal.

3. Upon above facts, following points together with my findings arise for determination.

<b>POINTS</b>	<b>FINDINGS IN</b>
1. Whether appellant is entitled to information sought for ?	Affirmative.
2. What order ?	As per final order.

### R E A S O N S

4. Heard the appellant and respondent in-person. The former has submitted that, there is reason to believe

that in fact the respondent was nowise directed to notice the appellant, the act of respondent seems to be ultra-virus, needs to be verified.

5. The latter, on the contrary has justified the impugned order and submitted that, the disclosure of information(s) sought is exempted under the Act muchless pending inquiry.

6. On going through the record, it is conspicuous that, the conduct of appellant and four others, the members of '*Whats-App*' group was complained off to Hon'ble Then Principle District Judge, Nashik, through a Office-Note on 23.10.2019 and (allegedly) the respondent was directed to call upon them to explain in that regard. Thus, the source of issuance of notice is the Office-Note itself.

7. The respondent alleges that, the information sought is exempted under Section 8(1)(h) read with Rule 13(d) of the Act. There are three kinds of exemptions viz; absolute, conditional and specific. Of them, the alleged exemption under Section 8(1)(h) speaks as under. It falls under category of conditional exemption :-

**Sec.8. Exemption from disclosure of information-**

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen..

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-- (Deleted)

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(h) information which would impede the process of investigation or apprehension or prosecution of offender (underline added).

8. Under second Proviso provided that, those matters which come under exemptions specified in this section shall not be disclosed.

9. It would apposite to reproduce Rule 13(d) of the Rules under the Act.

**Rule 13- Exemption from disclosure of information :**

The information specified under Section 8 of the Act shall not be disclosed and made available, and, in particular the following information shall not be disclosed :-

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--((a) to (c) deleted )

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(d) Information which would impede the process of investigation, apprehension or prosecution of offenders; or information which relates to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual unless the Central Public Information Officer or the

*State Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information ; (underline added)*

10. Keeping in mind the above provisions, if the factual scenario of present matter is appraised, it is evident that, conversation amongst the Social Media Group was complained off by way of office Note by the respondent. Based thereupon the appellant and four others were called upon to explain qua the said alleged *defamatory conversation about on-going process of promotion to the post of Bailiff*.

11. Thus, it would not impede the process since there was nothing to be investigated or apprehended or on-going prosecution, nor the information sought therein relates to any public interest, or which would cause unwarranted invasion of privacy of the individual. Nor this Authority is satisfied that the larger public interest justifies the disclosure of such information as contemplated by Rule 13(d) of the Act or envisaged by Sec. 8(1)(h) of the Act.

12. On the contrary, the appellant has every right to get information which goes to the root of cause, sufficient to defend himself, if required in future.

13. In view of above, the impugned order withholding information available does not sustain under Law. Thus, an interference therein is inevitable u/Sec. 19(1) of the Act.

14. In the result, appeal bears substantive merits, deserves to be allowed. Hence, order :

### ORDER

1. Appeal stands allowed as under -

The impugned order dated 18.01.2020 passed below RTI Application No. 138/2019 by the respondent stands quashed and set-aside.

2. R.T.I. Application No. 138/2019 stands allowed as under -

Respondent shall furnish the appellant information sought for forthwith.

Sd/---

Nashik.

February 29, 2020.

**(Vikas S. Kulkarni)**

Appellate Authority Under RTI  
Act, 2005 & District Judge-1  
and Additional Sessions Judge, Nashik.

