

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/49/02

Mr. Haresh M. Sampat,
B-1, Vineet Apartment,
Majithia Nagar Compound,
S. V. Road, Kandivali (W),
Mumbai – 400 067.

... Appellant

V/s

First Appellate Officer cum Registrar
State Consumers Disputes Redressal Forum,
Old Administrative College, Hajarimal Somani Marg,
Opp. C.S.T. Station, Mumbai – 400 001.

... Respondent

Public Information Officer cum Registrar
District Consumers Disputes Setu Building,
Thane.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding cases against Pal-Pengest Ltd – no of cases filed against them for refund of deposit given for car, their names and addresses, no of times their director or legal representative appeared before Bandra Consumer Forum, no. of cases finalized with refund received and names and addresses of these who received the refund and no of complaints dismissed on account of non appearance of the complainant.

The case was fixed for hearing on 18.06.2008. The appellant did not turn up. The respondent was present. The responses from the PIO and the First Appellate Authority have been that the information sought is not available because records relating to them have been destroyed. The RTI Act insures access to available information and nothing much can be done in view of the fact that records are not available. Under these circumstances, I am constrained to close the case.

Order

The case is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 05.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/205/02

**Mr. Chandrakant Damodar Soparkar,
Bldg. No. 11, 5th floor,
167, Guru Hargovindji Marg,
Chakala, Andheri (E), Mumbai – 400 093.**

... Appellant

V/s

**First Appellate Officer cum Dy. Commissioner of Police
C. B. CID, Chatrapati Shivaji Market,
3rd floor, M. R. A. Marg, Mumbai.**

... Respondent

**Public Information Officer cum Dy. Commissioner of Police,
Crawford Market, Mumbai – 400 001.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information from the Economic offences wing, Crime Branch, CID Mumbai.

- 1) Copy of Panchanama of recovery of Discrepancy Acceptance Letter (“DAL”) along with the said letter
- 2) Extract of the dispatch book of Allahabad Bank, IFB, Mumbai from 29.11.2004 to 02.12.2004
- 3) Copy of the letter sent by EOW addressed to Mr. Omkar Nath Singh, Chairman & Managing Director, Allahabad Bank, Head Officer, Kolkata – 700 001.
- 4) Copy of letter sent by EOW addressed to Mr, S K Goel, Executive Director, Allahabad Bank, head Office, Kolkata – 700 001.
- 5) Copy of reply sent by Mr. Omkar Nath Singh, Chairman & Managing Director, Allahabad Bank, Head Office, Kolkata – 700 001 to EOW.
- 6) Copy of reply sent by Mr. S K Goel, Executive Director, Allahabad Bank, head Office, Kolkata – 700 001 to EOW.

This information was denied to the appellant on the ground that the disclosure would impede the process of investigation (8(1) (h) of the RTI Act 2005). The First Appellate Authority has confirmed that the information sought should not be furnished. Hence this appeal.

The appeal was fixed for hearing on 12.06.2008. The appellant and the respondents were present. It has been revealed during the argument that the investigation is over and charge sheet has been filed. Section 8(1) (h) is no longer relevant as the investigation is over.

In view of the above discussion I direct that the required information should be furnished. I pass the following order.

Order

The appeal is allowed. Respondent to furnish information within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/409/02

**Mr. Ashok Ramnath Shukla,
17, Rawal Chamber, Gr.Floor,
Aai Mai Merwanji St.
Parel, Mumbai – 400 012.**

... Appellant

V/s

**First Appellate Officer cum Secretary
SRA, Grih Nirman Bhavan,
5th floor, Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Asstt. Registrar
SRA, Grih Nirman Bhavan,
5th floor, Bandra (E), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding SRA scheme for Pandit Cooperative Housing Society, Shastrinagar, Bal Rajshwer Road, Mulund (W), Mumbai. He sought information on 17 points. He was directed to get in touch with the administrator and the society. The appellant went in appeal under section 19(1) of the RTI Act. The First Appellate Authority in his order dated 15.01.2007 gave certain direction to the appellant as well as the PIO. The appellant is not satisfied and this appeal.

The appeal was fixed for hearing on 30.06.2008. The appellant was present. The Asstt, Public information was also present. He has given his submission in writing.

I have heard the parties and also gone through the papers on record. The direction to the appellant to get in touch with the Administrator and seek information is not correct. The RTI Act casts responsibility on the person who holds the information or under whose control the information is held. The list of points on which information is sought clearly

indicates that a lot it is held under their control. I therefore come to the conclusion that information sought must be furnished.

Order

The appeal is allowed. Information to be furnished within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/398/02

Mr. Ganesh Vithal Devmane
121-B, 7 – Halima Villa,
Vakola Masjid, Pandit Jawaharlal Nehru Road,
Santacruz (E), Mumbai – 400 055.

... Appellant

V/s

First Appellate Officer, M.M.R.D.A. 7th floor,
M.M.R.D.A. Building, Bandra-Kurla Complex,
Mumbai – 400 051.

... Respondent

Public Information Officer cum Chief Executive Officer,
Town & Country Planning Division,
M.M.R.D.A. 7th floor,
M.M.R.D.A. Building, Bandra-Kurla Complex,
Mumbai – 400 051.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding construction being carried out on the land on which the Drive – in – theatre existed. The PIO has denied him the information on the ground that the Chief Information Commissioner by his order dated 20.02.2007 has restrained the First Appellate Authority from disclosing the information relating to the development of the Plot. The PIO therefore also is covered by that order and cannot pass any order permitting disclosure of information. The appellant is not satisfied and hence this appeal.

The case was fixed for hearing on 27.06.2008. It seen that the appellant has come to the commission in the second appeal without going to the First Appellate Authority under section 19(1) of the RTI Act. The authority to hear the first appeal is different and commission can hear only the second appeal. Since this procedure has not been followed the appeal is not maintainable. The appellant should approach the First Appellate Authority and then only to the commission second appeal.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/286/02

Mr. Natvarlal Keshav Chatriy
Ramchandra Surve Chawl, Kasturba Road No. 3,
Borivali (E), Mumbai – 400 066.

Vakola Masjid, Pandit Jawaharlal Nehru Road,
Santacruz (E), Mumbai – 400 055.

... Appellant

V/s

Public Information Officer cum Assitt. Police Commissioner,
Officer of the Police Commissioner,
Ground Floor, D. N. Road, Mumbai – 400 001.

... Respondent

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information regarding action taken on his application requesting redressal of his grievances. It appears that he had lent some money to one Shri. Chunnilal Purohit. He wants his money back but is not getting. He lodged complaint with the local police who tried out an amicable statement but the same has not succeeded. The police have advised him to approach the appropriate court of law.

The case was heard on 17.06.2008. The appellant was present. The PIO was also present. In view of the background of the case it is clear that the appellant seeks redressal of his grievances. This beyond the purview of the RTI Act. I therefore close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/384/02

**Mr. Krushna Mohan Nair
4, BHaveshwar Maya, 7th Road,
Rajawadi, Ghatkopar, Mumbai – 400 077.**

... Appellant

V/s

**First Appellate Authority cum Assitt. Labour Commissioner,
Office of the Labour Commissioner, 6th floor,
Commerce Central, Tadadev, Mumbai – 400 034.**

... Respondent

**Public Information Officer cum Labour Officer,
Office of the Labour Commissioner, 6th floor,
Commerce Central, Tadadev, Mumbai – 400 034.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his various letters addressed to officers in the office of the Labour Commissioner, Govt. of Maharashtra. The information furnished by the Public Information Officer and the First Appellate Authority did not satisfy the appellant and hence this second appeal.

The appeal was fixed for hearing on 26.06.2008. Appellant and respondents were present. The appellant has stated that he has still not got satisfactory reply from authorities. His main grievances are that his increment has not been released since 1996 the company is following unfair labour practices and he is being victimized on some or the other ground. The respondents have made their submission in writing. They have contended that the appellant's various letters have been attended to, information furnished to him from time to time. They have admitted that the appellant has not been given any increment since 1996 and also informed the commission that their enquiry with the management revealed that the company does not pay according to any scale and increment or any raise in the salary is dependent on employee's performance. The respondents have conducted inspection of the establishment and came across

irregularities for which they filed a case in the court Metropolitan Magistrate, Dadar. The same is pending as of now.

I have gone through the case papers also considered the arguments advanced by parties. It is very clear that the management is not at all sympathetic with the appellant. As reported by the Labour Commissioner, they have also indulged into unfair labour practices. The RTI Act, however, ensures access to available information and commission is not empowered to take remedial measures. As far as the RTI Act is concerned I do not see any lapses on the part of respondents. They have been keeping the appellant informed and have furnished the desired information. Under these circumstances I am constrained to pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/405/02

**Mr. Vilas Jagnath Hindlekar
88/2625, Pantnagar, Ghatkopar (W),
Mumbai – 400 075.**

... Appellant

V/s

**First Appellate Authority cum District Govt. Lawyer,
Office of the District Govt. Lawyer & Govt. Pleader,
Sindhudurg Nagari, ORAS.**

... Respondent

**Public Information Officer cum District Govt. Pleader
District Court, Sindhudurg Nagari, ORAS.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his various letters addressed to officers in the office of the Labour Commissioner, Govt. of Maharashtra. The information furnished by the Public Information officer from the office of the District Govt. Pleader, Sindhudurg, ORAS. The district govt. Pleader under his letter dated 21.03.2007 informed the appellant that information regarding criminal revision application no 14/2000 should be obtained from the court of the district and sessions judge, Sindhudurg ORAS. The appellant kept on insisting that the information has to be furnished by the Public Information Officer. The District govt. Pleader by his letter dated 19.04.2007 again communicated the same It is important to note that these two letters were written by different district govt. Pleaders. The appellant was not satisfied with this reply and has approached the commission.

The case was fixed for hearing on 27.06.2008. The appellant and the District Govt. Pleader, Sindhudurg were present. The DGP has tried to explain that Govt. of Maharashtra by resolution dated 26.04.2006 had nominated public Information Officers and the First Appellate Authority in the office of the District Govt. Pleaders of the state. This resolution was not brought to the notice of the DGP who wrote the letter dated

21.03.2008. The present DGP despite inquiry in the office was also not given information about existence of Govt. Resolution dated 26.04.2007. He therefore wrote the letter dated 19.04.2007. He also stated that after realizing the seriousness of the issue, he collected relevant information and had brought with him. The set of document was handed over to the appellant who has acknowledged it. Thus the information finally has been furnished.

This is a fit case for enquiry and punishment under section 20 of the Right to Information Act. I am however inclined to take a lenient view in view of the explanation given by the current DGP that the Govt. Resolution dated 26.04.2006 was not brought to the notice of the previous DGP as well the current one. The misleading communication sent to the appellant was because of the lack of knowledge of the existence of Govt. Resolution dated 26.04.2006. I, therefore, recommend that the DGP must initiate an internal enquiry and fix responsibility. He should take action as deemed fit so that such carelessness is not repeated in future.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/382/02

**Mr. Mohan Bagvan Gadekar,
9/1516, Government Building,
Bandra (E), Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Authority cum Sale Tax Joint Commissioner,
Thane Division, Officer of Thane, Sale Tax Building,
4th Floor, District Officer, Court Naka, Thane (W).**

... Respondent

**Public Information Officer cum P.A to Sale Tax Joint Commissioner,
Thane Division, Officer of Thane, Sale Tax Building,
4th Floor, District Officer, Court Naka, Thane (W).**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for information regarding filling in vacancies of class III from 1993 to 2006, no of post available for promotion from class IV to class III, 6 employees of class IV were eligible for promotion from which year and why were they not promoted, whether this non action has led to suffering of administrative work and persons responsible for that and whether select list of eligible persons from class IV has been made etc. The PIO under his letter dated 26.08.2006 has furnished pointwise information. The appellant went in appeal under section 19(1) of the RTI Act and the First Appellate Authority by his order dated 27.12.2006 directed the PIO to hand over copies of correspondence with CST's office in respect of promotion of class IV employees during the year 1997-2005 & proceeding sheets of the said file as requested by the appellant. The appellant has come in appeal against this order.

The case was fixed for hearing on 25.06.2008. The appellant and the respondents were present. The appellant has made his written submission. His contentions are the same as in his applications and he has also pleaded that action should be taken against those who did not act in time and deprived class IV employees from promotion leading to

their mental torture. The respondents have argued that information required has been furnished and they have tried to explain the reasons for delay.

After going through the case papers I have to the conclusion that the information required has been furnished. The order passed by the First Appellate Authority directed the PIO to furnish the last piece of information. The appellant should try to get the information and in case of difficulty or denial can approach the commission. As far as delay in promotion and the resultant loss of mental peace is concerned, it goes without saying that timely promotion is a great morale booster. It was important in this case because it meant change of class – from class IV to class III. It is sad that someone had to retire without getting promotion although there was a vacancy and the person was eligible. It is high time govt. should consider doing something so that the lowest man in the beaurocratic hierarchy does not suffer because somebody's fault. I would urge upon govt. to consider whether in such cases the person can be deemed to have been promoted for the purpose of pension. With these observation I close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/284/02

**Mr. Krushnachand Rampat Yadav,
3/504, Shyam Sunder Co-operative Housing Soc.
Keshavrao Kadam Marg,
Mumbai Central, Mumbai – 400 008.**

... **Appellant**

V/s

**First Appellate Authority cum Joint Chief Officer,
(Build. Repairs & Reconstruction Board),
MHDAD, Griha Nirman Bhavan,
Bandra (E), Mumbai – 400 051.**

... **Respondent**

**Public Information Officer cum Dy. Chief Officer,
Co-operative Cell, (Build. Repairs & Reconstruction Board),
MHDAD, Griha Nirman Bhavan,
Bandra (E), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding transfer of gala no 504 from his late father's name to his name. He applied on 29.03.2006 and his work was done on 29.09.2006. He has also pleaded for action against these responsible for this delay.

The case was fixed for hearing on 17.06.2008. The appellant and respondent were present. The appellant has got his work done and has no grievance on that count. He, however, insisted on penalizing those responsible for delay. The respondent has given his explanation for delay. He has stated that this building was constructed under Rajiv Gandhi Prakash. This scheme got closed in 1998. After the closure of the scheme offices had to be reorganized and papers got misplaced during the process. The papers relating to the appellant's case was not traced on 07.08.2008. There was no deliberate attempt on respondent's part to delay the transfer.

After going through the file and considering the submission made by the respondent I have come to the conclusion that there was no deliberate attempt to delay the transfer. I therefore find no reason to penalize the respondents.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/432/02

**Mr. Nadeem M. Oomerbhoy,
Nariman Building, 6th Floor,
Flat 12A, 162 M.K. Road,
Mumbai – 400 021**

... Appellant

V/s

**First Appellate Authority cum Assitt. Commissioner,
G/South Division, Bhrihan Mumbai Mahapalika,
N. M. Joshi Marg, Parel, Mumbai – 400 013.**

... Respondent

**Public Information Officer cum Assitt. Engineer,
G/South Division, Bhrihan Mumbai Mahapalika,
N. M. Joshi Marg, Parel, Mumbai – 400 013.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had lodged a complaint against amalgamation of flat No 2A and 2B in Andromeda CHS, Worli. The PIO informed him that this does not come within the RTI Act and closed the case. The first Appellate Authority has confirmed the order of the PIO. This appeal is filed against this order.

The case was fixed for hearing on 03.07.2008. The appellant has sent his representative duly authorized. The respondents were present. The respondents have stated that although the appellant's case under RTI has been rejected, the MCGM would take action under normal regulation. They have also stated that their enquiry reveals that the flat was locked at the time of the visit of their officer. The appellant has admitted that the flat is under court receiver because of some dispute.

In the light of the above discussion I have come to the conclusion that there is no need to entertain this appeal under RTI. It has arisen out of a civil dispute which would be settled by the Civil Court.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 03.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/433/02

**Mr. Nadeem M. Oomerbhoy,
Nariman Building, 6th Floor,
Flat 12A, 162 M.K. Road,
Mumbai – 400 021**

... **Appellant**

V/s

**First Appellate Authority cum Assitt. Commissioner,
'D' Division, Bhrihan Mumbai Mahanagarपालिका,
Nana Chowk, Grant Road, Mumbai – 400 007.**

... **Respondent**

**Public Information Officer cum Assitt. Engineer,
'D' Division, Bhrihan Mumbai Mahanagarपालिका,
Nana Chowk, Grant Road, Mumbai – 400 007.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for a copy of the inspection carried out by MCGM under section 488 of the MMC Act 1988. It seems that the appellant had complained against the occupant of the 1st floor of Russi Villa 55, Poddar Road, Mumbai. The Inspection was carried out and a copy of the inspection report was furnished to the appellant. The appellant went in appeal against the order of the PIO. The First Appellate Authority confirmed the order. The second appeal is against this order.

The case was fixed for hearing on 03.07.2008. The appellant has sent his representative and respondents are present. The respondents have stated that the inspection report has been furnished and photographs have also been given. The appellant wanted to know whether inspection of the inspection report can be allowed.

I have gone through the case papers and also considered the arguments advanced by parties. I have come to the conclusion that there is nothing to appeal against. The information has been furnished and nothing further is required. Inspection is ordered where full information has not been given or the PIO is not sure what the appellant wants. Inspection facilitates locating the point / issues on which information can be asked. Here very specific information has been sought and the same has been furnished.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/435/02

**Mr. Madan Mohan Mishra
Mangla Flour Mill, Plot No. 26,
Shop No. 4, Jawahar Nagar, road no. 4,
Goregaon (W), Mumbai – 400 062.**

... **Appellant**

V/s

**First Appellate Authority cum Chief Executive Officer,
SRA, 5th Floor, Griha Nirman Bhavan
Kala Nagar, Bandra (E), Mumbai – 400 050.**

... **Respondent**

**Public Information Officer cum Chief Executive Officer,
SRA, 5th Floor, Griha Nirman Bhavan
Kala Nagar, Bandra (E), Mumbai – 400 050.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had information regarding SRA project on CTS No 697 Pahadi, taluka Goregaon, Mumbai. The application had gone from SRA to district Collector and there have been a lot of unwanted correspondence. The result is that information has not been furnished.

The case was fixed for hearing on 03.07.2008. The appellant was present. The Asstt. PIO was also present. He admits that information has not been furnished. After going through the case papers I have realized that the issues involved have not been appreciated by SRA. It is not important which agency has prepared Annexure II or the table survey. The approval is given by the SRA. The RTI Act requires that information has to be furnished by the public authority who “holds”. Here information or the one under whose control the information is ‘held’ how the information is held by SRA which might have formed the basis of approval.

In the light of the above discussion I direct the SRA to furnish whatever information is held by them / is available with.

Order

PIO to furnish information within 30 days failing which action will be initiated against him.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 03.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/418/02

**Mr. Rashid A. Khan
Akash Deep, Cooperative CHS,
5-A, Hansraj Lane, Indu Oil Mill Compound,
Byculla (W), Mumbai – 400 027.**

... Appellant

V/s

**First Appellate Authority cum Assitt. Commissioner,
'E' Division Mahapalika Office,
10, S. K. Haizuddin Marg, Byculla (E), Mumbai – 400 008.**

... Respondent

**Public Information Officer cum Assitt. Commissioner,
'E' Division Mahapalika Office,
10, S. K. Haizuddin Marg, Byculla (E), Mumbai – 400 008.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information:

Redevelopment of plot bearing C. S. No. 3/386, 5-A Hansraj Lane, Indu Oil Mill Compound, Byculla –(E) 'E' Ward, Mumbai – 400 027.

1. List of Legal/Authorized Tenants on the aforesaid plot.
2. List of Illegal/Unauthorized Occupants on the aforesaid plot.
3. List of Occupants who are subject to getting their tenancy legalized.
4. Whether any demolition order has been passed against the Illegal/unauthorized Occupants. If yes, then the list of the Illegal/unauthorized Occupants against whom demolition order has been issued.
5. Certified copy of the demolition order issued, if any.
6. Carpet area details of the Legal/Authorized Tenants and also whether Residential or Non-Residential.

The case was fixed for hearing on 01.07.2008. the appellant was present. The PIO has been represented. The appellant stated that he did not get complete information. He was not satisfied by the order of the PIO and the First Appellate Authority.

The PIO however has stated that all documents available has been furnished. The appellant admitted having received those documents but felt that the no of encroachment shown is less than what exists on the ground.

After going through the case papers and submissions made by parties I have come to the conclusion that the available information has been furnished. Collection,

compilation and furnishing of information involve more than one person and it is difficult to imagine that all of them will conspire to give less no of encroachers than the actual. I close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/410/02

**Mr. Harendra C. Modi
6, Ghanshyam Baug no. 3,
Ground Floor, Hansoti Lane,
Kama Gali, Ghatkopar (W),
Mumbai – 400 086**

... Appellant

V/s

**First Appellate Officer cum Dy. Municipal Commissioner,
Zone 6, Office of the Dy. Municipal Commissioner,
N Ward Building, 3rd Floor, Jawahar Road,
Ghatkopar (E), Mumbai – 400 077.**

... Respondent

**Public Information Officer cum Assitt. Engineer,
Officer of the Assitt. Engineer, 1st Floor,
Jawahar Road,
Ghatkopar (E), Mumbai – 400 077.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding extension of balcony by some members of his Society and erection of structure on the terrace of the society. He wanted copies of permission if any. The appellant was not satisfied by responses from the PIO and the First Appellate Authority and hence this second appeal.

The case was fixed for hearing on 30.06.2008. The appellant did not turn up. The respondents were there. It appears that initially the appellant did not get the information but finally the PIO and Asstt. Engineer Building and factories by his letter dated 12.10.2006 informed him that no permission was given and the question of supply of copies did not arise. The application's acknowledgement is on record. The first Appellate Authority also ordered that a copy be sent to him by post. The appellant has therefore received the information asked by him. In the light of the above it is proposed to close the case.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 10.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/451/02

**Mr. Sachin B. Dhumal,
2/205, Shivsmurti,
N.M. Joshi Marg,
Mumbai – 400 013.**

... **Appellant**

V/s

**First Appellate Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

... **Respondent**

**Public Information Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by his application dated 06.12.2006 requested for inspection of file No. SRA/ENG/529/K/W/Pvt Ltd. The PIO did not respond. He preferred the first appeal on 29.01.2007. The First Appellate Authority did not pass any order. Hence this appeal.

The case was fixed for hearing on 10.07.2008. The appellant did not turn. The PIO was present. There is nothing on record to show any attempt on the part of the PIO or the First Appellate Authority to provide the information sought. The PIO at the time hearing informs me that he has talked to the appellant who has agreed to avail of the facility of inspection I therefore pass the following order.

Order

The PIO to facilitate inspection to the appellant as requested by him within 30 days failing which action under section 20 of the RTI Act will be initiated against him.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 11.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/453/02

**Mr. Sachin B. Dhumal,
2/205, Shivsmurti,
N.M. Joshi Marg,
Mumbai – 400 013.**

... Appellant

V/s

**First Appellate Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

... Respondent

**Public Information Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by his application dated 06.12.2006 had sought certified copy of annexure I of file No.SRA/ENG/529/K/W/PVT/LOI. The PIO did not respond. He filed the 1st appeal with the First Appellate Authority but no order was passed. Hence this third appeal.

The case was fixed for hearing on 10.07.2008. The appellant did not turn up. The Asstt. PIO was there. There is nothing on record to show any attempt made by the Asstt. PIO / First Appellate Authority to furnish the information sought by the appellant. This is fit case for action under section 20 of the RTI Act. I pass the following order.

Order

The PIO is directed to provide the information sought by the appellant within 30 days. The PIO to show because why action under section 20 of the RTI Act should not be initiated against him. His reply to reach the commission within 30 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 11.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/452/02

**Mr. Sachin B. Dhumal,
2/205, Shivsmurti,
N.M. Joshi Marg,
Mumbai – 400 013.**

... Appellant

V/s

**First Appellate Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

... Respondent

**Public Information Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought a certified copy of annexure III of the file No./SRA/ENG/529/K/W/Pvt/LOI. The PIO by his letter dated 11.12.2006 informed him that the information sought cannot be furnished in view of section 8(1) (d) of the RTI Act 2005. No order has been passed by the First Appellate Authority and hence this appeal.

The appeal was fixed on 10.07.2008. The appellant did not turn up. The respondent was present. The respondent have made his written submission. The respondents in their written submission has contended that the requirement of annexure III was prescribed in 1997 to assess the financial capability of the developer to develop the project. Prior to this requirement, developers were required to furnish solvency certificate but it was revealed that developers did not possess financial certificate despite having a solvency certificate. This solvency certificate was substituted by annexure III. They have also brought to my notice that as per the existing instruction they are supposed to be confidential and submitted to the SRA in confidence.

I have gone through their submission and other relevant facts. Section 8(1) (d) does exempt confidential information or information given in confidence from disclosure. It also says that if the public interest outweighs the private interest or damage likely to be

caused because of disclosure, the same may be provided. There is nothing on record to show that the public interest in this case outweighs the private interest. This is not a fit case for making exception under section 8 allowing disclosure. I, therefore, confirm the order passed by the PIO.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 11.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/15/02

**Mr. Pramod H.Roongta,
Flat No. 5, Yashodhan, Plot No. 241,
Sector 3, Charkop, Kandivli (W),
Mumbai – 400 067.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Commissioner,
R/Central Division, Officer of the
Brihan Mumbai Mahanagarpalika,
Mumbai – 400 092.**

... Respondent

**Public Information Officer cum Assitt. Engineer
R/Central Division, Officer of the
Brihan Mumbai Mahanagarpalika,
Mumbai – 400 092.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information regarding the trench opposite to his building on 9th road which was dug up several months ago and he wanted to know by what time that was likely to be filled in. He had also sought to know whether there was any plan of concretizing the road between Charkop Bus Depot to signal (utkarsh building). The appellant is not satisfied with the response from the PIO and the First Appellate Authority and hence this appeal.

The case was fixed for hearing on 10.07.2008. The appellant did not turn up. Respondents were present. The respondents have made their submission in writing. It is revealed from the submission made by them that although there has been some delay in both responding to the appellant and attending to his grievances, the fact is that information required has been furnished. The trench in front of appellant's house has been restored. He has also been informed about the status of concretization of the road.

Since the appellant is not present, the documentary evidence submitted by respondent's shows that information has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 11.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/283/02

**Mr. Salvi S. K.
43 A, MHADA Colony, New Dindoshi,
Malad (E), Mumbai – 400 065.**

... Appellant

V/s

**First Appellate Officer cum Director,
Institute of Science,
Madam Cama Road, Mumbai – 400 032.**

... Respondent

**Public Information Officer cum Officer of the Director Institute of Science,
Madam Cama Road, Mumbai – 400 032**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding non payment of salary for 30 months. He also wants officers to be penalized for giving him misleading information. The appeal was fixed for hearing on 17.06.2008. The appellant was present. The PIO and the First Appellate Authority were also present.

I have gone through the papers on record. It seems that the issue of payment of arrears has been sorted out. There are papers to show that the bill has been submitted to pay and accounts officer. It is also revealed from the papers that the pay and accounts officer has raised some objections which I hope might have been replied. It is hoped that the appellant must have got his arrears by now.

After having said so, I cannot ignore the fact that this payment has taken abnormally long time. It is unusual. I have not been able to find out from record why has it taken such a long time. I there fore order that the the Director, Institute of Science, Govt. of Maharashtra should institute an enquiry to find out why has it taken such a long time. He should also initiate action against anyone found guilty / responsible for this delay. The commission should be kept informed of the final outcome /action.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 14.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/497/02

**Mr. Mohd. Yunus Ahmed
Varsha Adarsha Nagar,
Room No. BLH-321,
Kurla (E), Mumbai – 400 024.**

... Appellant

V/s

**First Appellate Officer cum Dy. Chief Officer,
SRA, 5th Floor, Bandra,
Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Dy. Chief Officer,
SRA, 5th Floor, Bandra,
Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding meetings of the Kurla Kadam CHS on different dates and copies of the minutes. There is nothing on record to show whether any replies have been furnished to the appellant.

The appeal was fixed for hearing on 14.07.2008. The appellant and respondents were present. The respondents have contended that the information sought by the appellant is not available with them and he has been advised to approach the Society. On being asked by the commission the purpose for which the information is being sought, the appellant replied that he felt that his name has been wrongly excluded from the list of eligible persons. I advised him to get in touch with the authority which has prepared annexure II with relevant proof. The appellant agreed to do so.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 14.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/455/02

**Mr. Gangji Bahi Dedhia,
405, Keshar Kunj, 2nd Floor,
Telang Road, Matunga,
Mumbai – 400 019.**

... Appellant

V/s

**First Appellate Officer cum F/North Division Office,
96, Bhau DAji Road, Matunga,
Mumbai – 400 019.**

... Respondent

**Public Information Officer cum F/North Division Office,
96, Bhau DAji Road, Matunga,
Mumbai – 400 019.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought following information:-

- (A) Please provide copy of ORIGINAL architectural building plan of B.M.C. F/North Building.
- (B) Are there any hazardous materials being stored in the building premises? Please reply YES or NO.
- (C) If answer to QUESTION (B) is YES, please provide precautions taken to store the hazardous chemicals/material.
- (D) M.L. Chowky and Civil Diffence office and are constructed in compalsary open place. YES/NO.

The PIO has under his letter dated 07.11.2008 has furnished the information. The First Appellate Authority did not respond to his first appeal. He has therefore preferred this second appeal.

The case was fixed for hearing on 10.07.2008. The appellant did not turn up. Respondents were present. It has been brought to my notice that the Pest Control Officer by his letter dated 28.05.2008has furnished the remaining information to the appellant.

He has taken abnormally long time to do so. I caution him to be timely to avoid action under section 20 of the RTI Act.

In view of the fact that the information has been furnished and also because the appellant has remained absent I order that the case be closed.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 11.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Complaint No.2008/189/02

Mr. Rajesh Mallik
Raajdhani Dairy Farm, Besant Road,
Khotwadi, Santacruz (W), Mumbai – 400 054.

... **Appellant**

V/s

First Appellate Officer cum Dy. Commissioner,
Bhrihan Mumbai Mahanagar Palika,
Paliram Road, Andheri (W),
Mumbai – 400 058.

... **Respondent**

Public Information Officer cum Assitt. Commissioner,
Bhrihan Mumbai Mahanagar Palika,
H/West Division, Bandra (W), Mumbai – 400 050.

GROUND

This complaint has been filed under Right to Information Act 2005. The Hon. Chief Commissioner, Maharashtra by his order dated 06.10.2006 had ordered that the Deputy Municipal Commissioner MCGM should furnish the information required by the complainant. The PIO has accordingly by his letter dated 03.03.2007 informed the complainant that final Plot No. 106 under town planning scheme – No 6 belongs to the MCGM and no one else is expected to recover rent. The complainant feels that the information is not correct. The case was fixed for hearing on 10.07.2008. The appellant did not turn up. Respondents were present. I have gone through the papers on record and come to the conclusion that the information has been furnished. There is nothing to suggest that the information is not correct more so in the absence of the appellant.

Order

The complaint is filed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 14.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/496/02

**Mr. Sudhir Prabhakar Chavan
Malvani Suyog CHS Ltd. Build No.5,
Sadnika No 201, 2nd Floor, Charkop Link Road,
Kandivli (W), Mumbai – 400 067.**

... Appellant

V/s

**First Appellate Officer cum Chief Officer
Mumbai Housing & Area Development Cooperation,
Ghirha Nirman Bhavan, Kala Nagar, Bandra (E),
Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Joint Chief Officer
Mumbai Hosing & Area Development Cooperation,
Ghirha Nirman Bhavan, Kala Nagar, Bandra (E),
Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken by Mumbai Housing and Area Development Authority in respect of Flat No. 204, Building No. 5, Suyog CHS, Malvani, Mumbai. Mrs. Vrishali Ravindara Berde had purchased this flat and applied for transfer in her name. The Board by its resolution No. 5800 date 12.07.2002 recommended to the Govt. for approval. The Board while recommending to the Govt. had relaxed the condition that no flat can be transferred before it completes 5 years. The Govt. however did not approve the transfer. The Board, therefore, cancelled its recommendation. The deal therefore has become illegal. The appellant wanted to know what further action has been taken by the Board after it cancelled its recommendation for approval.

The case was fixed for hearing on 14.07.2008. The appellant as well respondent were present. The appellant has stated that the information furnished is not satisfactory. It is not enough for the Board to cancel its resolution. The fact remains that the transfer

remains illegal and further action should be taken against the occupant. The respondent has stated that information in regard to the action already taken has been furnished. Action subsequent to the cancellation of the Boards resolution has not yet been initiated. The respondent was directed to bring the case to its logical conclusion and inform the appellant.

Order

The appeal is partially allowed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/504/02

**Mr. Suresh Kokne,
Shastrinagar, Room No. 78,
Near Ever Green Hotel,
Bandra (E), Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Officer cum Dy. Collector,
Mumbai Suburban District,
7th Floor, Administrative Building,
Bandra (E), Mumbai**

... Respondent

**Public Information Officer cum Dy. Collector,
Mumbai Suburban District,
7th Floor, Administrative Building,
Bandra (E), Mumbai**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for certified copies of the survey report conducted on 02.01.2007 in connection with annexure II of Shastrinagar SRA CHS Ltd registered on 15.02.2006. There is nothing on record to show that the PIO or First Appellate Authority has responded to the appellant. The respondent however at the time of hearing has stated that the appellant was asked to collect the information but he did not turn up. In the light of the background of the case and abnormal delay in furnishing the information, I am inclined to order that the required information should be furnished free of cost.

Order

The appeal is allowed. Information to be furnished free of cost within 30 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 15.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/179 A/02

**Smt. Vijaya Santosh Kadam,
Ramjan Bhatar Chawl, Chawl No. 263/3,
Dr, Ambedkar Chowk, Takkyaward,
Kurla, Mumbai – 400 070.**

... **Appellant**

V/s

**First Appellate Officer cum Dy. Police Commissioner
Central Control Ward,
Byaculla, Mumbai – 400 027.**

... **Respondent**

**Public Information Officer cum Assitt. Police Commissioner,
Bavla Compound, Dr. B.A. Road Byaculla, Mumabi – 400 027.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information relating to various cases registered against her and her husband in Kurla Police Station. The PIO by his letter dated 14.09.2006 furnished the information. The appellant was not satisfied and filed the first appeal. The First Appellate Authority confirmed the PIO's order but also directed that a copy of the appellant's husband statement which had not been furnished should be furnished. It is against this order that the appellant has filed this second appeal.

The case was fixed on 09.06.2008. Appellants and respondents were present. It appears from papers on record that the complaints and counter complaints have their roots in family feud. There are papers indicating that at certain stage there was compromise and parties decided not to press for their respective complaints. This apart the information required by the appellant has been furnished. As far as the statement of the appellant's husband which was ordered to be given, the PIO has reported that the same was not available and therefore could not be furnished.

In the right of the above observation, I have come to the conclusion that the available information has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/511/02

**Mr. Silvai B. Muthu,
5/331, Sane Guruji Nagar,
M.G.Road, Goregaon (W),
Mumbai – 400 062.**

... Appellant

V/s

**First Appellate Officer cum Joint Chief Officer, (R.R)
MHADA Repair Board, MHADA Building,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Dy. Chief Officer (T.C),
MHADA Repair Board, MHADA Building,
Bandra (E), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding transfer of Room No. 12/17, Raowadi Mahim (West) behind City light Cinema, Mumbai from the appellants name to Mrs. Margaret Chettiar. He had requested MHADA Board to furnish copies of documents which formed the basis of transfer.

The case was fixed for hearing on 15.07.2008. The appellant and respondent were present. The appellant informed the commission that they have received all the information they had sought. The respondent also volunteered to cooperate in case some more information required.

In view of the above, the case is closed.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 16.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/525/02

**Mr. Vijay Ranganath Matte
69/2964, Gandhi Nagar,
Ratnadeep CHS. Ltd.
Bandra (E), Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Officer cum Joint Chief Officer, (R.R)
MHADA Repair Board, MHADA Building,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Dy. Registrar
Co-operative Society, 3369,
Mumbai Housing & Area Development Department,
Griha Nirman, Bandar (E), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application for making him associate member of his Society and also against a non member becoming a member of the Managing Committee. The appellant is not satisfied with the responses of the PIO & First Appellate Authority and hence this appeal.

The appeal was fixed for hearing on 16.07.2008. The appellant was present. The respondent was also present. The appellant has stated that he is yet to get the information. The respondent has contended that appellant request for being an associate member has to be considered by the society. He could approach the respondent in appeal if the society rejects appellant's request. He has also stated that the appellant has not yet filed a formal appeal. As regards a non member being a member of the Managing Committee, he has already issued a notice under section 77 (a) of the Maharashtra Co-operative Society Act, 1960.

I have gone through the papers on record and also considered the arguments advanced by parties. I am of the view that the respondent must decide his application for associate membership without waiting for a formal appeal. His application should be treated as appeal. He should also bring the notice under 77 (a) to its logical conclusion. In the light of these observation I pass the following order.

Order

The appeal is allowed. Respondent to decide appellant's application for associate membership and also to bring the notice under 77 (a) to its logical conclusion within 45 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 16.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/509/02

**Mr. S.G. Deshmukh
Bhima Bai Kapse Bld,
B. No. 13, Quresh Nagar,
Kurla (E), Mumbai – 400 070.**

... Appellant

V/s

**First Appellate Officer cum Nayab Tahsildar
Khupari Gaon, Vada, Thane.
Maharashtra.**

... Respondent

**Public Information Officer cum Tahsildar
Khupari Gaon, Vada, Thane.
Maharashtra.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application for affecting a mutation entry in the village record. The appellant had also requested information regarding existence of any govt. order circular prohibiting certification of the mutation entry. There is nothing on record to show that either the PIO or the First Appellate Authority has responded to the appellant's request.

The case was fixed for hearing on 15.07.2008. The appellant is present. The respondent did not turn up. The appellant has reiterated his request that either the entry should be certified or copies of any instruction to the contrary should be furnished. This a simple and straight request which should have been attended in time. In the light of the argument advanced by the appellant and apathy of the PIO and the First Appellate Authority. I pass the following order.

Order

The appeal is allowed. Appellant to be given information within 30 days failing which action under section 20 of the RTI Act will be initiated.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 16.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/553/02

Mr. Arjunlal M. Chabaria
Adv. OF High Court,
BellVista, Flat No.15,
3rd Floor, Opp.Lake & LIC Office,
S.V. Road, Bandra (W), Mumbai – 400 050.

... Appellant

V/s

First Appellate Officer cum Asstt. Commissioner,
K-West Division, 2nd Floor, Paliram Path,
Opp. Best Bus Depo, Andheri (W),
Mumbai – 400 058.

... Respondent

Public Information Officer cum Assitt. Engineer,
(Building & Factory), K-West Division,
2nd Floor, Paliram Path,
Opp. Best Bus Depo, Andheri (W),
Mumbai – 400 058.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information whether the timing to meet officers of Building and Factory Department of K/West Municipal Ward Office on Tuesday and Fridays from 3.30 pm to 5 pm was as per norms and rules of the MGM. The appellant is not satisfied with responses from the PIO and the First Appellate Authority and hence this appeal.

The case was fixed for hearing on 16.07.2008. The appellant did not turn up. The respondent was present. He has stated that since Building and Factory Department's Officers are required to move in the field, they had fixed the date and time for meeting visitors. This information has been furnished to the appellant. In view of the above nothing remains.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 21.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/528/02

Mr. Freddy Misquitta
93 Kalina Village,
Santacruz (E), Mumbai – 400 029.

... **Appellant**

V/s

First Appellate Officer cum Asstt. Commissioner,
H-East, 136 T.P.S-V, 2nd Road,
Prabhat Colony (E), Mumbai – 400 055.

... **Respondent**

Public Information Officer cum Assitt. Engineer,
(Building & Factory), H-East, 136 T.P.S-V,
2nd Road, Prabhat Colony (E), Mumbai – 400 055.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for information as to why despite a notice section 351 of the BMC Act having been served no demolition was carried out by the MCGM (Property bearing CTS No. 6151 Lolie Kalyan, Municipal assessment No. HE 7473 91-2) 93 Kalina House, Mumbai.

The appellant was not satisfied with responses from the PIO or the First Appellate Authority and hence this appeal.

The case was fixed for hearing on 16.07.2008. The appellant was present. The respondent was also present. The appellant has made a written submission which has been placed on record stating that the appellant was no longer interested in pursuing the appeal in view of the fact that the MCGM has taken action although delayed to his satisfaction. In view of this I order to close the case.

Order

The case is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 16.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/529/02

**Mr. Ravindra V. Keny
198-C, Dharavi Koli Jamat Trust Hall,
Dharavi Koliwada, Mumbai – 400 017.**

... Appellant

V/s

**First Appellate Officer cum Superintend
Office of the Collector, City Survey &
Land Record, Mumbai City,
Fort, Mumbai – 400 023.**

... Respondent

**Public Information Officer cum Superintend
Office of the Collector, City Survey &
Land Record, Mumbai City,
Fort, Mumbai – 400 023.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application against one Shri Vinayal Namdeo Koli who is alleged to be dumping garbage on their land which they claim to be using for drying fishes. Neither the PIO nor the First Appellate Authority seems to have responded to the appellant's request. Hence this appeal.

The case was fixed for hearing on 16.07.2008. The appellant did not turn up. The respondents were present. It is, however, seen that respondents have nothing to do with this issue. They are in charge of land records and appellant has not sought any documents with them. This issue is that of illegal dumping. MCGM is supposed to fix points for deposit and collection of garbage. If some one is using a non specified place causing risk to health and hygiene, MCGM has to step in. The land records department has nothing to do. I am, therefore, directing that a copy of the documents on this file along with this order be sent to the concerned ward officer directing him to look into appellant's grievances and remedy the situation

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai

Date: 16.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/507/02

**Mr. Deepak Vithoba Dandekar
10/3, Sagr Sanidhya CHS Ltd.
Gen. Arunkumar Vaidya Marg,
Mahim, Mumbai – 400 016.**

... **Appellant**

V/s

**First Appellate Officer,
SRA, 5th Floor, Griha Nirman Bhavan,
BAndra (W), Mumbai – 400 051.**

... **Respondent**

**Public Information Officer,
SRA, 5th Floor, Griha Nirman Bhavan,
BAndra (W), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding Sagar Sanidhya CHS Ltd, Gen. Arunkumar Vaidya Marg (Mahim Causeway Road), Mahim – 400 016. CTS No. 1505 & 1/1505. The appellant wanted to know whether any proposal has been submitted by any developer/ Architect / Society for development of the above mentioned property, whether any scrutiny fee has been paid by them and if yes then the amount paid. The Information officer, SRA by his letter dated 10.01.2006 informed the appellant that no such proposal was received in his office. The appellant filed an appeal under section 19(1) of the RTI Act but there is nothing on record to show that the First Appellate Authority has passed any order. Hence this appeal.

The case was fixed for hearing on 15.07.2008. Neither the appellant nor the respondent turned up. I have gone through the papers on record and come to the conclusion that the information sought has been furnished. The SRA has not received any proposal and they have replied accordingly. May be the appellant wants that this Proposal should be taken up but he has to approach the SRA for activating that issue. This is not

possible under RTI Act. I have, however, called for report in another case relating to the same society and the same CTS No.

In the light of the above discussion. I come to the conclusion that the appeal deserves to be closed.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/527/02

Mr. Shaikh Nawabuddin Naimuddin Siddique
Flat No. 702, "A" Wing, Subhashchandra
CHS, Opp. ONGC Tower, Mukund Nagar,
Dharavi, Mumbai – 400 017.

... **Appellant**

V/s

First Appellate Officer cum Assitt. Municipal Commissioner,
1st Floor, G/North Division Office, Dadar,
Mumbai – 400 028.

... **Respondent**

Public Information Officer cum Registrar
SRA, 5th Floor, Griha Nirman Bhavan,
BAndra (W), Mumbai – 400 051.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought a copy of the table survey plan (Area Measurement Plan) of the Chawl Plot No. FP 181, TPS (Dharavi Division) of Chitrakut Society Grah Nirman Sanstha. The appellant has been seeking this information for quite sometime and has put up many applications. The SRA as well as MCGM have been informing the commission that the said document is not available. In this connection o have asked for an enquiry and report. The SRA in this case seems to have obtained a copy of the plan from the society and offered to the appellant but the appellant wants a copy of the plan from the SRA record. The SRA has stated that the said plan is not available with them.

The case was fixed for hearing on 16.07.2008. The appellant and the respondent were present. Since I have already ordered an enquiry and the SRA is still not in a position to furnish a copy of the document from its record, I am constrained to pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/2041/02

**Mr. Mukesh Bhasne,
Rly. Qtrs. RB-II 929/7,
Kolsewadi, Kalyan (E),
Dist. Thane – 421 306.**

... Appellant

V/s

**First Appellate Officer cum Police Commissioner,
Wadibandar, Railway, Mumbai.**

... Respondent

**Public Information Officer cum Police Commissioner,
Wadibandar, Railway, Mumbai.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application dated 12.04.2006 by the senior Inspector CST, Railway Police, Mumbai. The appellant was working as a motorman in Central Railway and was removed from service on 31.08.99. He had alleged that he was wrongly removed from service and papers relating his case were destroyed by some railway employees and they should be proceeded against.

The senior Inspector by his letter dated 08.05.2005 informed the appellant that the complaint pertains to service matters with railways and he should seek remedy in the court of law. The appellant was not satisfied with this reply. He filed the first appeal and is not satisfied with response. Hence this second appeal.

The case was fixed for hearing on 15.07.2008. The appellant was present. The respondent was also present. The appellant has made his submission in writing. He has repeated his allegation of not getting the right information and also police not taking any action against those who destroyed documents. The respondent has stated that the information has been furnished to the appellant. He had also brought to my notice that the

appellant had filed a case in the court of JMFC Kalyan case No. 24/05 against the then General Manager and 7 others. This case was dismissed by the Hon. JMFC Revision petition filed in the court of Additional Sessions Judge Kalyan was also disposed off.

I have gone through the case papers on record and also considered the arguments advanced by parties. It is clear that the case pertains to service matters. The appellant approached the police and requested action against those responsible for destruction of papers. In fact the issues predate the RTI Act. The RTI Act became operational from October 2005. He was removed from service in 1999. In any case the way in which the appellant has tried to use the RTI Act is unusual. The RTI act cannot investigate into somebody's dismissal from service leave apart reinstating him.

After examining all the aspects of the case, I have come to be conclusion that information under the RTI Act has been furnished. The RTI Act does not provide for remedial measures. The appellant should approach the appropriate forum for getting relief.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/2038/02

**Mr. Mukesh Bhasne,
Rly. Qtrs. RB-II 929/7,
Kolsewadi, Kalyan (E),
Dist. Thane – 421 306.**

... **Appellant**

V/s

**First Appellate Officer cum Police Commissioner,
Wadibandar, Railway, Mumbai.**

... **Respondent**

**Public Information Officer cum Police Commissioner,
Wadibandar, Railway, Mumbai.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application dated 12.04.2006 by the senior Inspector CST, Railway Police, Mumbai. The appellant was working as a motorman in Central Railway and was removed from service on 31.08.99. He had alleged that he was wrongly removed from service and papers relating his case were destroyed by some railway employees and they should be proceeded against.

The senior Inspector by his letter dated 08.05.2005 informed the appellant that the complaint pertains to service matters with railways and he should seek remedy in the court of law. The appellant was not satisfied with this reply. He filed the first appeal and is not satisfied with response. Hence this second appeal.

The case was fixed for hearing on 15.07.2008. The appellant was present. The respondent was also present. The appellant has made his submission in writing. He has repeated his allegation of not getting the right information and also police not taking any action against those who destroyed documents. The respondent has stated that the information has been furnished to the appellant. He had also brought to my notice that the

appellant had filed a case in the court of JMFC Kalyan case No. 24/05 against the then General Manager and 7 others. This case was dismissed by the Hon. JMFC Revision petition filed in the court of Additional Sessions Judge Kalyan was also disposed off.

I have gone through the case papers on record and also considered the arguments advanced by parties. It is clear that the case pertains to service matters. The appellant approached the police and requested action against those responsible for destruction of papers. In fact the issues predate the RTI Act. The RTI Act became operational from October 2005. He was removed from service in 1999. In any case the way in which the appellant has tried to use the RTI Act is unusual. The RTI act cannot investigate into somebody's dismissal from service leave apart reinstating him.

After examining all the aspects of the case, I have come to be conclusion that information under the RTI Act has been furnished. The RTI Act does not provide for remedial measures. The appellant should approach the appropriate forum for getting relief.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/213/02

**Mr. Syed Haider Imam
Room No. 255, Mobin Chawl,
Behind Salamia Hotel,
Juhu Lane, Andheri (W),
Mumbai – 400 058.**

... Appellant

V/s

**First Appellate Officer cum Dy. Chief Engineer
SRA, 5th Floor, MHADA, Bandra (E),
Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Sub Executive
Engineer (Engineering Dept)
SRA, 5th Floor, MHADA, Bandra (E),
Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding Bismilla CHS (Proposed) Slum bearing CTS No 208 (Part) of Andheri Division at Juhu Lane, Andheri (W) Mumbai. He also wanted list of documents submitted with the SRA proposal by the Society and / or developer. There is nothing on record to show that the PIO or the First Appellate Authority has passed any order. The appeal was fixed for hearing on 12.06.2008. The appellant did not turn up. The respondent was present. After going through the papers on record, it is very clear that the information sought is very straight and factual. There is no reason for the PIO or the First Appellate Authority not furnishing the required information. I am therefore of the view that information must be furnished to the appellant.

Order

The appeal is allowed. The appellant should be furnished the information within 30 days failing which action under 20 of the RTI Act will be initiated.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/275/02

Smt. Kusum Lahanu Patil
Banganga Dispensary Quarters,
Room No. 41, Walkeshwar.
Mumbai – 400 006.

... **Appellant**

V/s

First Appellate Officer cum Asstt. Commissioner,
Bhruhan Mumbai, Mahanagarpalika,
Nair Dental Hospital, Mumbai Central,
Mumbai – 400 008.

... **Respondent**

Public Information Officer cum Executive Health Officer,
F/North Office, Bhruhan Mumbai, Mahanagarpalika,
Dr. Ambedkar Road, Parel, Mumbai – 400 012.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for the list of clerks and staff Nurses who have been allotted Service Quarters although they work in Municipal Dispensaries and offices. The Executive Health Officers by his letters dated 29.08.2006 informed the appellant that the information sought by her is ready and she should deposit the requisite fee and collect the same. There is nothing on record to show whether the First Appellate Authority has passed any order. Hence this second appeal.

The case was fixed on 17.06.2008. The appellant did not turn up. The respondent was present. It has been brought to my notice that the desired information has since been furnished. A copy of the list is on record.

In view of the fact that information has already been furnished, nothing remains to be done. The appeal is disposed off.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/274/02

**Smt. Kusum Lahanu Patil
Banganga Dispensary Quarters,
Room No. 41, Walkeshwar.
Mumbai – 400 006.**

... **Appellant**

V/s

**First Appellate Officer cum Asstt. Commissioner,
Bhruhan Mumbai, Mahanagarpalika,
Nair Dental Hospital, Mumbai Central,
Mumbai – 400 008.**

... **Respondent**

**Public Information Officer cum Executive Health Officer,
F/North Office, Bhruhan Mumbai, Mahanagarpalika,
Dr. Ambedkar Road, Parel, Mumbai – 400 012.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding recovery of service charges by Dr. Kiran Harsora from the appellant despite the fact that the same was being deducted from her salary. She wanted to know whether Dr. Harsora was authorized to recover service charge from her and if yes who authorized him.

The appellant was not satisfied by responses from the PIO the First Appellate Authority and hence this appeal.

The case was fixed for hearing on 17.06.2008. The appellant was present. The respondent was also present. The appellant reiterated her demand to know who authorized Dr. Kiran Harsora to collect service charges from her. The respondent has contended that the relevant information has been furnished to the appellant. He has enclosed a copy of Dr. Harsora stating that no service charges are recovered by him. It is difficult to find out whether Dr. Harsora is collecting service charge or not. The appellant has not given any documentary evidence to suggest that Dr. Harsora is recovering service

charges. In the absence any proof, I have to accept his denial. The appellant, however, may approach the appropriate authority in the MCGM to it enquired. I am constrained to close the case.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/533/02

**Mr. Madhav Deshpande
7, Kaustubhadham Co-op. HSG. Soc. Ltd,
23, Sanghani Estate, Gaodevi Road,
Ghatkoper (W). Mumbai – 400 086.**

... Appellant

V/s

**First Appellate Officer cum Assistant Commissioner,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

... Respondent

**Public Information officer cum Assistant Engineer
(Building & Factory), 1st Floor, Room No. 13,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding unauthorized works detected in G/North ward between 01.01.2000 to 16.12.2006 and also legal action / demolition undertaken by the ward office. The PIO by his letter dated 25.01.2007 replied that the appellant had no right to ask for this information under section 3 of the Right to Information Act, 2005. There is nothing on record to show what action was taken by the First Appellate Authority.

The case fixed for hearing on 18.07.2008. The appellant was present. The respondent was also present. The appellant insisted on getting the information free of cost in view of abnormal delay. The respondents was willing to furnish the information but had doubts whether information required would be available in the format in which it has been sought. It is true that the information sought is comprehensive ting and non specific in many cases like no of times the municipal advocate has sought adjournment, works started and completed taking advantage of holiday and or weekly holidays (i.e. Saturday evening to Monday early morning. These details are not required of a particular case but

of all the cases whose no has also not been specified. It is, however, understood that the ward office does maintain a register where detection of unauthorized construction is recorded and action initiated. I feel that the respondent must give a copy of the relevant pages of this register to the appellant. It is also true that the response has been delayed. I, therefore, order that the information should be furnished free of cost.

Order

The appeal is partially allowed. The appellant to be given pages of the registrar maintained for recording unauthorized structure etc. The information should be given free of cost within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/329/02

Mr. Alimia Chhotemia Sheikh
Cadestral Survey 233/234, Bellassis Road,
Junction of Maulana, Azad Road and Bellassis Road,
Flat No. 204 on the 2nd Floor, 'A' Wing Shop No. 1 & 2,
On the ground Floor, 'C' Wing,
Byculla, Mumbai – 400 008.

... **Appellant**

V/s

First Appellate Officer, Office of the Chief Fire Officer,
The Mumbai Fire Brigade, The Municipal Corporation
of Greater Mumbai, 'E' Ward, 3rd Floor,
Byculla, Mumbai – 400 008.

... **Respondent**

Public Information officer cum Office of the Chief Fire Officer,
The Mumbai Fire Brigade, The Municipal Corporation
of Greater Mumbai, 'E' Ward, 3rd Floor,
Byculla, Mumbai – 400 008.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought the following information: -

1. Part occupation was granted vide circular number EEB/3555 EB /251 4/A on 1st August 1991 when part occupation was granted to the A Building, Where has the refugee area disappeared?
2. How was further occupation granted?
3. What initiative steps are taken and has been done in the basement toward preventing.
 - (a) Water logging in the basement
 - (b) What initiative steps are taken for occupants of the floor to attend the call of nature when the floor toilet block is converted into officers with impunity.
 - (c) When is the 20% Recreation ground to be registered with the society.
 - (d) Why is the basement made in deviation to the sanctioned plans.

The case was fixed for hearing on 19.06.2008. The appellant did not turn up. The respondent was present. It appears from papers on record that the appellant has been agitating various issues for quite some. In fact his complaints predates the RTI Act, 2005. After going through the file I have come to the conclusion that the Dy. Municipal Commissioner Z(1) in his order dated 02.08.2005 had ordered that information on point No. 4, 5 and 6 should be furnished by the Dy. Chief Engineer (BP) city and as regards point's No. 1, 2 &3 Asstt. MCE ward was directed to issue notice and launch prosecution under the Act. These is noting on record to show that information has been furnished by the Dy. Chief Engineer. The order was issued in 2005. I am therefore of the view that the information must be furnished to the appellant.

Order

The appeal is allowed. The required information as directed by BMC (Z-1) in his order dated 02.08.2005 must be furnished within 30 days. I also order that in view of the abnormal delay the information should be given free of cost.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/534/02

**Mr. Madhav Deshpande
7, Kaustubhadham Co-op. HSG. Soc. Ltd,
23, Sanghani Estate, Gaodevi Road,
Ghatkoper (W). Mumbai – 400 086.**

... **Appellant**

V/s

**First Appellate Officer cum Assistant Commissioner,
'E' Division, Palika Office, 10, Shaikh Hafizuddin Marg,
Byculla (W), Mumbai - 400 008.**

... **Respondent**

**Public Information officer cum Assistant Engineer
(Building & Factory), 1st Floor, Room No. 13,
'E' Division, Palika Office, 10, Shaikh Hafizuddin Marg,
Byculla (W), Mumbai - 400 008.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding unauthorized works detected in G/North ward between 01.01.2000 to 16.12.2006 and also legal action / demolition undertaken by the ward office. The PIO by his letter dated 25.01.2007 replied that the appellant had no right to ask for this information under section 3 of the Right to Information Act, 2005. There is nothing on record to show what action was taken by the First Appellate Authority.

The case fixed for hearing on 18.07.2008. The appellant was present. The respondent was also present. The appellant insisted on getting the information free of cost in view of abnormal delay. The respondents was willing to furnish the information but had doubts whether information required would be available in the format in which it has been sought. It is true that the information sought is comprehensive ting and non specific in many cases like no of times the municipal advocate has sought adjournment, works started and completed taking advantage of holiday and or weekly holidays (i.e. Saturday evening to Monday early morning. These details are not required of a particular case but

of all the cases whose no has also not been specified. It is, however, understood that the ward office does maintain a register where detection of unauthorized construction is recorded and action initiated. I feel that the respondent must give a copy of the relevant pages of this register to the appellant. It is also true that the response has been delayed. I, therefore, order that the information should be furnished free of cost.

Order

The appeal is partially allowed. The appellant to be given pages of the registrar maintained for recording unauthorized structure etc. The information should be given free of cost within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/520/02

**Mr. Ravindra V. Keny
198-C, Dharavi Koli Jamat Hall,
Dharavi Koliwada, Mumbai – 400 017.**

... Appellant

V/s

**First Appellate Officer cum Assistant Commissioner,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

... Respondent

**Public Information officer cum Assistant Engineer
(Building & Factory), 1st Floor, Room No. 13,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information as to what action has been taken for reserving the playground (Holy Maidan) in Dharavi Koliwada, Gaothan. The project officer (Dharavi) G/North by his letters dated 11.12.2006 informed the appellant that the plot under reference known as Holi Maidan situated in Dharavi Koliwada and detailed information and status will be available in the office of the Chief Engineer (Development Plan). The First Appellate Authority by his letters dated 29.11.2007 informed the appellant that this is a policy matter and disposed off his appeal. The appellant is not satisfied with these orders and hence this second appeal.

The case was fixed for hearing on 17.07.2008. The appellant did not turn up. The respondents were present. It has been stated by them that the plot under reference has not been shown as reserved in the Development plan. The plot, however, is being used as playground. They also informed the commission that it is being protected by the MCGM and there no fear of encroachment.

I have gone through the case papers. The information sought is very important. Unreserved plot is in fact an open invitation for encroachment. The bonafides of the information seeker cannot be questioned. It is however, important to note that

reservations for different purposes are made in the Development plan. There is procedure prescribed for effecting any changes. The appellant has to raise this issue at the appropriate level either the MCGM which can initiate the process on its own or the Govt. which can issue direction to the MCGM. There is no other way to translate appellant's noble intention into reservation in the Development plan. There is nothing much which can be done at the level of PIO or the First Appellate Authority. RTI ensures access to available information and the information in this case is that plot is not reserved for any purpose but is being used as playground. This information has already been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/519/02

**Mr. Ravindra V. Keny
198-C, Dharavi Koli Jamat Hall,
Dharavi Koliwada, Mumbai – 400 017.**

... Appellant

V/s

**First Appellate Officer cum Assistant Commissioner,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

... Respondent

**Public Information officer cum Assistant Engineer
(Building & Factory), 1st Floor, Room No. 13,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has asked as to what action has been taken against Smt. Shalini Sonawane for illegal structure built on our land in Dharavi Koliwada Gaothan. The PIO has informed him that no action is warranted as the structure is not recent. The First Appellate Authority has confirmed the order but directed the PIO to inspect the site and investigate the mater. The appellant is not satisfied and hence this appeal.

The case was fixed for hearing on 17.07.2008. The appellant did not turn up. The respondents were present. It appears that the alleged illegal structure is old one and that probably is the reason the PIO has concluded that no action is warranted. The information is vague. The structure is not of recent origin does not convey anything. We are aware that govt. has fixed cut off date for the protection of unauthorized structure. It is also well known that MCGM has its own instruction for tolerated structures built up to a certain date. The appellant must be inform clearly why action is not warranted. The reply given is vague and casual.

Order

The appeal is allowed. The appellant should be furnished information in clear terms and with reasoning why no action is warranted against the alleged unauthorized structure. The information should be furnished within 45 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/521/02

**Mr. Ravindra V. Keny
198-C, Dharavi Koli Jamat Hall,
Dharavi Koliwada, Mumbai – 400 017.**

... Appellant

V/s

**First Appellate Officer cum Assistant Commissioner,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

... Respondent

**Public Information officer cum Assistant Engineer
(Building & Factory), 1st Floor, Room No. 13,
G/North Division Office, Harishchandra Yewale Marg,
Dadar (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for information regarding action taken for giving the only play ground (Holy Maidan) for maintenance in Dharavi Koliwada Gaothan. The appellant is not satisfied with the responses from the PIO and the First Appellate Authority and hence this appeal.

The case was fixed for hearing on 17.07.2008. The appellant did not turn up. The respondents were present. It appears from papers on record that the Project Officer Dharavi by his letter dated 05.07.2005 forwarded the appellant's application to the supdt. Of Garden and informed the appellant. The Garden supdt. in turn informed the appellant that the plot under reference was not in the possession of the Garden Dept. and his request could not be considered. The Asstt. Commissioner, G/North ward by his letter dated 30.11.2007 informed the appellant that the maidan was not designated as play ground and therefore the question of MCGM giving it for maintenance did not arise.

It is understood that the MCGM has a very elaborate procedure for giving gardens / playground for maintenance or in adoption. The procedure prescribes certain conditions on which these lands can be handed over. It also prescribes certain restrictions for their use. The fact, however, remains that the question of adoption or maintenance arises only

if the plot I reserved for garden or playground. In this case the plot is not yet designated as garden or playground. The reply furnished is correct. The first step to translate appellant's noble idea is to get it reserved and then request for adoption or maintenance. In the light of the above discussion there is no need to interfere with the orders passed by the PIO or the First Appellate Authority

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/536/02

**Mr. Vilasrao Bapurao Deshmukh
Room No.A/1, Shri Gurukrupa Chawl,
Hanuman Tekadi, Kajupada,
Borivali (E), Mumbai – 400 066.**

... Appellant

V/s

**First Appellate Officer cum Dy. Division Officer,
Mumbai Suburban District, Bandra,
9th Floor, Administrative Building, Govt. Colony,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information officer cum Tahsildar,
Kora Center, Natakwala Lane, S.V. Road,
Borivali (W), Mumbai – 400 092.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information regarding ownership of survey No. 209 and 345 C, Dahisar Village, Whether developer Shri. Anil Chandulal Shah has been permitted to do land development and if yes, how much royalty has been charged etc. The PIO's order is not on record. The First Appellate Authority has however, allowed the appeal and directed that the required information should be furnished to the appellant. Since the appellant does not seem to have received the information, he has preferred this second appeal.

The case was fixed for hearing on 18.07.2008. The appellant and the respondents were present. It was revealed during the hearing that the information has still not been furnished. This is very serious. The tahsildar has to act immediately to save himself from penalty under section 20 of the RTI Act. I therefore pass the following order.

Order

The appeal is allowed. The information to be furnished within 30 days failing which action under section 20 of the RTI will be initiated.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/531/02

Mr. Bhupendra Gopaldas Arora
Shop No. 30, Ashokraj Bldg, S.V. Road,
Goregaon (W), Mumbai – 400 062.

... Appellant

V/s

First Appellate Officer,
Office of the Charity Commissioner,
83, Dr, Annie Beasant Road,
Warli, Mumbai – 400 018.

... Respondent

Public Information officer,
Office of the Charity Commissioner,
83, Dr, Annie Beasant Road,
Warli, Mumbai – 400 018.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding alleged irregularities & illegal activities in the working of AYYAPPA Seva Sangham, Bambay. He had drawn attention to a news item published in the Midday dated 27.07.2006 and wanted action against the trust. There is nothing on record to show whether any order has been passed by the PIO or the First Appellate Authority. The appellant therefore has filed this second appeal.

The case was fixed for hearing on 18.07.2008. Neither the appellant nor the respondent turned up. It appears from the papers on record that the matter is under investigation. It is therefore ordered that the appellant should be furnished the information as soon as the investigation is over.

Order

The appeal is allowed. Appellant to be furnished information regarding outcome of the investigation. The investigation may kindly be expedited.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/539/02

**Mr. Shafi I. Kazi
B/105, Bhanu Apts.
G. B. Jukar Marg, Gandhigram,
Juhu, Mumbai – 400 049.**

... Appellant

V/s

**First Appellate Officer,
Office of the Assitt. Mahanagar Palika Commissioner
K/West Bhrihan Mumbai Mahanagar Palika,
Andheri (W), Mumbai – 400 058.**

... Respondent

**Public Information officer,
K/West Bhrihan Mumbai Mahanagar Palika,
Andheri (W), Mumbai – 400 058.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought the following information: -

1. When it was renamed to Gulmohar Marg and by whom and under what circumstances.
2. Whether there was a resolution moved by the then elected Corporators of the area or by the standing committee of the BMC and if so, when?
3. Why the said Gulmohar Marg name was changed and under what circumstances and what is the ground?
4. When the road is already named or renamed by the Corporation through proper procedure, whether can it be change and renamed again without giving notice to the residents of the area and whether such change is permitted within the provisions of the law?
5. What is the reason of changing the name from Gulmohar Marg to Bhakti Vedanta Swarni Marg and what is the significance of that?
6. Was there any government sanction for renaming Bhakti Vedanta Swami Marg?

7. Is it true the Writ Petition filed before the Bombay High Court restraining the Corporation not to change Vhakti Vedanta Swami Marg to Gulmohar Marg or not to take any decision against the renaming of Bhakti Vedanta Swami Marg was dismissed?
8. How and why despite dismissal of writ petition the name Gulmohar Marg is not restored or that the name Bhakti Vedanta Swami Marg is still continued?
9. Is it true that Juhu Andheri Janta Mandal, the local NGO and social organization had protested in the matter and no satisfactory reply was given to their protracted correspondence?
10. What is the present status of the said Gulmohar Marg?

The PIO by his letter dated 12.02.2007 has furnished the available information to the appellant. The appellant however filed the first appeal under section 19(1) of the RTI Act 2005. The First Appellate Authority passed his order on 13.03.2007. The appellant is not satisfied and hence this second appeal.

The case was fixed for hearing on 18.07.2008. The appellant was present. The first appellant authority was also present. The respondent has given his written submission. He has stated that the erstwhile North-South Road No. 1 was renamed as Gulmohar road and then to Bhakti Vedant Swami Marg. The papers relating to the change from North-South Road No.1 to Gulmohar Road are not traceable and hence specific information cannot be given. The second change and information relating to that has been furnished. The appellant has also been provided with a set of guidelines for naming / renaming of roads / chawks by the MCGM. It seems that the guidelines were issued in 1993 where as the first change occurred sometime in 1980. Thus it is clear that the guidelines issued in 1993 could not have been followed in 1980.

In the light of the above discussion I have come to the conclusion that the information has been partially furnished. The PIO should make effort to locate the papers relating to the first change i e. is from North –South road No. 1 to Gulmohar Road. The information and relevant papers should be furnished to the appellant.

Order

The appeal is partially allowed. The relevant file relating to the change of name from North – Sough road No. 1 to Gulmohar road should be searched and information furnished to the appellant within 3 months.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/535/02

**Mr. Farid-Ul-Hassan
F/sector, X-1/Lane, Room No. 02,
Cheeta Camp, Mumbai – 400 088.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Coomissioner,
M-East Division Officer,
Shardbhau Achary Marg,
Near Natraj Cinema, Chembur,
Mumbai – 400 071.**

... Respondent

**Public Information officer cum Assitt. Engineer,
M-East Division Officer,
Shardbhau Achary Marg,
Near Natraj Cinema, Chembur,
Mumbai – 400 071.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had complained to the Municipal Commissioner that some structures constructed out of councilors' fund and given in adoption or for maintenance are being misused / have been handed over to relatives and friends of the councilor. The office of the Municipal Commissioner MCGM by its letter dated 19.12.2006 forwarded this complaint to Asstt. Engineer (Build. & Factory) M-East Ward, Mumbai under intimation to the appellant. It appears from the papers on record that the PIO has been struggling to understand the issue involved. He has asked the appellant to clarify as to what information is required by him. This confusion has also partly resulted from the appellant's application which simply says that he wants action taken report on his complaint. A copy of his complaint is not on our record. The PIO is obviously not in a position to appreciate his point. I have therefore arranged to hand over to the respondent a copy of appellant's complaint to the Municipal Commissioner which forms the basis of subsequent proceedings. The PIO has been directed to furnish the required information.

Order

The appeal is allowed. Information to be furnished within 45 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/324/02

**Mr. Atul Ramniklal Mathuria
405, Mathuria Apt. 49,
Sir M. V. Road, Andheri (E),
Mumbai – 400 069.**

... Appellant

V/s

**First Appellate Officer cum Assit. Registrar,
Malhotra House, 6th Floor Opp. J. P. O,
Fort, Mumbai – 400 001.**

... Respondent

**Public Information officer cum District Dy. Registrar,
Room No. 69, Ground Floor, MHADA Building,
Bandra (E), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought following information: -

1. Give the number of days as per the Citizen's Charter of Registrar of Society in which answer required to be issued / action to be taken on receipt of any request / complaint?
2. How many letters the DDR (3), Bandra, Mumbai received from Atul Mathuria during the period April 1, 2002 to May 31, 2006? Please give date of letter and nature of complaint, letter wise.
3. Please give date and outward number of reply letters y DDR (3), Mumbai in response to letters received from Shri Atul Mathuria during the period April 1, 2002 to May 31, 2006.
4. How many letters the DDR (3), Mumbai received from Mathuria Apartment CHSL during the period April 1, 2002 to May 31, 2006? Please give date of letter nature of complaint, letter wise.

5. Please give date and outward number of reply letters by DDR (3), Mumbai in response to letters received from Mathuria Apartments CHSL during the period April 1, 2002 to May 31, 2006?
6. Please give date and outward number of direction / advise etc. issued by DDR (3), Mumbai to Dy. Registrar, K East ward to redress complaint of Atul Mathuria during the period April 1, 2002 to May 31, 2006?
7. Please give date and outward number of direction / advise etc. issued by Dr (3), Mumbai to Dy. Registrar, K East ward to redress complaint of Mathuria Apartments CHSL during the period April 1, 2002 to May 31, 2006?
8. Please give date, inward number and details of action taken report given by Dy. Registrar, K East ward to DDR (3), Mumbai to redress complaint of Atul Mathuria during the period April 1, 2006 to May 31, 2006?
9. Please give date, inward number and details of action taken report given by Dy. Registrar, K East ward to DDR (3), Mumbai to redress complaint of Mathuria Apartments CHSL during the period April 1, 2006 May 31, 2006?

The PIO sent to him copies of two letters written by Mathuria Apartments CHS a copy of the order of Dy. Registrar appointing administrator and a copy of citizen charter. The appellant was not satisfied and he filed the first appeal. The First Appellate Authority by his order dated 26.10.2006 virtually confirmed the order of the PIO and disposed off the appeal. Hence this second appeal under section 19(3) of the RTI Act.

The case was fixed for hearing on 19.06.2008. The appellant was present. The repeated that he has not been provided the information he had sought and wanted PIO to be penalized.

I have gone through the papers on record. It is clear that appellant's complaints predate the RTI Act. He has been writing since 2002 but feels that his complaints are not

being attended to. One of the reasons for poor and delayed response could be the nature of the information sought. They appear to be comprehensive and complex. He has requested for information regarding action taken on his letters written between April, 2002 to May, 2006. If the information is kept in this format individual wise, society wise, complaint registrar then it would be easier to furnish the information. The First Appellate Authority has also pointed out that a lot of record got destroyed during the flood of July 2005.

Thus in view of the non specific nature of information sought, the circumstances under which further information could not be furnished and the available information has already been furnished. I am of the view that nothing needs to be done. The RTI Act ensures furnishing of available information. Whatever information was available has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/537/02

**Mr. Saurabh @ Abhimanyu Y. Altekar,
R/at-G-3, Guruprasad CHS, Hanuman Road,
Vileparle, Mumbai – 400 057.**

... Appellant

V/s

**First Appellate Officer cum Joint Secretary,
3rd Floor, Dalan No. 366 (Chief),
Mantralaya, Mumbai – 400 032.**

... Respondent

**Public Information officer cum Dy. Secretary
Law and Judiciary Dept.
Mantralaya, Mumbai – 400 032.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding security arrangement and insurance covered provided to the Hon. Judge who was trying various cases under TADA. The case was fixed for hearing on 18.07.2008. The appellant is present. The respondents are also present. The appellant has shown his concern about the security arrangement and insurance covered provided to the Hon. Judge. The respondents have stated that they are not concerned with the security arrangement and they have the details of the insurance cover provided to the Hon. Judge.

I have gone through the case papers on record and also considered the arguments advanced by parties. I am very clear that whatever may be the concern of the appellant, the question of providing him the details of security arrangement does not arise. This shall not be furnished. As far as insurance coverage is concerned, since this issue has been agitated in various courts of law the appellant is entitled to get this information. The PIO is directed to furnish to the appellant the details of insurance coverage, its present status recorded reasons for delay if any.

Order

The appeal is partially allowed. Information regarding insurance cover to be furnished within 30 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/532/02

**Mr. Dinesh M Gondalia
5/24, Hajiali Govt. Colony,
Hajiali, Mumbai – 400 034.**

... Appellant

V/s

**First Appellate Officer cum Director
3rd Floor, M.C.G.S, MCGM annexure Building,
Mahapalika marg, Fort, Mumbai – 400 001.**

... Respondent

**Public Information officer cum City Engineer,
Office of the City Engineer, 5th Floor,
M.C.G.S, MCGM annexure Building,
Mahapalika marg, Fort, Mumbai – 400 001.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought a copy of the caste certificate submitted by him at the time of appointment to the MCGM. The PIO by his letter dated 28.08.2006 has furnished certain information. The First Appellate Authority's order reveals that the records are not available and whatever information was available has been furnished to the appellant. The appellant is not satisfied with these orders and hence this second appeal. The case was fixed for hearing on 18.07.2008. The appellant was present. Respondents were also present.

I have gone through the case papers on record and also considered the arguments advanced by parties. It is revealed that there is a domicile cum caste certificate on record which was submitted by the appellant in connection with his appointment. It clearly mentions his caste. Since the appellant was born in Gujarat, this certificate has been issued from there. It is totally irrelevant to require him to produce a certificate from Maharashtra where his details are not in existence. There are ways to verify his case. I would recommend that MCGM should send his case to the verification committee for scrutiny and verification certificate. There is a standard procedure set. A copy of this

order may be sent to the caste verification committee which will decide the case within 3 months.

Order

In the light of above directions the appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/552/02

**Mr. Arjunlal M. Chabaria
Bell Vista, Flat No. 13,
3rd Floor, Opp. Lake & L.I.C.
S.V. Road, Bandra (W)
Mumbai – 400 050.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner,
K-West Ward, Andheri (W),
Mumbai – 400 058.**

... Respondent

**Public Information officer cum Assitt. Engineer,
K-West Ward, Andheri (W),
Mumbai – 400 058.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding nuisance detectors, no of shops raided by them, names of accused persons and details of the fine imposed. The PIO by his letter dated 22.12.2006 furnished the information. The appellant filed appeal under section 19(1) of the RTI Act. The First Appellate Authority passed his order on 19.01.2007. The appellant is not satisfied. Hence this appeal.

The case was fixed for hearing on 21.07.2008. The appellant did not turn up. The Asstt. Engineer (Environment) from the MCGM was present. He has given his submission in writing. It appears from his submission that the required information has been furnished. He has submitted a copy of his order. It is clear that the information sought has been furnished. The appellant during the hearing before the First Appellate Authority raised the issue of panchanama and also whether action has been taken against Sai Plastic, Behrambaug, Jogeshwari. The PIO at the time of hearing stated that action was not initiated because they did not find any plastic bag below prescribed standard.

In the view light of the above I am of the view that information available has been furnished. I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 21.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/515/02

**Mr. Swapnil Satish Kokal,
4/12 Vivekanand C.H.S. Ltd,
T.H. Kataria Marg, Mahim,
Mumbai – 400 016.**

... Appellant

V/s

**First Appellate Officer cum The Chairman of
Additional Commissioner,
6th Floor, Kokan Bhavan,
Navi Mumbai.**

... Respondent

**Public Information officer cum Divisional Social
Welfare Officer,
6th Floor, Kokan Bhavan, Navi Mumbai.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application for caste verification / validation certificate. The record does not show any order from the PIO or the First Appellate Authority. Hence this appeal.

The case was fixed for hearing on 17.07.2008. The appellant as well as respondents were present. It is an admitted fact that nothing has been done so far. The approach has been casual. This is a fit case for proceeding under section 20 of the RTI Act for those responsible for this total inaction. I would, however, like to give them a chance. The PIO must furnish the Information. He must make extra effort to compensate for his inaction and casual approach I pass the following order.

Order

The appeal is allowed. The PIO to furnish information within 45 days failing which action under section 20 of the RTI Act will be initiated against him. The information to be furnished free of cost in view of inordinate delay.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 18.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/412/02

**Mr. Chetan Kothari
52, Oceanic Apart,
Dr. Rajabali Patel Lane,
Off B. Desai Road,
Mumbai – 400 026.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Commissioner,
F/North Ward Office,
96, Bhau Daji Road,
Matunga (E), Mumbai – 400 019.**

... Respondent

**Public Information officer cum Assitt. Engineer,
F/North Ward Office,
96, Bhau Daji Road,
Matunga (E), Mumbai – 400 019.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his complaint against illegal construction by Mrs. Bharati Surendra Khandhar, Tej - Gaurav House, 3rd and 4th Floor, Plot No 109, Telag Road, MATunga (E), Mumbai. The appellant also wanted to know what further progress has been made after notice under section 354 & 351 of the BMC of was given.

It appears that the complaint predates RTI Act. Record reveal that the Asstt. Commissioner F/North Ward by his letter dated 14.09.2005 informed the appellant about the status of the case. This reply was in response to appellant's complaint dated 10.12.2004. Since then there has been lot of correspondence with authorities. The municipal authorities have kept the appellant informed about the status of the case, the injunction by courts in different suits. By his letter dated 13.06.2008 the Asstt. Engineer (Building and Factory) F/North has furnished the latest information.

The case was fixed for hearing on 01.07.2008. The appellant was present. Respondents were also present. The appellant obviously is interested in redressal of his

grievance – removal of unauthorized construction. The respondents on their part have pleaded that it was because of injunction by courts that they have not been able to remove the unauthorized structure. It is difficult to say by what time injunction will be vacated. I have not come across any instance where municipal authorities have deliberately tried to avoid or delay the further action.

In the light of the above discussion I have come to the conclusion that the available information at a particular time has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/530/02

**Mr. Julio Noronha
501, United Family Welfare Trust Bldg,
297, Bellasis Road, Mumbai Central,
Mumbai – 400 008.**

... **Appellant**

V/s

**First Appellate Officer cum Director
Mahapalika Chief Office,
3rd Floor, Mahapalika Marg,
Fort, Mumbai – 400 001.**

... **Respondent**

**Public Information officer cum Executive Engineer,
Building Proposal (City)
Bayculla.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information: -

- (1) Certified copy of occupation certificate and approved plans for newly constructed building.
- (2) Certified copies of all declarations submitted by the trust and architect about tenants in the building.

He was not satisfied by the reply given by the State Public Information Officer and filed his first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 02.03.2007 informed the appellant that the SPIO is being directed to provide required documents on payment of requisite charges. This appeal has been filed against this order.

The case was fixed for hearing on 16.07.2008. The appellant was present. The respondents were also present. The main issue in the case seems to be non provision of alternative accommodation the appellant. The appellant claims to be a tenant in the property. He has signed a memorandum understanding with the landlord where in he was promised an alternative accommodation. The building has since been redeveloped but the

occupancy certificate has not been granted. The appellant alleges that the building has been put to use despite non issuance of occupation certificate.

I have gone through the case papers and also considered the arguments advanced by parties. It seems that the requirement. He has been given certain information and balance has been promised on payment of requisite fee. The appellant's main grievance is that the landlord is not handing over the promised accommodation to him. This obviously does not come within the purview of RTI Act. The MCGM should however ensure that occupation certificate is not issued unless appellant's grievance is redressed. Tenants have inherent rights when a property is redeveloped. The MCGM should also insure that unauthorized use of the building is not allowed. The trust has obtained additional FSI in the name of Musafir Khana but runs a lodge. Although these issues do not come within the ambit of RTI Act the MCGM can not and should not ignore. In the light of the above discussion I am constrained to pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/550/02

**Mr. Minocher M. Deboo
E-18, Rustom Baug, Sant Savata Marg,
Byculla, Mumbai – 400 027.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Municipal commissioner,
C-Division, MCGM, 76,
Shrikant Palekar Marg, Chandanwadi,
Mumbai – 400 002.**

... Respondent

**Public Information officer cum Dy. Engineer,
(Building & Factory), C-Division, MCGM, 76,
Shrikant Palekar Marg, Chandanwadi,
Mumbai – 400 002.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought details of the internal structural changes made by Mr. Rehmat Ali Baig. The PIO by his letter dated 27.02.2007 informed the appellant that the ward office has visited the premises and come to the conclusion that MR. Baig is staying there with his family and the charges done have been permitted by the MCGM. The appellant filed the first appeal. The First Appellate Authority passed his order 12.04.2007. The appellant is not satisfied and hence this second appeal.

The case was fixed for hearing on 21.07.2008/. Neither the appellant nor the respondent turned up. I have gone through the case papers on record. It clearly reveals that permission for internal changes in the partition wall, changes in the flooring, internal plastering construction of European style WC near the existing WC has been given as early as 2001. The appellant has been given a copy of his letter which he has enclosed with this appeal memo. The PIO has stated that the ward office visited the premises and did not find any commercial activity and Mr. Baig family is staying there. In the light these, I have come to the conclusion that the required information has been furnished and the appeal deserves to be dismissed.

Order

The appeal is dismissed.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 21.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/517/02

**Mr. Ali Asgar Mohammd,
29/57, New Collector Compound,
Gate No. 7, Malavani, Malad (W),
Mumbai – 400 095.**

... Appellant

V/s

**First Appellate Officer,
Repairing Board,
Mumbai Grihanirman & Aria Development Mandal,
Bandar (E), Mumbai – 400 051.**

... Respondent

**Public Information officer,
Repairing Board,
Mumbai Grihanirman & Aria Development Mandal,
Bandar (E), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken against Shri Pascal Saldana who has grabbed Housing Board Chawl No. 52/409 Gaikward Nagar, Gate No. 8, Malvani, Malad (W), Mumbai. It has been alleged that Shri. Saldana has constructed commercial structure without permission and why no action has been initiated against him. There is nothing on record to show that any order has been passed by the PIO or the First Appellate Authority.

The case was fixed for hearing on 17.07.2008. The appellant did not turn up. The Chief Officer Mumbai Repair Board was present. It is an accepted fact that no cognizance has been taken. The approach of the Board has been casual. A citizen brings to its notice that a govt. property has been grabbed by a private person and he has constructed commercial structure unauthorizedly. He wants to know what action has been taken and the Board just keeps quiet.

This is a fit case for severe action against those responsible for this terrible omission. I would, however, like to give them a chance. The Board must inform the appellant what action has been taken by them. The information should be given free of cost.

Order

The appeal is allowed. The Board to furnish information within 60 days failing which action will be initiated under section 20 of the RTI 2005.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/513/02

**Mr. Y.S. Dabholkar,
Crime Branch, Mumbai**

... Appellant

V/s

**First Appellate Officer,
Regional Social Welfare Officer,
Cast Verification Samiti,
Kokan Bhavan, 6th Floor, Room No. 71,
New Mumbai.**

... Respondent

**Public Information officer,
Regional Social Welfare Officer,
Cast Verification Samiti,
Kokan Bhavan, 6th Floor, Room No. 71,
New Mumbai.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding action taken on his application for caste verification. The only information furnished to the appellant was that his application has been misplaced and it would be attended to as soon it was traced. The appellant has filed this second appeal.

The case was fixed for hearing on 17.07.2008. The appellant has not turned up. The respondents were present. In their submission they have stated that they have obtained another application and relevant documents from the appellant. They also stated that since the school leaving certificate of the appellant does not mention his caste, they are looking into other evidences to come to the conclusion whether the appellants claim is correct or not.

After going through the case papers and considering the written submission made by the respondents. I have come to the conclusion that the appellant's case has not been

handled with the seriousness it deserved. Caste verification certificate is such an important document that it could make or mar somebody's career. I therefore order that the respondent must provide immediate relief to the appellant. They must immediately collect relevant information and come to a definite conclusion and inform the appellant.

Order

The appeal is allowed. Appellant to be given the information sought within 60 days failing which action under section 20 of the RTI Act will be initiated.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/563/02

**Smt. Kalavati Ragunath Kharat
Ragunath Maruti Kharat,
Abhimanyu Nagar, Mumbai – 400 033.**

... Appellant

V/s

**First Appellate Officer,
Commissioner Co-operation,
Officer of the Sahakari Santha,
Pune.**

... Respondent

**Public Information officer,
Commissioner Co-operation,
Officer of the Sahakari Santha,
Pune.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. He has sought information regarding action on his application alleging irregularities in allotment of residential plot which resulted in non allotment of a plot to the appellant. The PIO and the First Appellate Authority did not furnish the information and hence this third appeal.

The case was fixed for hearing on 22.07.2008. Appellant and respondents were present. The main grievance of the appellant is that he has not been allotted a plot. The respondents has shown to me copies of the information furnished to the appellant.

After going through the case papers and considering the argument advanced by parties I have come to the conclusion that the RTI cannot help the appellant in redressal of his grievances. RTI ensures furnishing of the available information. It appears that the available information has been furnished. The representative of the commissioner co-operation has shown to me copies of the information given to the appellant. Thus the appeal has to be closed. I would, however, recommend to District Collector, Satara to get

his case examined and find out whether the appellant can be given a plot. The appellant informs me that a lot of land reserved for different purposes has still not been handed over to the society and they are still with the collector. The collector may kindly examine the feasibility of allotting a plot to him.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 21.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/540/02

**Mr. Sachin B. Dhumal,
2/205, Shivsmurti,
N.M. Joshi Marg,
Mumbai – 400 013.**

... Appellant

V/s

**First Appellate Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

... Respondent

**Public Information Officer, K-West, SRA, 5th Floor,
Griha Nirman Bhavan,
Bandra (W), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by his application dated 06.12.2006 requested for progress report of file No. SRA/ENG/529/K/W/Pvt Ltd. The PIO did not respond. He preferred the first appeal on 29.01.2007. The First Appellate Authority did not pass any order. Hence this appeal.

The case was fixed for hearing on 10.07.2008. The appellant did not turn up. The PIO was present. There is nothing on record to show any attempt on the part of the PIO or the First Appellate Authority to provide the information sought. This is very serious and must be attended to immediately. I therefore pass the following order.

Order

The PIO to furnish the information to the appellant as requested by him within 30 days failing which action under section 20 of the RTI Act will be initiated against him.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 23.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/564/02

**Mr. Bhupendra Gopaldas Arora,
Shop No. 30, Ashokraj Bldg. S.V. Road,
Goregaon (W), Mumbai – 400 062.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Commissioner,
P-South Division Office,
Mithanagar Municipal School Bldg,
Mithanagar, Goregaon (W), Mumbai – 400 062.**

... Respondent

**Public Information Officer cum Medical Officer,
P-South Division Office,
Mithanagar Municipal School Bldg,
Mithanagar, Goregaon (W), Mumbai – 400 062.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant wanted to know what action has been taken against M/s Sanjay Ice Cream for not renewing his licence from 2004 onwards and what penalty has been charged for his illegal activity. The PIO by his letter dated 25 .09.2006 informed the appellant regarding action taken. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the RTI Act. The record does not show any order passed by the First Appellate Authority. Hence this second appeal.

The case was fixed for hearing on 22.07.2008. The appellant did not turn up. The respondent was present. I have gone through the papers on record. It is very clear that the PIO has furnished point wise information to the appellant. He has also launched prosecution and has not renewed the licence because of the appellant's objection. I am satisfied that necessary action has been taken by the respondents PIO. There is no need to interfere with his order.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai

Date: 22.07.2008

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Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/556/02

Mr. Pradeep M. Sabnis
A/23, Jagruti CHS, 101, L.J. Road,
Mahim, Mumbai – 400 016.

... Appellant

V/s

First Appellate Officer cum District Dy. Registrar,
Sahkari Santha, GN-Division,
Mumbai, Malhotra House, 6th Floor,
Opp. JPO, Mumbai – 400 001.

... Respondent

Public Information Officer cum Dy. Registrar,
Sahkari Santha, GN-Division,
Mumbai, Malhotra House, 6th Floor,
Opp. JPO, Mumbai – 400 001.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought to know whether member of the Managing Committee (2003 – 2004 to 2005 – 2006) A 23 Jagruti CHS, Mahim had signed Indemnity Bonds as required by the Maharashtra Co-operative Society Act 1960. The information was furnished to him by Dy. Registrar by his letter dated 27.10.2006. The appellant was not satisfied with this information as this was the current one and he wanted from 2003 – 2004. The order passed by the First Appellate Authority dated 05.04.2007 also did not satisfy him. Hence this appeal.

The case was fixed on 21.07.2007. The appellant did not turn up. The respondents were present. They informed the commission that this information was with the society which was reluctant to pass on this information to the appellant because of some disputes between the appellant and the society. They have, however, succeeded in procuring the required information and the same can be collected by the appellant. In view of the above, I pass the following order.

Order

The appeal is allowed. Appellant to be given the required information within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 23.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/558/02

**Mr. Ram Gopal Gupta,
306, L.B.S. Marg,
Kurla (W), Mumbai – 400 070.**

... Appellant

V/s

**First Appellate Officer cum Project Director,
Mithi River Development and Protection Authority,
3rd Floor, MMRDA, Bandra – Kurla Complex,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer,
Project Director,
Mithi River Development and Protection Authority,
3rd Floor, MMRDA, Bandra – Kurla Complex,
Bandra (E), Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information: -

- 1) Certified copy of notification with relevant maps on which objections were invited by the Mithi River Development and Projection authority.
- 2) Certified copy of the constitution and formation of Mithi River Development and projection authority with name designation and address of its members and office bearers.
- 3) Information about public notice published in news papers with respect to hearing of objection / suggestion by MRDPA held on 15.12.2006 at MMRDA along with certified copies of relevant records.
- 4) Certified copies of the public notice pasted in Taximan Colony at Kurla with time and date of pasting of such notice.
- 5) Information about announcement of plan of MRDPA for inviting suggestions / objections on drum beat with time and date of such decumbent announcement for public.
- 6) Information about current stratus of plan / map prepared by MRDPA and time of its phase wise implementation.

There is nothing on record to show that appellant's application has been attended to. He has come in second appeal before the commission.

The case was fixed for hearing on 21.07.2008. The appellant did not turn up. The project director MRDPA was present. He informs me that the application was not brought to his notice. It is also admitted that the application has not been attended to. This is very serious. The offices of the MRDPA is not so big that application seeking information got lost. Moreover it has been addressed to the PIO MRDPA so it cannot go elsewhere. I am taking a serious note of this casual approach but would like to give a chance. The MRDPA must furnish the information sought by the appellant.

Order

The appeal is allowed. Appellant to be provided with the required information within 30 days failing which action would initiated under section 20 of the RTI Act.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 21.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/541/02

**Mr. Pramod Rajaram Pawar
120 /B/ 60 Raigad, Mumbai Transport Project,
MUTP-SRA, Tata Nagar Road, Mankhurd,
Mumbai – 400 043.**

... **Appellant**

V/s

**First Appellate Officer,
District Joint Registrar,
Sahkari Santha, 3rd Floor, Raigad Bhavan,
C.B.D Belapur, Navi Mumbai – 400 0614.**

... **Respondent**

**Public Information Officer,
Sahkari Santha, 3rd Floor, Raigad Bhavan,
C.B.D Belapur, Navi Mumbai – 400 0614.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information regarding reasons for not accepting his cheque amount for which the appellant has issued cheques, audit report from 2002 to 2006, certified copies of the bills sent by the society. The PIO by his order dated 07.1.2006 informed the appellant that these information should be available with the society and the appellant could approach the society. The appellant preferred appeal under section 19(1) of the RTI Act but no order seems to have been passed. Hence this second appeal.

The case was fixed for hearing on 23.07.2008. The appellant and the respondent were present. The main grievance of the appellant is that although he concedes that the information sought by him is available at the society's level but the fact is that society does not respond to him. It is possible that the appellant may have some differences with the society which unfortunately is not unusual. The appellant, however, is entitled to get the information he has asked. If the society is refusing to furnish the information, the office of the District Deputy Registrar has to intervene. I would like to clarify that public authorities are required to furnish the information which they are holding and also the

information held under their control. The society in this case and the information available with them is certainly held under the control of the District Deputy Registrar. The Maharashtra cooperative society Act 1960 gives ample powers to the District Deputy Registrar to initiate action against societies which do not follow the legitimate orders of the competent authority. I would therefore urge up on the District Deputy Registrar to intervene and try to secure the information for the appellant.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 23.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/544/02

**Mr. Shakar Ayodhyaprasad Saroj
Dhanshyamdas Chawl, Room No. 2,
Sant Rohidas Marg, Kala Killa,
Dharavi, Mumbai – 400 017.**

... **Appellant**

V/s

**First Appellate Officer cum Dy. Chief Engineer
SRA, 5th Floor, Bandra (E),
Mumbai – 400 051.**

... **Respondent**

**Public Information Officer cum Asstt. Engineer,
SRA, 5th Floor, Bandra (E),
Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked information relating to action under MRTP Act against developer of Omdatta Cooperative Housing Society, CS no. 181 Khamb Dev Dharavi, Mumbai. The case was fixed on 23.07.2008. The appellant was present. The respondents were also present. The appellant at the outset stated that he has received all the required information but was not happy with the speed. The respondent was advised to respond to the appellant in time and in no case beyond the prescribed time limit under the Right to Information Act. In the light these Circumstances. I decide to close the case.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/543/02

**Mr. M.B. Lall
Flat No. 64, 6th Floor, 24,
Bandar (HIG)
Anand Sagar Co-op. Hsg. Society,
Bandra Reclamation (W),
Mumbai – 400 050.**

... **Appellant**

V/s

**First Appellate Officer cum Dy. Secretary
Dept. of Co-operation,
Mantralaya, Mumbai – 400 032.**

... **Respondent**

**Public Information Officer,
Dept. of Co-operation,
Mantralaya, Mumbai – 400 032**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information: - Details of the Assets and Liabilities and of the service Registrar Extract of the public servant Mr. Prabhakar Ahire, former Deputy Registrar of Cooperation Society (MHADA) Mumbai – 400 051 for the period between April, 1997 to March, 31.2006.

The Public Information Officer by his letter dated 24.01.2007 informed the appellant that in accordance with the existing instructions, all class I officers are required to file their return of assets and liabilities to the Administrative Head of the Department who is supposed to keep it with him and may make available to Anti Corruption Burans if required / requested. The appellant was, therefore, directed to approach the commissioner of cooperation who is the custodian of this record in case of Mr. Ahire. The PIO accordingly sent his application to the commissioner of cooperation. There is nothing on record to show that the commissioner cooperation has passed any order.

The case was fixed for hearing on 23.07.2008. The appellant did not turn up. The Deputy Secretary Department of cooperation was present. She stated that this information should not be ordered to be furnished to the appellant because it was not likely to serve

any public purpose. The appellant has submitted various citations in an attempt to prove that he should be furnished the information he has sought.

I have gone through the case papers and also considered that arguments advanced by parties. In this connection section 8 (1) (J) is very clear. It says that information which relates to personal information the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of privacy of the individual unless the State Public Information Officer or the Appellate Authority as the case may be, is satisfied that the larger public interest justifies the disclosure of such information. It goes without saying that the frames of the RTI Act had 'public interest' and its supremacy in their minds. Individual interest can be sacrificed if it serves a public purpose. After going through the papers and arguments, there is nothing to convince me that public interest in this case outweighs private interest. The Govt. has already prescribed a return which every class I officer has to file. It is available with them and can also be made available to ACB as and when required. It clearly establishes that unless there is doubt in the mind of the govt. or the investigating agency this record has to remain with the Govt. The reasonableness of the demand and that too in public interest has to be proved. The appellant's request fails on this touchstone. I am not inclined to order that the information should be provided to him.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

**Appeal No.2008/560/02
Appeal No. 2008/547/02**

**Mr. Sushil J. Shivdasani
E-3, Palacimo, Silver Oaks Estate,
Bhulabhai Desai Road,
Mumbai – 400 026.**

... Appellant

V/s

**First Appellate Officer cum Lands Manager
Lands Cell, Mumbai Metropolitan
MMRDA Building,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Dy. Lands Manager
Lands Cell, Mumbai Metropolitan
MMRDA Building,
Bandra (E), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had requested for the following information: -

Agreements and writings by the BMRDA (now MMRDA) in favour of Harishchandra C. Sharma & Other in respect of lands bearing CTS Nos. 4, 5, 8, 9, 10, 11, 13 (Part), 14 (Part), 16 (Part), 17, 18 (Part), 19 (Part), 24 (Part) and 25 (Part) of Village Powai, Taluka Kurla, Mumbai in the case of Messrs. Lake View Developments, in respect of land bearing CTS Nos. 20 (Part), 21 (Part), 22 (Part), 29 (Part) & 30 (Part) of Village Powai, Taluka Kurla, Mumbai in the case of Messrs. Crescendo Associates, in respect of land bearing CTS Nos. 22 (Part), 23 (Part), 26 (Part), 29 (Part) of Village Powai, Taluka Kurla, Mumbai and pertaining to New Survey Nos. 11 (Part), 13 (Part), 14 (Part) and 15 (Part) respectively in the case of Messrs. Classique Associates on which lands Messrs. Classique Associates, Messrs. Lake View Developers, Messrs. Crescendo Associates and other associates of the Hiranandani Group of Companies have development residential and commercial complexes collectively know as HIRANANDANI GARDENS.

The PIO does not seem to have passed any order. The First Appellate disposed off the appeal by his order dated 05.11.2006. It is against this order that appellant has come in the second appeal before the commission.

The case was fixed for hearing on 22.07.2008. The appellant was present. The PIO and the First Appellate Authority were also present. It transpired during the hearing that this case was handled by me while working as Additional Chief Secretary, Urban Development (1). Although the subject matter here is different than the one handled by me, I would, however, like to keep myself away from this case lest any impression of conflict of interest would haunt the appellant or even me.

I would therefore request the Hon Chief Information Commission to handle this case himself or assign it to any Information Commissioner he deems fit.

Since this was not declared in the court at the time of hearing, a copy be sent to MMRDA and the appellant.

This will also apply to appeal No. 2008/547/02 which nothing but a duplicate copy of appeal No. 2008/560/02.

Secretary
State Information Commissioner,
Maharashtra

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Mumbai
23.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/548/02

Mr. Ammeldar Ramlakhansing Thakur
BLH Room No.319,
Kurla Kadam CHS,
Kurla (W), Mumbai – 400 024.

... Appellant

V/s

First Appellate Officer cum Joint Chief Officer
Mumbai Hosing & Area Development Cooperation,
Ghirha Nirman Bhavan, Kala Nagar, Bandra (E),
Mumbai – 400 051.

... Respondent

Public Information Officer,
Mumbai Hosing & Area Development Cooperation,
Ghirha Nirman Bhavan, Kala Nagar, Bandra (E),
Mumbai – 400 051.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked a copy of the new Annexure II and table survey plan (2005). He is not satisfied with the response from the PIO and the First Appellate Authority. Hence this second appeal.

The case was fixed on 23.07.2008. The appellant and the First Appellate Authority were present. The appellant has stated that he has not been furnished the information he had asked for. The First Appellate Authority conceded that information has not been furnished. It is very clear that the information sought is clear and uncomplicated. The PIO and the First Appellate Authority have not taken this seriously. I would however like to give them a chance.

Order

The appeal is allowed. Information must be furnished within 30 days failing which action under section 20 of the RTI Act will be initiated.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/545/02

**Mr. Milind Sharad Mulay,
284/12, Bandekar Sadan, N.C. Kelkar Road,
Ganesh Peth Lane, Dadar, Mumbai – 400 028.**

... Appellant

V/s

**First Appellate Officer cum Dy. Chief Engineer
Repair & reconstruction Board,
Grihanirman Bhavan, Bandra,
Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Chief Engineer
Repair & reconstruction Board,
Grihanirman Bhavan, Bandra,
Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought a copy of the report submitted by the Dy. Chief Engineer Vigilance and quality control, MB R & P to the Vice Chairman of the Board. The Executive Engineer FN-GN Division, MB R & P Board by his letter dated 05.01.2007 informed the appellant that the report was not available with his office and as per information given by architect and contractor, necessary rectification that is replacement of broken manglore tiles was carried out. The appellant is not satisfied with the information given and hence this appeal.

The case was fixed for hearing on 23.07.2008. The appellant was present. The PIO, the ex PIO and the First Appellate Authority were present. The appellant has stated that he had asked for a copy of the inspection report of the Dy. Chief Engineer Vigilance and Quality control which has not been given to him. He has also stated that the inspection was carried out on the basis of his complaint and it was very necessary for him to know what report has been submitted by the Dy. Chief Engineer VQC. The respondent have stated that necessary repair to the appellant unit has been carried out.

I have considered the arguments advanced by parties. The appellant has been complaining against poor quality of repair to the building. If his complaint is the basis of the Vigilance and Quality control unit inspecting and submitting the report, it is natural that he should get a copy of the report. It is also necessary and desirable on the part of the M B R & R not to keep it a secret. The very preface to the RTI Act says that this act was brought to empower 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. It also says that democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold govt. and their instrumentalities accountable to the governed. The denial of a copy of the report submitted by the Dy. Chief Engineer VQC will defeat the very purpose of the RTI Act. I pass the following order.

Order

The appeal is partially allowed. A copy of the report be furnished within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/561/02

**Mr. Mahesh Shandilya
12, Geetika, 85, S.V. Road,
Santacruz (W), Mumbai – 400 054.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarpalika,
H/West Division,
Bandra (W), Mumbai – 400 050.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarpalika,
H/West Division,
Bandra (W), Mumbai – 400 050.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has been making complaints against one hotel Dynasty Situated on the ground floor of Geetika Cooperative Housing society, S.V. Road, Santacruz, Mumbai. His complaint is that the hotel has made unauthorized changes in the flat and is using open space in the society for purposes relating to hotel. His complaint has been inquired into by various officers but the misuse and illegality continue. He has not been given any information about the final outcome of his complaint although the file shows a lot of interim replies to him. Having received no satisfactory answer from either the PIO or the First Appellate Authority, he has preferred this second appeal before the commission.

The case was fixed for hearing on 22.07.2008. The appellant was present. The respondents did not turn up. the appellant in his submission has stated that he has been running from pillar to post for years and his meetings with the Hon Chief Minister and Municipal Commissioner have yield no result. He has requested for removal of unauthorized construction and also stoppage of misuse of open space.

I have gone through the case papers on record. It is clear that no serious attempt has been to attend to his complaint. The Executive Engineer (Building Proposal) H/West in his letter dated 27.05.2008 addressed to the appellant informs him that the plans for additions/ alterations to the existing building was lastly approved under No CE 8202 BSH/A11 on 07.01.1988. The file No CE/217/BS11 Misc which was shown by owner as proof of approval was not traceable in his office and therefore the Executive Engineer was not in a position to offer his remarks about the authenticity of the approval. In his

letter dated 11.07.2007 the Medical Officer of H/West informed the appellant that necessary action against the license of hotel Dynasty was initiated under section 394 of the MMC Act. It also appears that the society has also complained to the MCGM regarding misuse of premises and unauthorized additions and alterations. Thus the file reveals a lot of activity but no final result.

It is well understood that society's are required to leave open space for movement, recreation etc. This regulation was made because of lack of open spaces in the city. These open spaces are basically breathing places for societies. They can never be used for cleaning of utensils and cutting of vegetables. The owner of the hotel has shown that the plan for additions alterations was approved in 1993 but the Executive Engineer (BP) says he has no record. It is strange that papers relating to the approval given in 1988 are available but those of 1993 are not. It raises doubts about the authenticity of the papers themselves. In any case the situation should not be allowed to continue at the cost of convenience of the society members who are the owners of the open space and the building itself. It is high time the appellant is given the final reply that illegalities have been stopped. I therefore pass the following order.

Order

The appeal is allowed. Information regarding final action taken by the MCGM to be furnished within 45 days. Misuse of open space to be stopped forth with and appellant to be informed. It is also ordered that the commission be informed about compliance. If no action is finalized within the time given, action under section 20 of the RTI will be initiated.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/427/02

**Mr. Pradyot Govind Nawathe
Raj Baug, 2nd Floor Block No. 205,
Daluchand CHS. Ltd,
Bhalchandra Road,
Matunga, Mumbai – 400 019.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarपालिका,
F/North Division Office,
Matunga, Mumbai – 400 019.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarपालिका,
F/North Division Office,
Matunga, Mumbai – 400 019.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding illegal and unauthorized extension of the area of Block No 201 on the 2nd floor of the society building. The PIO by his letter dated 25.11.2006 informed him that the site was inspected by his office staff and it was seen that the occupant of flat No 201 had done some violations and hence action under section 351 of the MMC Act was initiated against him and the same would be pursued with due process of law. The appellant filed the first appeal and the First Appellate Authority by his order dated 05.01.2007 informed him that the PIO after following due process of law has removed the unauthorized structure on 15.12.2006 and the same has been verified on site. The appellant is not satisfied and hence this second appeal.

The case was fixed for hearing on 02.07.2008. The appellant was present. Respondents were also present. I have gone through the case papers and also considered the arguments advanced by parties. I have come to the conclusion that the required information has been furnished. I decide to close the case.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/428/02

**Mr. Jehangir Ardeshir Rabadi
3/901, Navjivan Society,
Lamington Road, Mumbai – 400 008.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarpalika,
D/Ward, Nana Chowk, Mumbai – 400 007.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarpalika,
D/Ward, Nana Chowk, Mumbai – 400 007.**

GROUNDS

This appeal has been filed against the order dated 27.11.2006 passed by the First Appellate Authority. The appellant had sought certified true copies of letters by which the appellant was informed by the office of the Asstt. Engineer (B & F) “D” Ward about the action initiate under section 381 of the MMC Act against the shop owners at 145, Daruwala House, Lamington Cross Road, Alibhai Premji Road, Mumbai – 400 007. The PIO by his order dated 15.09.2006 informed the appellant that Xerox copies of letters can be made available in the office of Asstt. Engineer (B & F) Department “D” ward on payment of Rs. 2/- per copy. The appellant filed an appeal before the First Appellate Authority as he was not satisfied with the reply given by the PIO. The First Appellate Authority in his order dated 27.11.2008 directed the PIO to furnish specific information about how many times he had informed the applicant about the notices given to shop owners and the exact cost of copies. It appears from the case papers that the PIO has followed this order and informed the appellant by his letter dated 05.12.2006 that he has to pay Rs. 25/- to collect nine copies. He has furnished the details of the letters like no and dated etc. The appellant, however, has preferred this second appeal.

The case was fixed for hearing on 02.07.2008. The appellant did not turn up. Respondents were present.

I have gone through the case papers. It is very clear that the required information has been offered. The appellant should take advantage of this. In fact what order can the commission pass – asking to furnish the information which has already been offered. There is nothing to interfere with the order passed by the First Appellate Authority. I disallow the appeal.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/565/02

**Mr. Kapildev Chugh
Bandra Arcade Premises CHS. Ltd
National Library Road,
Opp Bandra Railway Station,
Badra (W), Mumbai – 400 050.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarपालिका,
H/West Division, Sent Martin Road,
Bandra (W), Mumbai – 400 050.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarपालिका,
H/West Division, Sent Martin Road,
Bandra (W), Mumbai – 400 050.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding unauthorized occupation of Sai Shradha Restaurant within the boundary wall of Sahakar Bhavan. The PIO by his letter dated 20.03.2007 informed him that the requisition made by the appellant does not fall within the definition of information. The PIO however told him that he should submit a copy of the approval plan to enable his office to take action against unauthorized work beyond the approved plan. There is nothing on record to show that the first appeal was fixed or the First Appellate Authority has passed any order.

The case was fixed for hearing on 22.07.2008. Appellant and Respondents were present.

I have gone through the case papers on record and also considered the arguments advanced by parties. The PIO's order that the appellant's requisition does not fit into the definition of information is not correct. The section is very elaborate and the requisition does fit into the definition. The PIO has asked the appellant to get a copy of the approved plan. This is not correct. The appellant complains that the structure constructed by Sai

Shradha Restaurant is unauthorized and causes hardship to him but the PIO says get a

copy of the approved plan. In my view it is the duty of the PIO to get the plan, scrutinize it and if the structure is authorized he should inform the appellant and if it is found to be unauthorized, he should initiate appropriate action. I do not agree with his findings and set them aside.

Order

The appeal is allowed. The PIO to find out whether the structure is authorized or otherwise and inform the appellant within 45 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/426/02

**Mr. Jehangir Ardeshir Rabadi
3/901, Navjivan Society,
Lamington Road, Mumbai – 400 008.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarpalika,
D/Ward, Nana Chowk, Mumbai – 400 007.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarpalika,
D/Ward, Nana Chowk, Mumbai – 400 007.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant sought xerox copies of the notices under section 381 of the MMC Act served to the wrongdoer by the Asstt. Commissioner (B & F) deptt. during the period 01.06.2001 to 21.08.2006 and also the information specifying the reasons under which if any of the said notices were not pursued further for action. The PIO by his order dated 14.09.2006 informed the appellant that Xerox copies of the notice under section 381 of the MMC Act served to the shop owner by the Asstt. Engineer (B & F) deptt. can be made available on payment of Rs. 2/- per copy in the office of the Asstt. Engineer (B & F) Deptt “D” ward. He further informed the appellant that action under 381 of the MMC Act action was already initiated under no. D/Bldg BF/3/38/2001BF dated 03.12.2005 against the shop owner. On issuance of notice the site was once again inspected on 09.12.2005 when material was not found on site hence action was not pursued further. The appellant not being satisfied filed the first appeal before the Asstt. Commissioner “D” ward who passed his order dated 27.11.2006 directing the PIO to give specific information about how many times he had informed the applicant about notices given to the shop owner and exact cost of xerox copies to the appellant. The appellant has preferred this second appeal against this order.

The case was fixed for hearing on 02.07.2008. The appellant did not turn up. The respondents were present.

I have gone through the case papers and have come to the conclusion that the required information has already been furnished. In accordance with the direction of the First Appellate Authority, the PIO has offered specific information and requested the appellant to pay Rs. 25/- and collect the desired information. It is up to him to avail of this offer.

In the light of the above circumstances nothing remains. I decide to close the case as the information has been offered to the appellant.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/562/02

**Mr. Nitin Kumar H. Shah
Jame's D'Mellow Chawl,
Marol Village, Andheri (E),
Mumbai – 400 059.**

... **Appellant**

V/s

**First Appellate Officer cum Urban Engineer
Bhrihan Mumbai Mahanagarपालिका,
5th Floor, Bhrihan Mumbai Mahanagarपालिका Marg,
Fort, Mumbai – 400 001.**

... **Respondent**

**Public Information Officer cum Dy. Engineer (W.S)
Building Proposal, W.S., R.K. Patkar Marg,
Bandra (W), Mumbai – 400 050.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant sought information regarding building plan of CTS No 1129 in the name of Gulistan Building next to St. Lawrence High School, Hanuman Mandir Road, Marol village, Andheri (E), Mumbai. The Executive Engineer (Building Proposal) H/K West by his letter dated 15.05.2007 informed him that no proposal is marked on CTS No 1129 of Village Marol hence desired information could not be furnished to the appellant. The First Appellate Authority order also did not satisfy the appellant hence this second appeal before the commission.

The case was fixed for hearing on 22.07.2008. The appellant did not turn up. The respondent was present. He has made his written submission. It has been stated by him that the appellant had sought a copy of the building plan on CTS No 1129, Village, Marol, Andheri (E). The Dy. Chief Engineer by his letter dated 06.03.2007 informed the appellant that the desired documents were available and he could collect them. The appellant did collect the information. It was however, found out that the details given to the appellant pertained to CTS No 1199 and not CTS No 1129. The officer concerned later on clarified that there was no proposal for CTS No 1129 of Village Marol.

After going through the case papers and written submission made by the respondent, I have come to the conclusion that the required information has been furnished. Appellant has been informed that there was no proposal for construction on CTS No 1129. In the light of the above discussion, I come to the conclusion that the appeal deserves to be closed.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/417/02

**Mr. Ganesh K. Kople
4/66, Geetanjali, Samata Nagar,
Kandivali (E), Mumbai – 400 101.**

... Appellant

V/s

**First Appellate Officer cum (V. P. & C.E. O.)
Maharashtra Housing & Area Development Authority,
Griha Nirman Bhavan, 4th Floor,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Secretary
Maharashtra Housing & Area Development Authority,
Griha Nirman Bhavan, 4th Floor,
Bandra (E), Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked the following information: -

- A) Enquiry & report asked by Minister of Housing about corruptions & irregularities of about two hundred crores by Vikalp Manch in their complaint of March, 2000.
- B) Enquiry & report asked by Minister of Housing regarding hostile discrimination & harassment to 90 year old smt. Prayagbai K. Kople by not regularizing of T.No. 3/51 Majaswadi on her name / her family members for last 18 years.
- C) Explanations about “Regularizations” Various procedures for various categories MHADA tenements which is not mentioned in their any of the regularization resolutions but regularized.
- D) Various querles pertaining to 3/51 Majaswadi & 3/48 Mahaswadi tenements.
- E) Complaint on the name of Shri. R. D. Pawar & K. T. Khandale about Thousands & Lacs of Rupees Cheating by Dy. Legal Advisor & Vigilance enquiry report & Related documents / Extracts.
- F) FIR registered by Dy. C.O. (Sales) against Estate Manger Shri. Arvind Shelake for selling four flats to one person in 1997/98.
- G) Whether Shri. Arvind Shelake Em & Shri. Phatak Dy. Legal Advisor gave various judgments copies & case papers to Shri. R.D. Pawar & Shri. G. Satishan a non party to dispute of T.No. 4/66, Poisar – Kandivali Tenement

The case was fixed on 01.07.2008. The appellant did not turn up. The asstt. information officer was present. He has made his written submission. The asstt. PIO states that the appellant's second appeal cannot be entertained as he has approached the Secretary of the Authority who is not a Public Information Officer under Right to Information Act. He also approached the Vice Chairman of the Authority who is not the First Appellate Authority under the RTI Act. Since the Secretary is not the PIO or the vice chairman is not the First Appellate Authority, there can be no second appeal against them before the commission.

After going through the case papers and also considering the submission made by the respondents I have come to the conclusion that this second appeal cannot be entertained. The second appeal is permissible only when appellant has approached the PIO and then the First Appellate Authority and then to the commission if he is not satisfied with their order or responses. I disallow the appeal.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/551/02

Mr. Indravijay Bhavani Shah.
Alibhai Charity Building,
Room No. 12, 1st Floor,
Govindji Keni Road,
Dadar, Mumbai – 400 015.

... **Appellant**

V/s

First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarपालिका,
F/South Division, Dr. Babasaheb Ambedkar Road,
Parel Naka, Mumbai – 400 012.

... **Respondent**

Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarपालिका,
F/South Division, Dr. Babasaheb Ambedkar Road,
Parel Naka, Mumbai – 400 012.

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had requested for information regarding his complaint against unauthorized construction by Raju textile. The PIO by his order dated 22.02.2001 informed the appellant that the information sought cannot be provided as it is pertaining to a third party. There is nothing on record to show that the First Appellate Authority has passed any order. Hence this second appeal.

The case was fixed for hearing on 21.07.2008. Appellant and respondents were present. The appellant stated that despite his application and personal meeting he has not been given the information he had sought. Respondents have taken the plea that the information pertains to a third party which has objected and therefore they could not furnish the required information.

After going through the case papers and considering the arguments advanced by parties, I have come to the conclusion & that the PIO's order is not correct. A citizen complains against an unauthorized construction, the PIO says this is third party information. I fail to understand how can this be classified as a third party information

Section 11 of the RTI Act very clearly explains what constitutes third party information and under what circumstances and by following what procedure the information required has to be supplied. Simply explained – third party information means an information relating to or supplied by a third party and has been treated confidential by that third party. Even in such cases a procedure which has been prescribed for disclosure of information. An unauthorized construction even if the man who has indulged in it and wants it to be confidential cannot be confidential. Under the RTI Act his application for regularization or permission also cannot be confidential. The Act allows even disclosure of trade or commercial secret if public interest in disclosure outweighs in importance any possible harm or injury to the interest of such third party. None of the conditions of section 11 full filled here. The order deserves to be set aside.

Order

The appeal is allowed and information to be furnished within 45 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/430/02

**Mr. Satish H. Kolte,
21, Manali Apartment,
Hanuman Cross Road No. 2,
Vile Parle (E), Mumbai – 400 057.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarपालिका,
K/West Division, Andheri (E)
Mumbai – 400 069**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarपालिका,
K/West Division, Andheri (E)
Mumbai – 400 069**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding execution of MRTP notice No KE/JEB (4)/55(1)/267 of 2003-2004 dated 23.06.2003. Not being satisfied by the orders issued by the PIO and the First Appellate Authority he has preferred this second appeal.

The case was fixed for hearing on 02.07.2008. The appellant and the PIO were present.

The PIO by his letter dated 02.07.2008 has informed the commission that the demolition work was not undertaken earlier because of the pending litigation. The demolition has been finally carried out on 17.07.2007.

After going through the case papers and submission made by the respondent, I have come to the conclusion that the cause of action is no longer in existence. It is not clear whether the appellant been has informed or not. The PIO must immediately inform about the action taken.

Order

The appeal is disposed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/568/02

**Mr. Chellaram B. Kokal,
4/12, Vivekanand CHS. Ltd,
T.H. Kataria Marg, Mahim,
Mumbai – 400 016.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarpalika,
G/North Bhrihan Mumbai Mahanagarpalika Office,
Harishchandra Yevle Marg,
Dadar, Mumbai – 400 028.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarpalika,
G/North Bhrihan Mumbai Mahanagarpalika Office,
Harishchandra Yevle Marg,
Dadar, Mumbai – 400 028.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information regarding legal status of proceedings against the occupier of flat No. 14, Mr. Prakash Bachomal Gagwani. The PIO by his order dated 10.01.2007 has furnished the information. There are also communications from the MGM dated 05.10.2001 and 12.01.2001 which the appellant has attached to his appeal.

This means that the issue predates the Right to Information Act which became operational only in October, 2005. The appellant has raised a very important point he has been seeking information about flat no 14 occupied by Mr Prakash Bachomal Gagwani where as the PIO has given him information (by his letters dated 10/01/2007) about Viveknand CHS, Shri Ram Mangalani and Mr. Ramesh Tiwari. The appellant is rightly not satisfied. I, therefore, feel that the MCGM owes to the appellant furnishing of correct information. The ward officer or whosoever is in charge can find out as to who occupies flat No 14 and what is the status of the proceeding if initiated.

Order

The appeal is allowed. Information to be furnished by the PIO within 45 days.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/447/02

**Smt. Suman Pandharinath Deulakar
4/12, Vivekanand CHS. Ltd,
T.H. Kataria Marg, Mahim,
Mumbai – 400 016.**

... **Appellant**

V/s

**First Appellate Officer cum Dy. Secretary
Food, Civil Supplies & Consumer Protection Department,
42, Sir Vittaladas Thakursi Marg,
Mumbai – 400 020.**

... **Respondent**

**Public Information Officer cum Dy. Director,
Food, Civil Supplies & Consumer Protection Department,
42, Sir Vittaladas Thakursi Marg,
Mumbai – 400 020.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for copies of documents like affidavit filed by Mrs. Seema Pritam Deolagaonker before the Asstt. Director in March 2004, copies of proof of Marriage, affidavit stating that she has not remarried etc. The PIO as well as the First Appellate Authority have furnished the information but the appellant is not satisfied. Hence this second appeal.

The case was fixed for hearing on 04.07.2008. The appellant was present. The respondents were also present. Respondents have furnished written submission as well as copies of the information furnished to the appellant. It appears from the case papers that the appellant's son was working in the Food, Civil Supplies & Consumer Protection Department. He died while in service. He has staked his claim for pension and other benefits. The appellant feels that he should get a share in the pension. Incidentally all information sought relate to his daughter in law who lost her husband.

After going through the case papers, I have come to the conclusion that the information sought has been furnished. In fact respondents have submitted copies to the

commission also. The appellant's grievance or expectation is beyond the RTI Act. In view of the fact that the information has been furnished, I pass the following order.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/566/02

**Mr. Ganpat Namdeo Jadhav
1/110, Shri Sai Amrut CHS,
Flat No. 252, Janta Soc Marg,
Ghatkoper (E), Mumbai – 400 077.**

... Appellant

V/s

**First Appellate Officer cum Secretary,
SRA, Ghira Nirman Bhavan, 5th Floor,
MHADA, Bandra (E),
Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Asstt. Registrar,
SRA, Ghira Nirman Bhavan, 5th Floor,
MHADA, Bandra (E),
Mumbai – 400 051.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding allotment of tenements to members of Shri Sai Janta SRA Cooperative Society Ltd, Ghatkopar (E), Mumbai. HE had also asked for a list of members of the managing committee. The PIO informed him that these information were available at the society level and the appellant should approach the Society. The appellant filed the first appeal and the First Appellate Authority by his order dated 20.01.2007 directed that the PIO to furnish the information as soon as it is received from the society. The appellant is not satisfied with this order. Hence this appeal.

The case was fixed for hearing on 22.07.2008. Appellants and respondents were present. The appellant at the time of hearing had already received the list of allottees. He was however not happy and pointed out that the list had defects and deficiencies. The respondents have stated that they have passed on the list received from the society. If the appellant found out some defects he could take up with the appropriate authority for correction / remedial action.

I have gone through the case papers and also considered the argument advanced by parties. It is very clear that the desired information has been furnished. RTI Act

provides an instrument through which omissions and commissions can be rectified. If the appellant has found some defect in the list, he could approach the appropriate authority for remedial action. The RTI Act cannot be used for redressal of grievances.

In the light of the above observation I have come to the conclusion that the appeal deserved to be closed. I therefore pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/445/02

**Mr. Martin Conrad Fernandes
Safalya Bldg, No. 14/B, 3/314 Hosing Board,
Ambarnath (W) 421 501,
Dist. Thane.**

... **Appellant**

V/s

**First Appellate Officer cum Sub Registrar,
Registry Office, Old Customs Office,
Mumbai – 400 023.**

... **Respondent**

**Public Information Officer,
Registry Office, Old Customs Office,
Mumbai – 400 023.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for a copy of his father's hand written will made between 1980-1981. He needed it to probate by the court. He was, however, handed over a copy of the will registered with the sub-registrar (No BM/2749/1/3/III 1982.) The appellant says that the will registered with the registrar is not genuine. This will is a typed one and signed by his mother and father. The appellant says that the hand written will is the one he needs.

The case was fixed for hearing on 04.07.2008. The appellant did not turn up. The respondent was present. The respondent has argued that they are the custodian of will whenever they are deposited with them. They make entries in the registrar and a copy can be made available to anyone on production of the death certificate of the person who has made the will. They also informed the commission that the appellant has been provided with a copy of the will deposited with them. They have also stated that they have made attempt to find whether there was another will deposited with them. They say that they have drawn a blank. Thus the respondent concludes that the appellant has been given copy of the document available with them.

After going through the case papers and arguments advanced by the respondent, I have come to the conclusion that the available information has been furnished. The RTI Act guarantees access to available information. If the information is just not available, the PIO can spates can & do nothing. In the light of the above discussion, the appeal deserves to be dismissed.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/546/02

**Mr. Prabhudayal Tarachand Tanvar,
Flat No. 81, Kherawadi,
Bandra (E), Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner
Bhrihan Mumbai Mahanagarpalika,
H/West Division, Prabhat Colony,
Santacruz (E), Mumbai – 400 055.**

... Respondent

**Public Information Officer cum Asstt. Engineer
Bhrihan Mumbai Mahanagarpalika,
H/West Division, Prabhat Colony,
Santacruz (E), Mumbai – 400 055.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information rather given information to the PIO that his tenant Shri. Ramchandar Chabukswar was likely to indulge into unauthorized construction and in case he has applied for permission he should be given a copy of his application and permission should not be given without his no objection. The PIO by his letter dated 13.09.2006 informed him that they have received application dated 17.07.2006 from Shri. Ramchandar Chabukswar and the same would be processed in accordance with existing policy of the MCGM. The appellant filed first appeal but no order seems to have been passed. Hence this appeal.

The case was fixed for hearing on 23.07.2008. The appellant and respondent were present. The main problem of the appellant seems to be his relationship with Shri. Chabukswar. His tenant he has complaint against low rent and seeking permission without appellant's 'no objection.' The respondents have given the information that appellant tenant's application for repair has been received by them. Record also shows

that there is a case pending before the Hon. Small Causes Court, Bandra. Under these circumstances there nothing which the commission can do. The information available with the PIO has been given and the information given to the MCGM also must have been noted. The case is pending before Hon. Small Causes Court. I am of the view that the appeal should be disposed off.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 30.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/221/02

**Mr. Shashikant Waman Kochikar
7 Om Satlaj Irla, Vileparle (W),
Mumbai – 400 022.**

... **Appellant**

V/s

**First Appellate Officer or Chief Officer (Enquires)
Municipal Corporation of Greater Mumbai,
6th floor Annex Bldg. Mahapalika Road,
Mumbai – 400 001**

... **Respondent**

**Public Information Officer or Joint Chief Officer (Enquires)
Municipal Corporation of Greater Mumbai,
6th floor Annex Bldg. Mahapalika Road,
Mumbai – 400 001**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant wanted to know whether the procedure illustrated in the Govt. of Maharashtra's circular no. CDR/1082/3362/69/XI dated 12.06.86 for awarding punishment to convicted municipal employee was followed by perusal of judgment of criminal case before issuing dismissal order of the appellant under order no NGC/CHOE/21/SHG/2050 on 10.02.2003.

The appellant is not satisfied with replies furnished by the PIO and the First Appellate Authority. Hence this appeal.

The case was fixed for hearing on 13.06.2008. The appellant and respondents were present. The arguments have been along the lines taken up during the earlier stages. The appellant has sought information whether GAD circular of 12.06.86 has been followed or not. The only people directly involved are the Chief Engineer (Vigilance) and the Chief Officer (Enquiry). Both of them seem to have handled the case at different stages. It is not unusual. The Chief Engineer Vigilance has stated that the dismissal order was not issued by his office and as such the question of following the circular of 12.06.86 did not arise. It has been argued on his behalf that the City Engineer has been associated

with this case from the very beginning and it is he who should furnish the required information. It has also been stated that it is the City Engineer who has primarily initiated the proposed for dismissal and obtained Add. Commission's order.

It is clear that neither of the two is willing to furnish the information whether the GAD circular dated 12.06.1986 was taken into account before the dismissal order was issued. This information is very vital for the appellant. I cannot allow this game of shifting responsibility. On the basis of the papers on record; I am of the view that the City Engineer has to furnish the information. In any case the information sought has to be furnished from the available record. Even a third party can scrutinize the records and find out whether the circular of GAD dated 12.06.1986 was perused or not. It does not lead to fixing of responsibility as to who was responsible for examining the GAD circular dated 12.06.1986. I pass the following order.

Order

The City Engineer will furnish the required information to the appellant within 30 days. In the case he requires assistance from the Chief Engineer (Vigilance) or Chief Officer (Enquiry) he may do so and they shall render all assistance to the City Engineer. I would like to emphasize that if the information is not furnished within time, action under section 20 of the RTI Act will be initiated.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 31.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/444/02

**Mr. Rajan Alimchandani
47/B, Venus Co-op Hsg. Society,
Dr. R. G. Thadani Marg, Worli,
Mumbai – 400 018.**

... **Appellant**

V/s

**First Appellate Officer,
The Institute of Chartered Accounts of India,
Western India, Regional Council,
Anveshak, 27, Cuffe Parade
Colaba, Mumbai – 400 005.**

... **Respondent**

**Public Information Officer or Secretary
The Institute of Chartered Accounts of India,
Western India, Regional Council,
Anveshak, 27, Cuffe Parade
Colaba, Mumbai – 400 005.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought information from the Institute of Chartered Accountants regarding omission by their auditors who audited the annual accounts of Venus Co-operative Housing Society, Worli. The managing committee of the society had submitted their 48th Annual Report and statement of account for the financial year 2005-2006 on 24th September 2006. One of the managing committee members of “C” Block – Shri. J.P. Patel wrote to the Secretary of the society that since the amount of expenditure in respect of major should not be construed repairs relating to “C” wing and the quality of work thereof was in dispute, his signature as approval of the same and the same was subject to approval of the General Body of “C” wing. It seems, Shri. Patel added that the aggregate amount of the expenditure is mentioned in schedule A of the balance sheet but the details whereof were not available. The appellant contention is that Mr. Patel’s comments do not figure anywhere in the Balance sheet. He wrote to the auditors but received no reply. The Institute of Chartered Accountants of India by their letter dated 08.12.2006 drew his

attention to section 21 of the Chartered Accountants Act 1949 and Regulation 12 of the Chartered Accountants Regulations 1988 and advised him to file complaints in the prescribed form No. 8 in triplicate. This appeal before the commission is against this.

The case was fixed for hearing on 04.07.2008. The appellant was present. The respondent did not turn up. They have however, sent a letter dated 08.07.2007. They have contended that the Institute of Chartered Accountants of India is a statutory body set up by an Act of Parliament under provisions of the Chartered Accountants Act 1949 and comes under the Ministry of Corporate Affairs, Govt. of India and it is a public authority under section 2(a) (i) of the Right to Information Act 2005. The Institute has contended that the appeal should be with the Central Information Commission and not before the State Information Commission. In fact this letter has been signed by the Institutes Central Public Information Officer.

I have gone through the case papers and also considered the arguments advanced by parties. It seems that following points need to be considered before coming to a conclusion.

- (1) Whether the appellant's request falls within the definition of information.
- (2) Whether information has been furnished.
- (3) Whether Institute of Chartered Accountants is a public authority and if yes whether they are under the Central Information Commission or the State Information Commission.

My analysis brings me to the conclusion that the request made by the appellant does not fit into the definition of information. Section 2 of the Right to Information Act defines information as follows – information means any material in any form, including records, documents memos, emails, opinions, advisers, press, releases, circulars, orders, logbooks, contracts, reports, papers, samples, models data material held in any electronic

form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

It is very clear that what the appellant wants is action against the auditors who according to him have violated the code of ethics. According to him the observation of Mr. Patel Should have been reflected in the society's Balance sheet which the auditors have omitted. The RTI Act does not provide remedial measures. It empowers citizen to access information. The violation of ethical code has been brought to the notice of the Institute of Chartered Accountants and he wants action / information regarding that. This according to me means stretching the definition of information a little too far. In any case the Institute of Chartered Accountants have informed the appellant the course of action which can be taken against auditors if he makes a complaint in accordance with the prescribed procedure. The appellant's contention that he wanted to know what action has been taken by the Institute stands replied. The respondent has also contested that the State Information commission is not competent to entertain this case as the Institute has been set up under the Chartered Accountants Act 1949 and comes under the Ministry of corporate affairs Govt. of India and therefore Central Information Commission alone can entertain any application seeking information from them. I am not commenting on these issues because the appeal fails on the basic premise – whether the request is 'information' or not. According to my understanding this does not constitute information but is a complaint that too not under the RTI Act but under the Chartered Accountants Act/ The Chartered Accountants Regulations. I therefore pass the following order.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai

Date:

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/559/02

**Mr. Sanjay Singh
Vishal Sari Center, Shop No. 23,
Sainath Municipal Market,
Sainath Road, Malad (W),
Mumbai – 400 064.**

... Appellant

V/s

**First Appellate Officer cum Asstt. Municipal Commissioner,
P/North Division, Liberty Garden,
Mamledar Wadi, Malad (W) Mumbai – 400 064.**

... Respondent

**Public Information Officer cum Asstt. Engineer (Building)
P/North Division, Liberty Garden,
Mamledar Wadi, Malad (W) Mumbai – 400 064.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought the following information: -

- a) An application under Right to Information Act 2005 dated 21.08.2006 was made to Public Information Officer A.E. (bldg & Factory), P/North Seeking information about action taken as per the High Court order dated April 19, 2006 in the First Appeal No. 1294 of 2005. Regarding regularization of the illegal structure.
- b) Public Information Officer A.E. (Bldg & Factory), P/North replied on 05.09.2006 direction me to collect the said information from Administrative officer (Estate), P/North. The information officer did not transfer the said application within five days as mandatorily required under the proviso of Section 6(3) of the Act.
- c) Pursuant to the said reply an application dated 06.10.2006 was made to Public Information officer Administrative officer (Estate), P/North. The officer never replied to the application.
- d) Aggrieved by this. First appeal dated 09.02.2007 was made to the First Appellate Authority Assistant Municipal Commissioner P/North Ward. The appellate

Authority directed A.E. (Bldg) to make a diligent search of the file & give revised reply within seven days.

- e) A.E.(bldg) did not honour the decision of the Appellate Authority and resorted to all sorts of delaying tactics for not providing the information. I made several round of the office to collect the information, but was always sent back without any information.
- f) The true reason for defying the mandatory provisions of the Act and not providing the information is to cover the corruption involved and to protect the illegal structure. The disclosure of the information will expose the corruption, connivance and dereliction of official duty by the A.E. (Bldg) and hence is avoided by the A.E. (Bldg).

The PIO by his letter dated 05.09.2006 informed the appellant that he should collect the required information from the Administrative Officer (Estate) `P/North as the structure is situated within the BMC Colony. The appellant was not satisfied and filed the First Appeal under Section 19(1) of the Right to Information Act. The First Appellate Authority by his order dated 23.03.2007 directed the PIO to take diligent search of file and give revised reply to the applicant within 7 days. The PIO did not to do anything. Hence this second appeal.

The case was fixed for hearing on 22.07.2008. The appellant was present the respondents did not turn up.

After going through the case papers, I have come to the conclusion that the PIO has been casual. He did not furnish the information and simply directed the appellant to approach the Administrative Officer without sending his application. This means that he has not followed the procedure prescribed under the RTI Act. He has not cared to follow

the direction given by the First Appellate Authority. This is a case fit for case proceedings under section 20 of the RTI Act. I therefore pass the following order.

Order

The appeal is allowed. The PIO to furnish information to the appellant within 45 days he should arrange to collect the required information if not available with him and furnish to the appellant as directed. He should also send his reply to the commission why action under section 20 of the RTI should not be initiated against him.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 31.07.2008.

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/303/02

**Mr. Shashikant Waman Kochikar
7 Om Satlaj Irla, Vileparle (W),
Mumbai – 400 022.**

... **Appellant**

V/s

**First Appellate Officer cum Chief Officer (Enquires)
Municipal Corporation of Greater Mumbai,
6th floor Annex Bldg. Mahapalika Road,
Mumbai – 400 001**

... **Respondent**

**Public Information Officer cum Joint Chief Officer (Enquires)
Municipal Corporation of Greater Mumbai,
6th floor Annex Bldg. Mahapalika Road,
Mumbai – 400 001**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant wanted to know whether the procedure illustrated in the Govt. of Maharashtra's circular no. CDR/1082/3362/69/XI dated 12.06.86 for awarding punishment to convicted municipal employee was followed by perusal of judgment of criminal case before issuing dismissal order of the appellant under order no NGC/CHOE/21/SHG/2050 on 10.02.2003.

The appellant was not satisfied with replies furnished by the PIO. He preferred the First appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 03.10.2006 asked the appellant to approach the City Engineer to obtain the information required by him. It appears from the papers that the appellant has already written to the City Engineer requesting him to furnish the information as directed by the First Appellate Authority.

The case was fixed for hearing on 13.06.2008. The appellant and respondents were present. The arguments have been along the lines taken up during the earlier stages. The appellant has sought information whether GAD circular of 12.06.86 has been followed or not. The only people involved are the City Engineer, the Chief Engineer

(Vigilance) and the Chief Officer (Enquiry). They then seem to have handled the case at different stages. It is not unusual. The Chief Engineer Vigilance has stated that the dismissal order was not issued by his office and as such the question of following the circular of 12.06.86 did not arise. It has been argued on his behalf that the City Engineer has been associated with this case from the very beginning and it is he who should furnish the required information. It has also been stated that it is the City Engineer who has primarily initiated the proposed for dismissal and obtained Add. Commission's order.

It is clear that none of these is willing to furnish the information whether the GAD circular dated 12.06.1986 was taken into account before the dismissal order was issued. This information is very vital for the appellant. I cannot allow this game of shifting responsibility. On the basis of the papers on record; I am of the view that the City Engineer has to furnish the information. In any case the information sought has to be furnished from the available record. Even a third party can scrutinize the records and find out whether the circular of GAD dated 12.06.1986 was perused or not. It does not lead to fixing of responsibility as to who was responsible for examining the GAD circular dated 12.06.1986. I pass the following order.

Order

The City Engineer will furnish the required information to the appellant within 30 days. In the case he requires assistance from the Chief Engineer (Vigilance) or Chief Officer (Enquiry) he may do so and they shall render all assistance to the City Engineer. I would like to emphasize that if the information is not furnished within time, action under section 20 of the RTI Act will be initiated.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 31.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/443/02

**Mr. Vijay Haridatta Tandale
B-602, Sanskar, Shivaji Park,
Behind Post Office, N.C. Phelkar Marg,
Dadar (E), Mumbai – 400 028.**

... **Appellant**

V/s

**First Appellate Officer cum Incharge Dy. Chief Officer
Room No. 307, Mumbai Housing and Area Board,
Griha Nirman Bhavan, Banda (E), Mumbai.**

... **Respondent**

**Public Information Officer cum Dy. Chief Officer
Room No. 307, Mumbai Housing and Area Board,
Griha Nirman Bhavan, Banda (E), Mumbai.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has asked for information regarding allotment of tenements at Pratiksha Nagar by Mumbai Housing and Area Board. He has also requested for information regarding buildings from where the allottees have been shifted. The period for which the information is required is from 1991 to 2006. The record does not show whether the PIO has passed any order. The appellant also does not seem to have passed any order. The case was fixed for hearing on 04.07.2008. The appellant was present but the respondents were absent. The appellant has stated that he has not received the information he had sought. In the absence of respondents, it was not possible to verify facts. But it is also revealed from case papers that the information sought is too broad and it would consume a lot of time of the public authority to collect and furnish the required information. The appellant agreed to modify his request. In the light of the above discussion, I pass the following order.

Order

The appeal is allowed. PIO to furnish information within 30 days failing which action under section 20 of the RTI Act will be initiated against him.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 31.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/5/02

**Mr. Ganesh K. Kople
4/66, Geetanjali, Samata Nagar,
Kandivali (E), Mumbai – 400 101.**

... Appellant

V/s

**First Appellate Officer cum Chief Officer
MHADA, Griha Nirman Bhavan,
Banda (E), Mumbai.**

... Respondent

**Public Information Officer cum Joint Chief Officer
MHADA, Griha Nirman Bhavan,
Banda (E), Mumbai.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by his application dated 21.01.2006 had sought information under section 6(1) of the RTI Act. He also preferred appeal dated 10.03.2006. The First Appellate Authority by his order dated 23.05.2008 furnished information on 29 points. The appellant is not satisfied and hence this appeal.

The appeal was fixed for hearing on 25.06.2008. It appears that the second appeal memo does not have vital documents it does not have a copy of application under section 6(1), the order passed by the PIO, copy of the appeal preferred under section 19(1) of the RTI Act. The second appeal col 8 also does not reveal anything in the absence of background papers. I have therefore come to the conclusion that this deserves to be dismissed.

Order

The appeal is dismissed off.

**(Ramanand Tiwari)
State Information Commissioner, Mumbai**

Place: Mumbai
Date: 31.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/421/02

**Mr. Dr. Kohle, Molai Roy
Clovar Village, Carlisle Court,
Co-op. Soc. Ltd, Wanawadi,
Pune – 411 040.**

... **Appellant**

V/s

**First Appellate Officer,
Cooperation and Textile Department,
Mantralaya, Mumbai – 400 032.**

... **Respondent**

**Public Information Officer,
Cooperation and Textile Department,
Mantralaya, Mumbai – 400 032.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellants has asked for full details including notings on stay granted by Hon. Minister for cooperation in revision application no RVA 2706 pra-kra 118/155 dated 3rd August 2006. The PIO by his letter dated 19.12.2006 informed him that copies of noting could not be provided as the Hon. Minister had granted stay in his quasi judicial order. The appellants filed the first appeal under section 19 (1) of the RTI who passed his order 21.02.2007. This did not satisfy the appellants and therefore this second appeal.

The case was fixed for hearing on 02.07.2008. Appellants and respondents were present. The main contention of the appellant is that they were not asked to give their point of view before the stay was granted. They also contended that the stay is in operation for along time and they must be informed the grounds on which and the circumstances under which the stay was granted. The respondents of stated that since the stay order has been passed by the Hon Minister cooperation the appellants cannot be furnished copies of relevant notings etc.

I hav3 gone through the case papers and also considered the arguments advanced by parties. It is clear that the stay order does not mention any ground. It is also clear that

appellants were not given an opportunity to present their point of view. It is well steeled law that stay should not be granted without hearing the other party as this leads to denial of natural justice. In such case where stay has been granted expect the period of stay should be short and final decision after hearing parties should be passed quickly. The stay in this case is in operation for a long time. No decision as revealed by the respondents has been taken till the date of hearing. This is unfair. I would therefore urge upon the Govt. to decide the case and communicate its decision to appellants. I therefore pass the following order.

Order

The appeal is allowed. Appellants to be furnished the information required them within 45 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 31.07.2008

Before the State Information Commission, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/441/02

**Mr. Virendra Khanna
B-13/4 Maitri Park CHS. Ltd,
Chembur, Mumbai – 400 071.**

... **Appellant**

V/s

**First Appellate Officer cum District Dy. Registrar
Cooperative Societies (2) Eastern Suburbs,
201, 2nd Floor, Kokan Bhuvan CBD Belapur,
Navi Mumbai – 400 614.**

... **Respondent**

**Public Information Officer cum Dy. Registrar
Cooperative Societies (2) Eastern Suburbs,
201, 2nd Floor, Kokan Bhuvan CBD Belapur,
Navi Mumbai – 400 614.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellants had sought certain information regarding functioning of the Managing Committee, Matri Park CHS. Ltd., Chembur, Mumbai. He had also asked for copies of certain documents. The PIO and the First Appellate Authority directed him to approach the society as these information could be available at the society level. The appellant is not happy with these orders and hence this second appeal.

The case was fixed for hearing on 04.07.2008. Appellants and respondents were present. It is very clear that the appellant is not satisfied with the functioning of the society and particularly of the Managing Committee. He therefore wants inspection of documents related to daily administration of the society affairs. He has also brought to our notice that he is not getting cooperation from the Managing Committee despite instruction from the office of the District Registrar. His grievances may be genuine and legitimate but the fact remains that this information is available only at the level of society. The commission can direct the District Deputy Registrar to collect the information and hand over to the appellant. This is not practical. There are hundreds of such cases and DDR's office will have no work except collecting information from

societies furnishing to applicants under RTI Act. The commission, however, in certain cases has directed the DDR to collect the information and furnish to the society. The sole criterion has been that DDR should 'hold' such information and have direct control over such information. Documents relating to day to day functioning of the society or repairs to buildings or collection of services charges do not fall in this category. This is not to suggest that the Managing Committee should ignore its members. The solution lies in the Maharashtra cooperative societies Act 1960 and not in the RTI Act 2005. The cooperative Society Act empowers the DDR to even supersede the society if it is not run according to the bye laws of the society and rules/regulation under the Act. I would urge up on the DDR to use his inherent power to redress the grievances of the appellant. In the light of this, I decide to close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 31.07.2008