

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

Appeal No.2008/1181/02

**Shri. Prashant Rajabhau Jadhav
Sundarsham Ro-House No.3,
Asharaj, Behind Tutvisi I Hospital,
Happy Home Colony, Pune Rd, Nasik – 11.**

... **Appellant**

V/s

**First Appellate Officer cum General Manger,
Maharashtra State Transport Corporation,
Central Office, Mumbai – 400 008.**

... **Respondent**

**Public Information Officer cum Chief Executive Class Officer,
Maharashtra State Transport Corporation,
Central Office, Mumbai – 400 008.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought copies of administrative instruction relating to priority in employment to children of retired / retiring employees of Maharashtra State Road Transport Corporation, Govt. letter relaxing certain conditions for appointment to class IV and MSRTC's decision in this regard. The PIO by his letter dated 05.10.2007 furnished the information but the appellant was not satisfied. He preferred the first appeal under section 19(1) of the RTI Act. Not satisfied with the response of the First Appellate Authority, he has come in second appeal before the commission.

The appeal was heard on 10.11.2008. Appellant and respondent were present. The appellant admitted having received the information furnished by the PIO. He was however not happy because it did not satisfy him. The appellant has drawn commission's attention to various govt. / court order in support of his argument. He has drawn our attention to Govt. circular No.TSA-5185/161772/882 Tashi-4 Education & Employment Department, Mantralaya Annex Building, Mumbai dated 14.03.1986. This Govt. circular clearly says that 50% of vacancies should be filled by those trained under the Indian apprenticeship Act 1961. The MSRTC does give preference to children of retired employees and those who have undergone apprenticeship in the MSRTC. But this preference is only at the time of interview. There is no instruction to ensure that 50% of

vacancies are filled in from amongst those trained under the Indian apprenticeship Act. The appellant therefore wanted the MSRTC to say that they are not following the Govt. circular. The MSRTC on the other hand has agued that they have furnished copies of instruction which they are following but would not be in a position to say that they are not following the govt. circular.

I have gone through the case papers and also considered the arguments advanced by parties. My conclusion is that the MSRTC is not following govt. circular dated 14.03.1986. This is binding on them. They have been filling vacancies without reference to the govt. circular and depriving themselves of the trained manpower. The commission therefore directs the PIO to obtain necessary order from the competent authority for immediate compliance of the Govt. circular dated 14.03.1986. The appellant should be kept informed.

Order

The appeal is allowed. The PIO to obtain necessary order and inform the appellant.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 10.11.2008

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

Appeal No.2008/1201/02

**Shri. Amit Arvind Katarnvare
Sidhi Saprsh Apt. Room No.402,
B Wing, 4th Floor, Sector 23, Juinagar,
Navi Mumbai – 400 0704.**

... Appellant

V/s

**First Appellate Officer cum Project Manger,
Rehabilitation Department, MMRDA,
Bandra – Kurla Complex, Mumbai – 400 051.**

... Respondent

**Public Information Officer,
Rehabilitation Department, MMRDA,
Bandra – Kurla Complex, Mumbai – 400 051.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appeal was heard on 11.11.2008. Appellant and respondent were present. It was revealed during the hearing that the appeal has already been decided by the Hon Chief Information Commissioner, Maharashtra and he has passed his order dated 09.09.2008. There is therefore no need to hear it again. Parties agreed to this. The file is therefore closed.

Order

The appeal is disposed off.

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

Place: Mumbai
Date: 11.11.2008

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

Appeal No.2008/1210/02

Shri. Mohd Rafik Ali Mohd
105, Nizam Street, Bootwala Building,
Ground Floor, Mumbai – 400 003.

... **Appellant**

V/s

First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, Grater Mumbai,
K/West Ward, 2nd Floor, Peliram Path,
Andheri (W), Mumbai – 400 058.

... **Respondent**

Public Information Officer Assist. Engineer,
Municipal Corporation, Grater Mumbai,
K/West Ward, 2nd Floor, Peliram Path,
Andheri (W), Mumbai – 400 058.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appeal was fixed for hearing on 06.11.2008. The appellant and the respondent were present. The appellant however pointed out that the required information has been furnished and he was satisfied. He has given application for withdrawal (copy on record) In view of the fact that the required information has been furnished and the appellant does not want to pursue the appeal, the case is being closed.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 06.11.2008

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

Appeal No.2008/790/02

**Shri. Bakhar Abdul Alim Ahamad
Janhit Sanstha, E/02, Mini Nagar CHS Ltd,
Rawal Pada, S.N. Dube Rd, Dahisar (E),
Mumbai – 400 068.**

... **Appellant**

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, Grater Mumbai,
P/North Ward Office, Librarty Garden,
Mamledar Wadi, Malad (W), Mumbai – 400 064.**

... **Respondent**

**Public Information Officer Assist. Engineer (Build)
Municipal Corporation, Grater Mumbai,
P/North Ward Office, Librarty 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 appeal had sought information regarding action taken on 20 unauthorized structures in No Development zone at Vrindavan Society, Marve Road, Malad (W). He was not satisfied with responses from the PIO and the First Appellate Authority and hence this appeal.

The appeal was fixed for hearing on 10.11.2008. Appellant and respondent were present. The respondent has brought to the commission's notice that the information sought is not specific. Parties agreed to a joint inspection so that unauthorized structure could be identified and information furnished. I pass the following order.

Order

Appellant and respondent to have a joint inspection of structures. The respondent will organize the visit before 30.11.2008. The appellant should be provided the available information after joint inspection.

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

Place: Mumbai
Date: 11.11.2008

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

Appeal No.2008/789/02

Shri. Bakhar Abdul Alim Ahamad
Janhit Sanstha, E/02, Mini Nagar CHS Ltd,
Rawal Pada, S.N. Dube Rd, Dahisar (E),
Mumbai – 400 068.

... **Appellant**

V/s

First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, Grater Mumbai,
P/North Ward Office, Librarty Garden,
Mamledar Wadi, Malad (W), Mumbai – 400 064.

... **Respondent**

Public Information Officer Assist. Engineer (Build)
Municipal Corporation, Grater Mumbai,
P/North Ward Office, Librarty 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: -

‘Till date what action has been taken against unauthorized constructions. There was a mass demolition in 2004, 2005, and 2006. How many kuchcha rooms and huts were demolished at that time? What is the present status of Rathodi Village, Marve Road, Malad (W), Mumbai – 400 055. What is the present status.’ The appellant was not satisfied with the responses from the PIO and the First Appellate Authority and hence this appeal.

The appeal was heard on 10.11.2008. The appellant has stated that he has not been furnished the required information. The respondent stated that he took over recently and may take sometime to familiarize with the status of the situation.

I have gone through the case papers. It is clear that the information sought is too broad and non specific. I am of the view that any attempt to search the information will lead to disproportionate expenditure of resources of the public authority. The appeal is therefore not allowed.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 11.11.2008

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

Appeal No.2008/1221/02

**Shri. Prashant Rajabhau Jadhav
Sundarsham Ro-House No.3,
Asharaj, Behind Tutvisi I Hospital,
Happy Home Colony, Pune Rd, Nasik – 11.**

... **Appellant**

V/s

**First Appellate Officer cum General Manger,
Maharashtra State Transport Corporation,
Central Office, Mumbai – 400 008.**

... **Respondent**

**Public Information Officer cum Chief Executive Class Officer,
Maharashtra State Transport Corporation,
Central Office, Mumbai – 400 008.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought copies of administrative instruction relating to priority in employment to children of retired / retiring employees of Maharashtra State Road Transport Corporation, Govt. letter relaxing certain conditions for appointment to class IV and MSRTC's decision in this regard. The PIO by his letter dated 05.10.2007 furnished the information but the appellant was not satisfied. He preferred the first appeal under section 19(1) of the RTI Act. Not satisfied with the response of the First Appellate Authority, he has come in second appeal before the commission.

The appeal was heard on 17.11.2008. Appellant and respondent were present. The appellant admitted having received the information furnished by the PIO. He was however not happy because it did not satisfy him. The appellant has drawn commission's attention to various govt. / court order in support of his argument. He has drawn our attention to Govt. circular No.TSA-5185/161772/882 Tashi-4 Education & Employment Department, Mantralaya Annex Building, Mumbai dated 14.03.1986. This Govt. circular clearly says that 50% of vacancies should be filled by those trained under the Indian apprenticeship Act 1961. The MSRTC does give preference to children of retired employees and those who have undergone apprenticeship in the MSRTC. But this preference is only at the time of interview. There is no instruction to ensure that 50% of

vacancies are filled in from amongst those trained under the Indian apprenticeship Act. The appellant therefore wanted the MSRTC to say that they are not following the Govt. circular. The MSRTC on the other hand has agued that they have furnished copies of instruction which they are following but would not be in a position to say that they are not following the govt. circular.

I have gone through the case papers and also considered the arguments advanced by parties. My conclusion is that the MSRTC is not following govt. circular dated 14.03.1986. This is binding on them. They have been filling vacancies without reference to the govt. circular and depriving themselves of the trained manpower. The commission therefore directs the PIO to obtain necessary order from the competent authority for immediate compliance of the Govt. circular dated 14.03.1986. The appellant should be kept informed.

Order

The appeal is allowed. The PIO to obtain necessary order and inform the appellant.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 17.11.2008

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

Appeal No.2008/1222/02

Shri. T.D. Chafe
60-C, Bhaupen Chambers,
4th Floor, 9, Dalal Street,
Fort, Mumbai – 400 001.

... **Appellant**

V/s

First Appellate Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

... **Respondent**

Public Information Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

GROUND

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

- 1) Inspection of files, papers and records pertaining to CURRIMBHOY BRAHIM KHOJA ORPHANAGE, a Public Trust, registered under P.T.R. No.B-375
- 2) Xerox copies of the papers and record which I may require will be shown to you at the time of inspection.
- 3) You are requested to give inspection at your earliest so that you can give copies of the papers which I may require, which will be shown to you at the time of inspection, within time as per provision of the RTI Act, 2005.
- 4) I know the charges, I am ready to pay the fee/Charges for the same as per provision of the RTI Act, 2005.

The information officer by his communication dated 16.11.2007 informed the appellant that he should get in touch with the record section for getting the required information. The appellant contacted the records section but was told that the relevant documents were not available. There is another communication dated 14.12.2007 saying

that the records have been transferred to Wakf Board A' Bad and information can be obtained from there. There is nothing on record to show that the First Appellate Authority passed any order on the first appeal dated 31.12.2007. Hence this appeal.

The appeal was heard on 17.11.2008. Appellant and respondent were present. The appellant stated that he was misguided by the PIO. If the records were not available he should not have asked him to get in touch with the records section. The respondent had no answer but insisted that the records were not available.

I have gone through the case papers and considered the arguments advanced by parties. As is revealed from the case papers the records were transferred to Wakf Board on 17.09.2005. It simply shows that the documents were not available for inspection on the day the appellant applied. It is true that the PIO should have been more careful in his reply and he could have informed the appellant after checking the record. He has shown carelessness. I am warning him to be careful in future. Having said that the conclusion remains that since the records are not available with the respondent, the required information cannot be furnished I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.11.2008

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

Appeal No.2008/1224/02

Shri. T.D. Chafe
60-C, Bhaupen Chambers,
4th Floor, 9, Dalal Street,
Fort, Mumbai – 400 001.

... **Appellant**

V/s

First Appellate Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

... **Respondent**

Public Information Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

GROUND

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

- 1) Inspection of papers and records concerning accounts of CURRIMBHOY EBRAHIM KHOJA ORPHANAGE, a Public Trust, registered under P.T.R. No.B-375.
- 2) Xerox copies of the entire papers and records concerning accounts of CURRIMBHOY EBRAHIM KHOJA ORPHANAGE, a Public Trust.

The information officer by his communication dated 19.11.2007 informed the appellant that he should get in touch with the record section for getting the required information. The appellant contacted the records section but was told that the relevant documents were not available. There is another communication dated 14.12.2007 saying that the records have been transferred to Wakf Board A' Bad and information can be obtained from there. There is nothing on record to show that the First Appellate Authority passed any order on the first appeal dated 31.12.2007. Hence this appeal.

The appeal was heard on 17.11.2008. Appellant and respondent were present.

The appellant stated that he was misguided by the PIO. If the records were not available

he should not have asked him to get in touch with the records section. The respondent had no answer but insisted that the records were not available.

I have gone through the case papers and considered the arguments advanced by parties. As is revealed from the case papers the records were transferred to Wakf Board on 17.09.2005. It simply shows that the documents were not available for inspection on the day the appellant applied. It is true that the PIO should have been more careful in his reply and he could have informed the appellant after checking the record. He has shown carelessness. I am warning him to be careful in future. Having said that the conclusion remains that since the records are not available with the respondent, the required information cannot be furnished I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.11.2008

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

Appeal No.2008/1223/02

Shri. T.D. Chafe
60-C, Bhaupen Chambers,
4th Floor, 9, Dalal Street,
Fort, Mumbai – 400 001.

... **Appellant**

V/s

First Appellate Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

... **Respondent**

Public Information Officer,
Office of the Charity Commissioner,
Dharmadaya Ayukta Bhavan, 2nd Floor,
83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

GROUND

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

- 1) Give me present address of the CURRIMBHOY EBRAHIM KHOJA ORPHANAGE.
- 2) Let me know whether the said trust is running and / or managing an orphanage at present. If yes, please give me the details of the same and the address where they are running and / or managing the orphanage.
- 3) Give me list of Trustees since 20014 with their addresses. If there is any change, please give the details of the same.

The information officer by his communication dated 14.12.2007 informed applicant that the records have been transferred to Maharashtra State Board of Wakf, Aurangabad and information can be obtained from there. There is nothing on record to show that the First Appellate Authority passed any order on the first appeal dated 31.12.2007. Hence this appeal.

The appeal was heard on 17.11.2008. Appellant and respondent were present. The appellant stated that he was misguided by the PIO. If the records were not available he should not have asked him to get in touch with the records section. The respondent had no answer but insisted that the records were not available.

I have gone through the case papers and considered the arguments advanced by parties. As is revealed from the case papers the records were transferred to Wakf Board on 17.09.2005. It simply shows that the documents were not available for inspection on the day the appellant applied. Having said that the conclusion remains that since the records are not available with the respondent, the required information cannot be furnished I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 18.11.2008

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

Appeal No.2008/1248/02

**Shri. Ramprasad Ayodhyaprasad Saroj
Ghanshyam Das Chawl, Room No.2,
Sant Rohidas Marg, Dharavi, Mumbai – 400 017.**

... Appellant

V/s

**First Appellate Officer cum Executive Engineer,
SRA, Griha Nirman Bhavan, 5th Floor,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer Assist. Engineer
SRA, Griha Nirman Bhavan, 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 sought information regarding use of TDR by the developer for saleable and Rehabilitation component of Omdutta SRA, CHS, Dharavi, Mumbai. Case papers do not show any replies either from the PIO or the First Appellate Authority. The appeal was heard on 19.11.2008. The appellant was present. The respondent did not turn up. The appellant reiterated that he has not been given the required information. After going through the case papers and considering the arguments advanced by the appellant, I have come to the conclusion that information must be furnished. The PIO also needs to explain his absence and also why action under section 20 of the RTI should not be initiated against him. I pass the following order.

Order

The appeal is allowed. PIO to furnish the required information within 15 days. He should also show cause why action under section 20 of the RTI Act 2005 should not be taken against him.

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

Place: Mumbai
Date: 19.11.2008

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

Appeal No.2008/1086/02

**Shri. U. M. Prabhu
A-5, Raigad Niketan, Chakala,
Andheri (E), Mumbai – 400 099.**

... Appellant

V/s

**First Appellate Officer cum Dist. Dy. Registrar
Office of the Dist. Dy. Registrar Cooperative Board (3),
Grihanirman Bhavan, Ground Floor, Desk No. 69,
Bandra (E), Mumbai – 400 051.**

... Respondent

**Public Information Officer cum Dy. Registrar
Office of the Dy. Registrar Cooperative Board,
K/West Division, Opp. GPO, Malhotra House,
6th Floor, 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 information regarding action taken on his various applications to the office of the District Deputy Registrar. The Public Information Officer by his letter dated 02.11.2007 informed him that the appellant had not fixed stamp worth Rs.10/- on the application. He also informed him that an enquiry officer has been appointed under section 83 of the Maharashtra Cooperative Societies Act and his case has been referred to him. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the RTI Act. There is nothing on record to show that the First Appellate Authority has passed any order. Hence this second appeal.

The appeal was heard on 23.10.2008. The appellant did not turn up. The Cooperative officer class II was present. It has been stated by him that an enquiry officer was appointed under section 83 of the Maharashtra Cooperative Societies Act. The appellant was informed. The enquiry officer submitted his report and a copy of his report was also given to the appellant. Thus according to him information required has been furnished.

After going through the case papers and the submission made by the respondent, it is clear that the information has been furnished. I therefore decide to close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 19.11.2008

**Before the State Information Commission, Maharashtra-Complaint under
Section 18 of RTI Act, 2005.**

Complaint No.2008/75/02

**Smt. Padma Y. Jawale,
Ground Floor, Time Filed Coop Bldg,
CTS No.756, 75-1 to 23, Plot No.23 B/2,
Subhash Rd, Vile Parle (E), Mumbai – 400 057.**

... Appellant

V/s

**First Appellant Officer cum Add. Registrar
Cooperative Society, Maharashtra State,
Pune.**

**Public Information Officer cum Joint Registrar
Cooperative Society, Mumbai Division, Mumbai,
Malhotra House, 6th Floor, Opp. J.P.O, Fort,
Mumbai – 400 001.**

... Respondent

GROUNDS

This complaint has been filed under section 18 of the Right to Information Act 2005. The complainant by had filed an appeal before the commission and the commission by its order dated 01.07.2008 has directed the opponent to allow inspection of relevant documents and furnish copies of selected documents to the complainant. The complaint is that commission's order has not been complied.

The complaint was heard on 22.10.2008. The complainant has stated that she has not been given inspection and thus information sought has been denied. The opponents have contended that the relevant file is not traceable and therefore inspection could not be organized. I am not convinced. The document is not very old and it simply shows lack of seriousness. I would therefore direct that the opponent should make diligent efforts to search the file so that relevant information is furnished to the complainant. If documents are not traced, responsibility will be fixed and action recommended against those responsible.

Order

The complaint is allowed. Opponent to make diligent search and provide inspection to the complainant. This should be done within 30 days and the result communicated to the commission in the form of an affidavit.

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

Place: Mumbai
Date: 15.11.2008

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

Appeal No.2008/831/02

**Mrs. Pushpa Johar
62, Sainara, Cuffe Parade,
Colaba, Mumbai – 400 005.**

... Appellant

V/s

**First Appellate Officer cum Dy. Registrar
Cooperative Board, A-Division, Mumbai – Malhotra House,
6th Floor, Opp. JPO. Fort, Mumbai – 400 001.**

... Respondent

**Public Information Officer cum Sub Registrar
Cooperative Board, A-Division, Mumbai – Malhotra House,
6th Floor, Opp. JPO. Fort, Mumbai – 400 001.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by her application dated 07.04.2007 had sought the following information: -

- a) Inspection Reports by your office, if any, for inspection of the society for various defaults / violations of the MCS Act.
- b) Details of action, if any taken, if inspection is not carried out, as statutorily required and reasons recorded for the same.
- c) Name and designation of the officials responsible for inaction as in (b) above.
- d) Bond in form M20 executed by all members of the Managing Committee / all office bearers of the society, since inspection of rule 58-A in the year 2002, till date and verification / inspection / compliance report for the same, as available in your office for each year, i.e. 2002-2003, 2003-2004, 2004-2005, 2005-2006 and 2006-2007.

The Public Information Officer by his order dated 11.04.2007 furnished the information. The appellant was not satisfied. She preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 24.05.2007 disposed off the appeal. Hence this second appeal.

The appeal was fixed for hearing on 16.09.2008. The appellant's husband informed the commission that the appellant Mrs. Pushpa Johar was no more. Respondent also did not turn. Since the issues involved are not complex enough to make parties presence unavoidable, the appeal is decide on merits.

I have gone through the case papers. It appears that the PIO reply dated 11.04.2007 provided the required information on points a, b & c. The commission is of the opinions that the information furnished on point no d is not appropriate. It an obligation cast on the Managing Committee to intimate the district deputy registrar regarding furnishing of Bond in form M "20". It is not enough to say that they have not submitted copies to his office. It may not be possible for the District Deputy Registrar to keep track of all the societies but when it is brought to their notice and information is sought they, should wake up and proceed further. The RTI ensures furnishing of available information but that also implies whether the information should have been available. In this case the information sought point (d) should have been with the respondent. They must get this information and furnish. I pass the following order.

Order

The appeal is partially allowed. Information on point no "d" to be obtained and furnished.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 20.11.2008

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

Appeal No.2008/1274/02

Prof. Patankar Nisarali Muhammad
2/204 Aghadi Nagar, Andheri (E),
Mumbai 400 093.

... **Appellant**

V/s

First Appellate Officer cum Secretary
Khairul Islam Higher Education Society's,
Maharashtra College of Arts, Science and Commerce. 2,
Prince Court, 53/c, Clare Rd, Byculla, Mumbai 400 008.

... **Respondent**

Public Information Officer cum Principal
Khairul Islam Higher Education Society's,
Maharashtra College of Arts, Science and Commerce. 2,
Prince Court, 53/c, Clare Rd, Byculla, Mumbai 400 008.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant has sought attested copy of the duplicate service book of Prof. Patankar NM duly completed till date. The appeal was heard on 24.11.2008. The appellant was present. The registrar of the college was also present. The appellant has contended that he has been denied information as the college is not implementing RTI Act. The respondent has stated that the college was not implementing the RTI Act under the impression that they do not fall within the purview of the Act. They have started entertaining RTI application after the govt. clarified that since the college is in receipt of grant in aid, the Act is applicable. I have gone through the case papers and considered the arguments advanced by parties, I pass the following order.

Order

The appeal is allowed. The appellant should be furnished the desired information within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 24.11.2008

Shri. Chetan Kothari
52, Oceanic Apartment
Dr. Rajabali Patel Lane Off,
B. Desai Road, Mumbai – 400 026.

... **Appellant**

V/s

First Appellate Officer cum Dy. Chief Engineer
(Customer Care South), Brihan Mumbai Electric Supply &
Transport Undertaking, Best Bhavan, Best Marg,
Post Box No. 192, Colaba, Mumbai – 400 001.

... **Respondent**

Public Information Officer cum Divisional Engineer
(Customer Care South), Brihan Mumbai Electric Supply &
Transport Undertaking, 3rd Floor, New Administrative Bldg,
Tardeo Complex, Tardeo, 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. How many electric units used by Chief Ministers Bunglow ‘Varsha’ and other ministers of Maharashtra who staying in your aria. Kindly furnish summary year wise details breakup with name and amount from last 5 or 3 years (what ever aveable). Give me separate Chief Ministers & other ministers.
2. How many out standing arrear till today from ministers? Kindly furnish details year wise breakup with name and amount from last five years?
3. Who paid bills? It hear the Govt. Of Maharashtra or ministers himself? If they are not paid in time... What action taken for recovery? And till how much amount recovery till date? Kindly furnish details year wise breakup with name and amount from last five years.

The PIO by his communication dated 02.04.2008 informed the appellant that Electric Meters are given in the name of PWD and not in the name of ministers and he was therefore unable to furnish the required information. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the RTI Act. The First Appellate

Authority by his order dated 25.11.2008 informed the appellant that this constitute third party information and concurrence of the 3rd party was required before giving the information. The appellant filed his second appeal dated 11.05.2008.

The appeal was heard on 25.11.2008. Appellant and respondent were present. The respondent submitted again that since meters are given in the name of PWD and not individual ministers, it would not be possible for them to give the required information. The appellant seemed reconciled.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 25.11.2008

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

Appeal No.2008/888/02

Shri. Arjunlal M. Chabaria
Bella Vista Flat No. 15, 3rd Floor,
Opp. Lake & LIC, S.V. Road,
Bandra (W), Mumbai – 400 050.

... **Appellant**

V/s

First Appellate Officer cum Dy. Chief Officer
MHADA No. 2, Griha Nirman Bhavan,
Bandra (E), Mumbai – 400 051.

... **Respondent**

Public Information Officer cum Estate Manager,
Motilal Nagar No. 2, MHADA Office,
Griha Nirman Bhavan (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 unauthorized construction in some chawls at Motilal Nagar, Goregaon. The appellant was not satisfied with the response received from the Public Information Officer. He filed the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 13.07.2007 directed the PIO to visit the spot and furnish relevant information within 30 days. The second appeal has been filed on 11.09.2007. The appeal was heard on 24.11.2008. The appellant did not turn up. The respondent was present. The respondent has submitted that in accordance with the order passed by the First Appellate Authority, he inspected the site and notices have been issued as follows: -

Chawl No.	Room No.
1. 302	2401
2. 362	2903
3. 362	2905
4. 362	2944
5. 367	2943
6. 367	2566

I have gone through the case papers and also considered the submission. It appears that the First Appellate Authority had ordered that the information should be furnished within 30 days – by 13.08.2007. The information has been furnished on 29.08.2008. The delay is marginal and therefore I ignore it. Since the relevant information has been furnished and action initiated, I decide to close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 25.11.2008

Shri. Chetan Kothari
52, Oceanic Apartment
Dr. Rajabali Patel Lane Off,
B. Desai Road, Mumbai – 400 026.

... **Appellant**

V/s

First Appellate Officer cum Superintendent Engineer
Office of the Superintendent Engineer
Mumbai (PWD) Board, 25, Marzban Road,
Fort, Mumbai – 400 001.

... **Respondent**

Public Information Officer cum Executive Engineer
Office of the Executive Engineer, Elakha City Division,
(PWD), 3rd Floor, D.D. Building, Old Custom House,
Mumbai – 400 023.

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. How many electric units used by Chief Ministers Bungalow 'Varsha' and other ministers of Maharashtra who staying in your area. Kindly furnish summary year wise details breakup with name and amount from last 5 or 3 years (what ever available). Give me separate Chief Ministers & other ministers.
2. How many out standing arrear till today from ministers? Kindly furnish details year wise breakup with name and amount from last five years?
3. Who paid bills? It hear the Govt. Of Maharashtra or ministers himself? If they are not paid in time... What action taken for recovery? And till how much amount recovery till date? Kindly furnish details year wise breakup with name and amount from last five years.

The PIO by his order dated 27.03.2008 informed the appellant that it was not possible to furnish the information in view of its vastness. The appellant preferred the first appeal under section 19 (1) of the RTI Act. The First Appellate Authority by his order dated 22.05.2008 directed the PIO to furnish the required information within 15

days. According to the appellant since the order was passed on 20.05.2008, he should have been provided the information by 06.06.2007. He did not get the information by the due date and therefore filed the second appeal on 11.06.2008. He has received the information on 15.07.2008. The main contention of the appellant is to impose penalty for not furnishing the information in time as directed by the First Appellate Authority.

The appeal was heard on 25.11.2008. Appellant and respondents were present. The appellant admitted having received the information. He however argued that since he did not receive the information in time despite order from the First Appellate Authority the Public Information Officer must be penalized.

I have gone through the case papers and also considered the submission. It is very clear from the case papers that PIO has failed to furnish information within the time frame given by the First Appellate Authority. Prima Face the case is covered under section 20 of the RTI Act. I therefore pass the following order.

Order

The appeal is allowed. The PIO to explain and show cause why penalty @ Rs.250/- should not be imposed on him for not furnishing the information in time. His reply should reach the Commission within 3 weeks.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 25.11.2008

**Before the State Information Commission, Maharashtra-Complaint under
Section 18 of RTI Act, 2005.**

Complaint No.2008/76/02

**Dr. Nagendra Pandey
2, Surendra J. Singh Chawl,
Shivaji Nagar, Kurar Gaon,
Malad (E), Mumbai – 400 097.**

... **Appellant**

V/s

**First Appellant Officer cum Joint Chief Officer
Cooperative Housing Society,
Mumbai Griha Nirman & Area Development Board,
Griha Nirman Bhavan, Bandra (W), Mumbai – 400 051.**

... **Respondent**

**Public Information Officer cum Dy. Registrar
Cooperative Housing Society,
Mumbai Griha Nirman & Area Development Board,
Griha Nirman Bhavan, Bandra (W), Mumbai – 400 051.**

GROUNDS

This complaint has been filed under section 18 of the Right to Information Act 2005. The complainant by his application dated 03.11.2006 had sought the following information from the Dy. Registrar, Sahakari Sanstha (MHADA) Mumbai Griha Nirman Vikas Mandal, Mumbai:-

- 1) List of General Members of the Society.
- 2) List of Members of the Managing Committee of the Society.
- 3) Area of the Plot along with boundary of the Plot which is to developed for obtaining Annexure Malad Shiviji Nagar Co-op. Hsg Soc. Ltd. CTS No. 291 Ref.No.BOM/(W.p/N0 Hsg. (T.O) 5363/1990-91.

The Public Information Officer by his letter dated 08.11.2006 informed him that the information sought would be available at the society level and the society is being directed to furnish the same. He preferred the first appeal under section 19(1) of the RTI Act but the First Appellate Authority did not pass any order. The second appeal was filed with the Commission. The Commission by its order dated 24.07.2008 ordered that the information should be furnished within 30 days. The complainant did not receive the required information and hence this complaint.

Hearing of the complaint was fixed on 12.11.2008. The complaint brought to the notice of the commission that he has still not got the information and action should be taken against the Public Information Officer. The Public Information Officer was asked to make his submission and also to show cause why action should not be taken against him. The case was adjourned to 26.11.2008.

The complainant was heard on 26.11.2008. The complainant and the defendant were present. The complainant reiterated his point that the PIO should be penalized for not furnishing the information in time. The defendant submitted that the information was not held by him and he had made all efforts to procure from the society and furnish to the complainant. He also submitted his written submission. He has submitted that the information was not available in his office and therefore by his letter dated 16.08.2008 directed the society to furnish the information to his office failing which they will be proceeded against under Maharashtra Cooperative Societies Act. The Information has since been collected and sent to Mr. Pandey, the complainant. The defendant was however not in a position to show the proof of dispatch. A copy of the information was handed over to the complainant who refused to accept it because the same was not certified. Finally it was decided that the Dy. Registrar would put up a covering note saying that the information received from the society is being sent to the complainant.

The main contention of the complainant is that the Dy. Registrar must be penalized for not furnishing the information. Section 20 of the RTI Act provides for penalties. It says where the State Information Commission at the time of deciding any complaint or appeal is of the opinion that the State Information Officer has without any reasonable cause refused to furnish information within time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or

misleading information or destroyed information which was the subject matter of the request or obstructed in any manner in furnishing the information it shall impose a fine of two hundred and fifty rupees per day provided that the State Information Officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him. Thus any request from an appellant or a complainant has to be examined in the light of provisions contained in section 20 of the RTI Act. The PIO at the first instance rightly said that the information was not available with him and he directed the society to furnish the same. The commission decided the appeal on 24.07.2008. There is a letter from the Dy. Registrar to the society reminding them of his earlier communication and also consequences of not responding. He finally issues an order / direction under section 79(2) of the MCS Act and the information is collected and furnished. It is true that this action under section 79(2) could have been taken earlier. Thus he is guilty of inaction but I see no malafide. It is sheer lethargy. I would therefore recommend that the District Deputy Registrar should censure him so that he will be motivated to take timely action. The recommendation is also guided by the fact that the information was not held by him and he had to collect it from the society and furnish to the complainant. The issue whether a cooperative society constitutes a public authority is not yet finally resolved. The Hon Karnataka High Court in its Judgment in writ petition no 16901/2006 (GM-RES) has held that 'Cooperative Societies' are not public authority even though they are constituted by law solely on the basis of supervision and control by the registrar of societies so as to include a society within the definition of the term public authority it should fulfil the conditions stipulated in clause (d) of clause (h) of section 2 of the RTI Act. The commission however has been holding the view that whatever information relating to cooperative societies are available or are supposed to be available with the Dy. Registrar should be furnished. The commission would not like go beyond that. Thus in the light of the above discussion I pass the following order.

Order

The complaint is allowed. The District Deputy Registrar Mumbai is directed to issue 'Censure' to the defendant and report compliance to the commission.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1316/02

Shri. L.S. Kolhe
Kopargaon Indirapath, Kopargaon,
Dist. Ahamdnagar

... Appellant

V/s

First Appellate Officer cum Dy. Secretary
General Administrative Department,
Mantralaya, Black No. 557 (Annex),
Mumbai – 400 032.

... Respondent

Public Information Officer cum Desk Officer
General Administrative Department,
Mantralaya, Black No. 557 (Annex),
Mumbai – 400 032.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had raised some issues regarding posting of Shri. Arekar, Dy.Secretary in the Public Works Dept. Govt. of Maharastra. The PIO by his order dated 28.04.2008 replied to him. He was not satisfied and preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 28.05.2008 confirmed the PIO's order. Hence this appeal.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor respondents turned up. The appeal is being decided on merit.

I have gone through the case papers. The appellant is entitled to information on record and not replies to his queries like whether there were no suitable person other than Mr. Arekar, why was he posted in the PWD, who was interested in getting him there etc. I do not find anything wrong in the conclusions of the PIO or the First Appellate Authority. I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1311/02

**Shri. Bahadur Bhambani,
Golden Tower Coop. Housing Soc. Ltd.,
Flat No. 703, CTS No. 1 to 3,
Kolekalyan, Manipada, Kalina, Santacruz (E),
Mumbai – 400 098.**

... **Appellant**

V/s

**First Appellate Officer cum Assist. Law Officer,
3rd Floor, MHADA, Bandra (E), Mumbai – 400 051.**

... **Respondent**

**Public Information Officer cum Assist. Land Manger (Office)
Kolekalyan, Manipada, Kalina, 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 the following information: -

1. Title of plot CTS No. 5611 (PT)
2. To whom it is allotted
3. For which reason
4. Whether it is reserved Plot. If yes, for which purpose.

The Public Information officer did not reply. He preferred the first appeal under section 19(1) of the RTI Act. There is nothing on record to show whether the First Appellate Authority has passed any order. Hence this second appeal.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor respondents turned up. The appeal is decided on merit. I have gone through the case papers and find no cause or justification for not furnishing the information. I therefore pass the following order.

Order

The appeal is allowed. The PIO to furnish information within 3 weeks. He should also explain why action under section 20 of the RTI should not be initiated against him for not furnishing the information.

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

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1306/02

**Shri. Steven D'Costa
B/7, Ronda CHS. Ltd.
Tank Road, Orlem Malad (W),
Mumbai – 400 064.**

... **Appellant**

V/s

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

... **Respondent**

**Public Information Officer cum Sr. Inspector
(Shop & Establishment)
Municipal Corporation, P/North Ward Office,
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 by his application dated 22.02.2008 had information on over two dozen points pertaining to the following departments: -

1. Water Department
2. Health Department
3. Removal of Encroachment Department
4. Shops and Establishment Department
5. Assessment Department
6. Sanitary Department

The PIO from the shops and Establishment Dept has furnished some information but the appellant was not satisfied. He preferred the first appeal under section 19(1) of the RTI Act 2005.

The First Appellate Authority by his order dated 06.05.2008 directed the appellant to make separate applications to each Public Information Officer. The appellant is not satisfied and hence this appeal.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondents turned up. The appeal is decided on merit.

I have gone through the case papers. The information sought is vast and divergent. It is true that section 6(3) provides for transfer of application to the concerned public authority. This itself in the present case would involve lot of manpower and resources. Section 7(9) of the RTI Act clearly says that an information shall ordinarily be

provided unless it would disproportionate divert the resources of the public authority. The First Appellate Authority has rightly ordered that the appellant may separate issues and approach PIOs concerned. I therefore pass the following order.

Order

The order of the First Appellate Authority is confirmed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/808/02

Shri. Ajit M. Dhuru
366-E Veer Sawarkar Marg,
'Ram Kunj', 4th Floor,
Dadar, Mumbai – 400 028.

... Appellant

V/s

First Appellate Officer,
RPFC-I, Regional P.F. Commissioner's Office,
Regional Office, Maharashtra,
341 Bhavishya Nidhi Bhavan,
Bandra (E), Mumbai – 400 051.

... Respondent

Public Information Officer,
Exm-III, Regional P.F. Commissioner's Office,
Regional Office, Maharashtra,
341 Bhavishya Nidhi Bhavan,
Bandra (E), Mumbai – 400 051.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. It was heard on 12.11.2008. The appellant was present. The respondent was not present. Perusal of case papers reveal that the appeal has been filed against the order of the Central Information Officer Employees Provident Fund organization (Govt. of India, Ministry of Labour) Regional Office, Mumbai. The first appeal has been filed with the First Appellate Authority, of the same organization. Since the appellate did not get any response, he has come in second appeal. The State Information Commission cannot hear appeal against the order of the Central Information Officer or the First Appellate Authority. The appellant may approach the Central Information Commission. The appeal is not maintainable. This should have been pointed out to the appellant.

Order

The appeal is not maintainable hence disposed off

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 28.11.2008

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

Appeal No.2008/1106/02

**Shri. Nehal Kothari,
A/702/703, RAHUL ENCLAVE,
Saibaba Nagar, Opp. Kale College,
Borivali (W), Mumbai – 400 092.**

... **Appellant**

V/s

**First Appellate Officer cum Dy. Chief Engineer,
Municipal Corporation, Building Principal Dept.
BMC Building, Near Kandivali Station,
Kandivli (W), Mumbai – 400 067.**

... **Respondent**

**Public Information Officer cum Executive Engineer,
Municipal Corporation, Building Principal Dept.
BMC Building, Near Kandivali Station,
Kandivli (W), Mumbai – 400 067.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information whether the owner of flat No 107 and 207 obtained any structural stability certificate for amalgamating these two flats in Rahul Classic, Opposite Kale College, Saibaba Nagar, Borivali (W), Mumbai – 400 092. The case papers do show any order from the Public Information Officer or the First Appellate Authority. Hence this second appeal. The appeal was heard on 24.10.2008. The appellant was present but the respondent did not turn up. The commission has viewed their absence as well as non response to appellant's application and appeal very seriously. I therefore pass the following order.

Order

Public information Officer will furnish information within 2 weeks. He shall also submit his explanation why action under section 20 of the RTI should not be initiated against him.

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

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1108/02

**Shri. Bashir Mumtaz Sheikh
Chembur Janata Nagar,
Prakash Thorat Marg,
Room No. 358, Chembur,
Mumbai – 400 089.**

... **Appellant**

V/s

**First Appellate Officer cum Divisional Joint Registrar,
Cooperative Society, Malhotra House, 6th Floor,
Opp. GPO, Fort, Mumbai – 400 001.**

... **Respondent**

**Public Information Officer cum Dy. Registrar,
Cooperative Society, Malhotra House, 6th Floor,
Opp. GPO, Fort, Mumbai – 400 001.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding his transaction with Cooperative Credit Society, Subhas Nagar, Chember, Mumbai. He was not satisfied with responses from the Public Information Officer and the First Appellant Authority. Hence this second appeal. The appeal was heard on 24.10.2008. The appellant did not turn up. Respondents were present. In their submission before the commission they have contended that the appellant has alleged fraud and cheating by the Cooperative Credit Society. Inspection has been carried out and copies of reports given to him. The appellant however is not satisfied.

I have gone through the case papers and also considered the submission made by respondents. The commission has been of the view that Cooperative Credit Society are not public authority under the RTI Act and the appeals is not maintainable.

Order

The appeal is disposed off.

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

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1265/02

**Shri. C.V. Bhimashankaram
P.O. Box. 7228, Chembur,
Mumbai – 400 0071.**

... **Appellant**

V/s

**First Appellate Officer cum Registrar,
Mumbai University, Mumbai – 400 032.**

... **Respondent**

**Public Information Officer,
Mumbai University, 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: -

- i) All the remaining 117 positive evaluation reports.
- ii) The academic background of all examiners (Internal / External) w.r.t. their qualification in Mathematics (Std VII or areas of specialization like Algebra / Topology etc.) (BOS on Education & Board of studies in Maths)
- iii) All the individual reports pertaining to the 'Equivalence Committee' formed in the matter of 'up gradation' in cadre.

The Public Information Officer and the First Appellant Authority have held that the information sought is confidential and therefore cannot be furnished. The appellant has come in appeal against these orders.

The appeal was heard on 20.11.2008. The appellant was present. The PIO and the First Appellant Authority were also present. The appellant has reiterated his demand of getting copies of evaluation report. Respondents did not have any satisfactory reply except that they have treated it as confidential.

I have gone through the case papers and also considered the arguments advanced by parties. It appears that the appellant had submitted his printed book for award of DSc/DLitt. The book has been evaluated by different examiners. The appellant feels that his book has not been evaluated by experts. He therefore wants to have copies of

evaluation reports along with background of examiners. It also appears that he has got copies of 3 reports and is requesting for remaining ones. The appellant has quoted the Hon High Court's order in WP 712 of 1998 dated 15th January, 2004: -

“The University is directed to forthwith refer the petitioner's printed work for D.Sc (maths) to the Board of Studies in Maths for assessment in accordance with the provisions of relevant Ordinances including Ordinances 781 to 785. The Board of Studies will assess the printed work in the light of the relevant Ordinances and make appropriate recommendation to the appropriate authority. It is needless to say that the Board of Studies shall follow the procedure-prescribed under the relevant Ordinances in evaluating the printed work of the petitioner including the appointment of the Referees and give reasons for its conclusion. The report of the Board of Studies shall then be considered by the appropriate authority and final decision may be taken as expeditiously as possible and in any event within a period of three months from today.”

After considering all aspects I have come to the conclusion that the argument of confidentiality cannot be up held. Section 8 of the RTI Act is very clear in describing what can be exempted from disclosure. The section reads as follows: -

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

- a) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, integrity with foreign State or lead to incitement of an offence.
- b) Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court.
- c) Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.

- d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.
- e) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.
- f) Information received in confidence from foreign Government.
- g) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.
- h) Information which would impede the process of investigation or apprehension or prosecution of offenders.
- i) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.

Provided that the decision of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been, and the matter is complete, or over.

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed.

- j) 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 the privacy of the individual unless the Central Public Information Officer or 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.

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

- 2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
- 3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section .

Provided that where a question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.”

It is very clear that none of the conditions is fulfilled in this case. I therefore conclude that the appellant should be furnished the required information.

Order

The appeal is allowed. The Public Information Officer to furnish the information as required by the appellant and mentioned in the appeal. This should be done within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

**Before the State Information Commission, Maharashtra-Complaint under
Section 18 of RTI Act, 2005.**

Complaint No.2008/79/02

**Shri. Vishwas Baburao Pansare,
Yashovardhan Coop. Hsg. Soc. Ltd,-
B203/ Sanpada, Sector-8, Flat No. 35,
Navi Mumbai – 400 705.**

... Appellant

V/s

**First Appellant Officer cum Tahsildar
Office of the Tahsildar,
At Post. Junner, Dist. Pune**

... Respondent

**Public Information Officer cum Nayab Tahsildar
Office of the Tahsildar,
At Post. Junner, Dist. Pune**

GROUND

This complaint has been filed under section 18 of the Right to Information Act 2005. The complainant's appeal No. 2008/586/02 was decided by the commission on 05.08.2008. The complainant is not satisfied with the order and has requested for enquiry and rehearing of the case. The complaint was heard on 31.10.2008. Appellant and respondent were present. The issues raised by the appellant were the same as in his appeal. The respondent's written submission explains the whole issue and concludes that available information has been furnished.

I have gone through the complaint and also considered arguments advanced by parties. It is clear that the appellant is not satisfied with the order passed by the commission. I cannot hear complaint against my own order. If the complainant is not satisfied, he has to approach the right forum. I am constrained to pass the following order.

Order

The complaint is disposed off.

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

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1007/02

**Mr. Sanjay Gangaram Pawar
Hanuman Mitra Mandal,
Amba Chawl Wadi, Parel,
Mumbai – 400 012.**

... Appellant

V/s

**First Appellate Officer cum Assitt. Commissioner,
F/South Division Office, Dr. Babasaheb Ambedkar Marg,
Parel Naka, Mumbai – 400 012.**

... Respondent

**Public Information Officer cum Colony Officer,
F/South Division Office, Dr. Babasaheb Ambedkar Marg,
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 sought information regarding verification of Annexure II relating to Mahaluxmi Cooperative Housing Society, Plot No. 138 A/174, Parel. The Slum Rehabilitation Authority had asked the MCGM to verify annexure II of the above society because this was prepared by the MCGM. This verification was requested in view of various complaints received by the SRA regarding authenticity of the annexure. The PIO informed the appellant that the verification work is in progress and the appellant can inspect the documents. The First Appellate Authority by his letters dated 20.07.2007 confirmed the PIO's order and hence this appeal.

The hearing was held on 17.10.2008. Appellant and respondents were present. The main contention of the appellant has been that he has not yet received the verified annexure II. The respondents have stated that it is taking time because some persons have been shifted to transit camp and some documents have been requisitioned from the chief Promoter. The information regarding Status of the file has been communicated.

I have gone through the file and also considered the argument advanced by parties. The main grievance of the appellant is that neither the PIO nor the First Appellant Authority has indicated the time limit by which the verification work will be over. The appellant's contention is correct. The verification should not take too much time as the first appellant's order itself was passed on 20.07.2007 and it is more than a year. I therefore direct that this verification work should be completed within one month. The Chief Promoter should cooperate with the MCGM officials and provide whatever documents are required to complete the verification. With these observations I pass the following order.

Order

The appeal is allowed. Respondents to provide information within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1275/02

**Shri. Dattatray Shridhar Belwalkar
Belwalkar Wadi, M.G.Road,
Goregoan (W), Mumbai – 400 062.**

... Appellant

V/s

**First Appellate Officer cum Add. Collector
Weston Suburban, 7th Floor,
New Administrative Building,
Bandra (E), Mumbai – 400 062.**

... Respondent

**Public Information Officer cum Dy. Collector,
Building No. 38, 1st Floor, Siddharth Nagar,
S.V. Road, Goregoan (W), Mumbai – 400 062.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant by his application dated 29.04.2008 had asked for certified copy of extract of the outward register for 15 days from 28.06.2001 onwards with sufficient details. The Public Information Officer as well as the First Appellant Authority have informed the appellant that since the relevant records were not available, the information could not be furnished. The appeal is against these orders.

The appeal was heard on 24.11.2008. The appellant was present. Respondents did not turn up. The background of the case is that there is some property dispute between the appellant and one Mrs. Sayyad Razia Begum. The later has claimed and produced a copy of a letter dated 28.06.2001 written by the tahasildar (Encroachment) Borivali. The appellant is doubting the authenticity of the letter and wants a copy of the register to find out whether the purported letter was issued from the tahsildar, Borivali. The issue is simple but very important. It is not enough to say that records are not available. Letters which are sent out have to be entered into a register. This register is not changed everyday. It does not pertain to ancient or medieval period. The letter was issued in 2001 and information has been sought in 2008. In fact there is a letter on records dated 25.04.2003 saying that the since the letter was not issued from the office of the Deputy Collector (Encroachment) the same was cancelled.

After going through the background of the case and relevant case papers I am of the view that the information sought must be furnished. The Deputy Collector (Encroachment) is directed to undertake intensive search and provide the information.

Order

The appeal is allowed. The Dy. Collector (Encroachment) to undertake intensive search and furnish the outcome / information to the appellant. This should be done within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1290/02

**Shri. Premchand Dugaram Rajora,
Plat No.49, Kherwadi, Bandra (E),
Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, H/West, 137 TPS-5,
Second Road, Prabhat Colony, Santacruz (E)
Mumbai – 400 055.**

... Respondent

**Public Information Officer cum Assist. Engineer,
Municipal Corporation, H/West, 137 TPS-5,
Second Road, Prabhat Colony, Santacruz (E)
Mumbai – 400 055.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had complained against an authorized extension and construction by his tenant. He wants to know what action has been taken on his application. The Public Information Officer by his letter dated 11.01.2008 informed the appellant that the place has been inspected and it was found that a shed with Plastic sheet has been erected. It was informed that the land was given to the appellant for his own stay and the Collector Mumbai Suburban has issued notice to him in this regard. The appellant filed the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 04.04.2008 directed the Public Information Officer to furnish information to the appellant and also allow him the inspection of documents. The appellant has filed the second appeal before the commission.

The appeal was heard on 25.11.2008. The appellant was present. The respondent did not turn up. I have gone through the case papers and have come to the conclusion

that the First Appellate Authority's order needs to be confirmed. I therefore pass the following order.

Order

The appeal is allowed and the order passed by the First Appellate Authority is confirmed PIO to furnish the inspection and arrange inspection of documents if any.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1191/02

**Shri. Jagdish Deoram Torpe,
Torpe House, 1st Floor,
Tejpal Schemw, 5th Road,
Vileparle (E), Mumbai – 400 057.**

... **Appellant**

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, G/North Ward,
M.N.Josgi Marg , Dhan Mil Naka,
Lower Parel, Mumbai – 400 013.**

... **Respondent**

**Public Information Officer cum Assist. Engineer,
Municipal Corporation, G/North Ward,
M.N.Josgi Marg , Dhan Mil Naka,
Lower Parel, Mumbai – 400 013.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information regarding MCGM's water meter testing workshops at Ghatkopar and Byculla. He had also sought permission to test disputed water meter of M/s Bombay Dyeing and Manufacturing Ltd. Mumbai. This according to the appellant was to facilitate settling of dispute with Bombay Dyeing. He was not satisfied with the responses from the Public Information officer and the First Appellate Authority. Hence this appeal.

The appeal was heard on 11.11.2008. Appellant and respondent were present. The appellant was not satisfied with the content of the information furnished to him. The respondent stated that they have furnished all relevant information through numerous letters. They also brought to the notice of the commission a letter written on behalf of Bombay Dyeing & Manufacturing Co Ltd stating that the dispute of water charges have been settled and the disputed bill amount has already been paid to the department and they have not authorized the appellant to deal with water works or any department of the corporation.

After going through the case papers and considering the background of the case and arguments advanced by parties, I have come to the conclusion that the available

information has been furnished. The information sought was very broad and vast. The department has still tried to cope up with it. It must have take enormous amount of time, energy and resources. I am therefore of the view that the case should be closed. I pass the following order

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/850/02

**Shri. Shahajirao Dhondiba Thorat
Anna Bhau Sathe Karmbhumi,
Patrachawl No. 14/12,
Chirag Nagar, Ghatkopar (W), Mumbai.**

... Appellant

V/s

**First Appellate Officer cum Joint Commissioner
(Medical Education) Nair Hospital Dental College,
Dr. A.L. Nair Road, Mumbai Central,
Mumbai – 400 008.**

... Respondent

**Public Information Officer cum Executive Health Officer,
Municipal Corporation, Public Health Dept,
6th Floor, Mahapalika Building, Mumbai – 400 001.**

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 the Health Dept of MCGM on the direction issued by the Principal Secretary, Urban Development Govt. of Maharashtra in connection with correction in the death certificate of Shri Anna Bhau Sathe. The appellant was not satisfied with replies furnished by the Public Information Officer and the First Appellate Authority and hence this appeal.

The appeal was heard on 24.11.2008. The appellant and respondent were present. The main contention of the appellant is that although the death certificate of Shri Anna Bhau Sathe has been amended as far his nationality and fathers name are concerned, his residential address remains to be corrected. The Joint Commissioner (Medical Education and Health) in his letter dated 15.06.2007 informed the appellant that necessary correction in the residential address could not be carried out in view of lack of any valid proof. It appears that this issue was pending with govt. also and the same has been sorted out finally Govt. in the Dept of social justice and special assistance has issued the GR dated 30.09.2008 accepting residential address as Patrachawl, Chiragnagar, Ghatkopar (W) Mumbai. A copy of this GR has been endorsed to the Municipal Commissioner MCGM.

A copy was handed over to the respondent during the hearing.

In the light of the above discussion it is clear that the last hurdle is also clear.

Now the Health department has to show promptness and sensitivity. I therefore pass the following order.

Order

The appeal is allowed. The Executive Health Officer to ensure that the death Certificate of Shri Anna Bhau Sathe is corrected in the light of Govt. Resolution dated 30.09.2008.

(Ramanand Tiwari)

State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1159/02

**Captain H Kaushal
VSM, (Retd.) Bhakti, 285 /16,
Koregaon Park, Pune – 411 001.**

... Appellant

V/s

**First Appellate Officer,
General Administrative Department (Desk 29)
Mantralay, Mumbai – 400 0032.**

... Respondent

**Public Information Officer,
General Administrative Department (Desk 29)
Mantralay, Mumbai – 400 0032.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The Public Information Officer and the First Appellate Authority have passed orders. The appeal is not against the contents of those orders. The appellant had requested them that the order should be in English. The PIO as well the First Appellate Authority passed their orders in Marathi. The second appeal has been filed on this issue.

The appeal was heard on 31.10.2008. The appellant did not turn up. The Public Information Officer and the First Appellate Authority were present. They have argued that in accordance with instruction of the Govt, all correspondence has to be in the state language – Marathi. They have also pointed out that the Right To information Act does not prescribe that orders has to be in the language of choice of the appellant. The appellant in his appeal has submitted that the Central Information Commissioner, New Delhi has ruled that if the information sought is English it should be furnished in English.

I have gone through the case papers and considered the arguments advanced by parties. I am of the view that normally the PIO and the First Appellate Authority should have accommodated the appellant. They chose not do so. It is not possible for me to

hold them guilty. They have quoted the state Govt. instruction and I am in no way in a position to force them to pass orders in language of the appellant's choice. I am appreciative of the appellant's predicament but constrained to close the case.

Order

The appeal is not allowed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 29.11.2008

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

Appeal No.2008/1307/02

**Shri. V.R. Balakrishnan
Flat No. 111, Casa Grande, Little Gibbs Road,
No.2, Malabar Hill, Mumbai – 400 006.**

... Appellant

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, D Ward Office,
Jobanputra Compound, Nana Chowk,
Grant Road (W), Mumbai – 400 007.**

... Respondent

**Public Information Officer cum Assist. Engineer,
Municipal Corporation, D Ward Office,
Jobanputra Compound, Nana Chowk,
Grant Road (W), Mumbai – 400 007.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought a copy of the complaint with annexure against him. The PIO denied the information but the First Appellant Authority set aside the PIO's order and asked to furnish information as far as copy of the complaint is concerned. The appellant has come in second appeal before commission.

The appeal was heard on 26.11.2008. Appellant and respondent were present. After going through the case papers and considering the arguments I have come to the conclusion that the information must be furnished. If some one has to respond to a complaint he is justified in asking a copy thereof. I pass the following order.

Order

The appeal is allowed. And order of the First Appellate Authority is confirmed PIO to furnish information within 15 days.

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

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1295/02

**Shri. Ratnakar Bhaskar Desai
61 Navrang, Pedder Road, Mumbai – 400 026.**

... Appellant

V/s

**First Appellate Officer cum Stamp Superintendent,
Principal Stamp Office, Nagarbhavan,
Fort, Mumbai – 400 001.**

... Respondent

**Public Information Officer cum Stamp Collector,
Principal Stamp Office, Nagarbhavan,
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 information regarding the conveyance deed dated 15.01.1995 in respect of purchase of his residential flat which was submitted for registration on 10.05.1995 under serial no BBE/1663/95 and stamp duty of Rs.16, 47, 500/- was paid. The appellant was not satisfied with replies received from the Public Information Officer or the First Appellate Authority and hence this second appeal.

The appeal was heard on 26.11.2008. The appellant did not turn up. Respondents were present. They have stated that they awaiting confirmation from the office which sold out the stamp worth Rs.16, 47, 500/-. They sounded sympathetic but have not been able to cut the red tape.

I have gone through the case papers. It presents a dismal picture of the state of things in our offices. After paying huge amount of stamp duty, the appellant has been made to wait for over a decade. The information has been furnished that it is pending. This is not enough. I would therefore direct that the document should be registered and information furnished. The District Collector, Mumbai who is the over all in charge of

the district should take personal interest and sort out the issue which has stigmatized the whole administration.

Order

The appeal is allowed. PIO/First Appellate Authority will initiate action to ensure that the document is registered and the appellant informed. The commission would like to be kept informed.

Sd-

(Ramanand Tiwari)

State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

Forwarded with compliment to Collector Mumbai for information immediate necessary action.

(Ramanand Tiwari)

State Information Commissioner, Mumbai

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

Appeal No.2008/1294/02

**Shri. V.R. Balkrishnan
Flat No. 61, Casa Grande,
Little Gibbs Road No.2,
Malabar Hill, Mumbai – 400 006.**

... Appellant

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, D Ward Office,
Jobanputra Compound, Nana Chowk,
Grant Road (W), Mumbai – 400 007.**

... Respondent

**Public Information Officer cum Assist. Engineer (Build. & Factory)
Municipal Corporation, D Ward Office,
Jobanputra Compound, Nana Chowk,
Grant Road (W), Mumbai – 400 007.**

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 notices dated 13.02.2007 issued to owners of 4 flats in Casa Grande Cooperative Housing Society. The appellant also had sought a copy of the inspection report. He had also wanted answer to his queries regarding alleged irregularities by the flat owners. The public Information Officer By his letter dated 13.09.2007 disposed off his application by saying that the information sought is in the nature of questions which are not covered under the Right to Information Act. The appellant was not satisfied and preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 24.12.2007 ordered that the information should be furnished. He has not agreed with the interpretation of the PIO. The appellant has filed this second appeal with the commission.

The appeal was heard on 26.11.2008. Appellant and respondents were present. After going through the case papers and considering their oral submission, I have come to the conclusion that the information must be furnished. The interpretation of the PIO is not correct. These notices have been issued by MCGM under section 488 of MMC Act.

The appellant wants to have a copy of the inspection report. It is expected that the notices are to be followed. In any case if nothing has been done, the same information can be communicated. The PIO is therefore directed to follow the order passed by the First Appellate Authority. I confirm the order of the First Appellate Authority.

Order

The appeal is allowed. The PIO is directed to furnish the information as directed by the First Appellate Authority. This should be done within 30 days failing which action under section 20 of the RTI Act will be taken.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1288/02

**Shri. Mahindra Janardhan Chavan
85/2, Chalke Chawl, Radwadi Swadeshi Mill,
Sion, Chunabhatti, Mumbai – 400 022.**

... Appellant

V/s

**First Appellate Officer,
Law and judiciary Department,
Mantralaya, Mumbai – 400 0032.**

... Respondent

**Public Information Officer,
Law and judiciary Department,
Mantralaya, Mumbai – 400 0032.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had sought information relating to various offices under the Department of Law and Judiciary Govt. of Maharashtra. Not satisfied with the responses from the Public Information Officer and the First Appellant Authority he has come in second appeal before the commission.

The appeal was heard on 25.11.2008. Appellant and respondents were present. The appellant is still not satisfied with the quality of information. The respondent pleaded that 13 officers working under the department have furnished the information. They are willing to furnish more information if specific and pointed information is sought by the appellant.

After going through the case papers and considering the arguments advanced by parties I have come to the conclusion that the information has been furnished. The First Appellate Authority has given details of the information department wise and datewise. Their willingness to furnish any information specifically asked for is convincing. I decide to close the case.

Order

The appeal is disposed off.

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

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1256/02

Shri. S.C. Kumbhar
Udhyog Sarthi, MIDC,
Mahakali Gumfa Marg,
Marol Industry Area, Andheri (E),
Mumbai – 400 093.

... **Appellant**

V/s

First Appellate Officer cum Dy. Chief Executive Officer,
Maharashtra Industry Development Board,
Mahakali Gumfa Marg,
Andheri (E), Mumbai – 400 093.

... **Respondent**

Public Information Officer cum Administrative Officer
Maharashtra Industry Development Board,
Mahakali Gumfa Marg,
Andheri (E), Mumbai – 400 093.

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had asked for copy of the rating of confidential reports from 1998-99 to 2002-2003. The Public Information denied the information and therefore he preferred first appeal under section 19(1) of the Right to Information Act. The First Appellate Authority by his order dated 04.07.2008 ordered that the information should be furnished. The appellant says that despite order from the First Appellate Authority he has been denied information by the Public Information Officer. Hence this second appeal.

The appeal was heard on 20.11.2008. Appellant and respondent were present. The appellant's main grievance was that he has not been given the information despite the First Appellate Authority's order. Scrutiny of the case papers reveals references and cross references. The communication dated 21.04.2008 has been taken by the appellant as an order where as the PIO has treated this as a letter and advised by his letter dated 25.04.2008 to approach the First Appellate Authority if he was not satisfied with his order. The PIO has complied the First Appellate Authority's order dated 04.07.2008. After going through the case papers I have come to the conclusion that the information has been furnished. I therefore close the case.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1273/02

**Shri. Vishal Ramdas Bhoge
Room No.306, Building No.101,
New MHADA Colony,
Dr.Babasaheb Ambedkar Nagar,
Mankhurd, Mumbai – 400 043.**

... **Appellant**

V/s

**First Appellate Officer cum Assist. Commissioner
Municipal Corporation, H/East ward, Second Floor,
Chembur, Mumbai – 400 071.**

... **Respondent**

**Public Information Officer cum Assist. Engineer,
Municipal Corporation, H/East ward, Second Floor,
Chembur, Mumbai – 400 071.**

GROUND

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had complained against an unauthorized construction in Mohite Patil Nagar. He was given the reply that since the land belonged to Govt. of Maharashtra, they were not in a position to remove the unauthorized construction. The appellant has pointed out that an unauthorized construction by one Shri Yunus Niyamat at Dr.Babasaheb Ambedkar Nagar was demolished after giving notice under 354 A of the MMC Act although it stood on govt. land. The appellant therefore sought information as to how two different decisions were taken if both lands belonged to Govt. of Maharashtra. The Public Information officer by his letter dated 29.04.2008 informed him that the information sought is in the shape of question and does not fit into the definition of information. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the Right to Information Act. The First Appellate Authority virtually confirmed the PIO's order and hence this appeal.

The appeal was heard on 24.11.2008. Appellant and respondents were present. The appellant stated that there cannot be two kinds of decision for a similar situation. The respondent has stated that they remove unauthorized construction if it is on Municipal land.

I have gone through the case papers. The appellant has enclosed a copy of the MCGM's notice issued to Yunus Niyamat. The reply given by the PIO is not convincing. The appellant's intention is to show that we cannot have different yardstick for different sets of people. In fact the basic idea behind the enactment of the RTI is to bring transparency in our working. The enquiry made by the appellant is totally in tune with the objective and spirit of the RTI. The PIO needs to inform the appellant why and how the decision to demolish one structure and not to touch another one although both of them are govt. land was taken. I pass the following order.

Order

The appeal is allowed. PIO to furnish the required information within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/949/02

**Shri. Rajendra Prasad M. Gaud
Periera Compound, New Municipal School,
Opp. Ajit Glass Behindnew Dispensary,
Opp.B-38, Green Apts., Behind Western oil Agency,
Vaishali Nagar, S.V. Road, Jogeshwari (W),
Mumbai – 400 102.**

... **Appellant**

V/s

**First Appellate Officer cum Assist. Commissioner
Municipal Corporation, K/West Ward Office,
Andheri (W), Mumbai – 400 058.**

... **Respondent**

**Public Information Officer cum Assist. Engineer (Build & Factory)
Municipal Corporation, K/West Ward Office,
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 applied for permission to repair his tenement but the same has not been granted. He has not sought information relating to action taken on his application. The Public Information Officer by his letter dated 01.09.2007 furnished the information. The appellant was not satisfied and preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority passed his order dated 19.10.2007. The appellant is not satisfied and hence this second appeal before the commission.

The appeal was heard on 24.11.2008. Appellant and respondent were present. The appellant's main contention is that he has not been given building repair permission. The respondent feels that he has furnished the information required by the appellant. After going through the case papers and considering the arguments advanced by parties I have come to the conclusion that the required information has not been furnished. The sketchy information furnished does not take the appellant anywhere. In fact he is more interested in what happened to his application for repair permission. He has not been given the information. I have seen the list of document required from the appellant. It is high time MCGM should find out some way to help people by asking for fewer documents without compromising its essential requirements. I have come across cases

where officers report that documents of 2001 / 2002 are not traceable but appellant has been asked to furnish proof whether his tenement was there prior to 1964. I am fully aware of the relevance of this requirement but hinting to the officer concerned to find out whether a way can be found out. It has also been pointed out by the appellant that the information has been furnished late.

In the light of the above discussion I have come to the conclusion that the information has not been furnished. The PIO should examine appellant's application and come to his conclusion. He should be informed accordingly. I pass the following order.

Order

The appeal is allowed. PIO to furnish information within 30 days. He should also show cause why he should not be fined @ Rs.250/- per day for furnishing the information late.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

Shri. Kashinath Durgaji Rao
237 B/ 9273 Sandeshchandra CHS Ltd.
Kannmwar Nagar 2,
Vikroli (E), Mumbai – 400 083.

... **Appellant**

V/s

First Appellate Officer cum Dy. Registrar
Dy. Registrar Cooperative Board,
Mumbai Housing & Area Development Building,
Bandra (E), Mumbai – 400 051.

... **Respondent**

Public Information Officer,
Dy. Registrar Cooperative Board,
Mumbai Housing & Area Development 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 by his application dated 07.07.2007 had sought the following information: -

- 1) How many members / families having 1 or 2 flats in the same society or other places of Maharashtra District & India.
- 2) How they managed to purchase the above flats and under which law society accepted? NOC is there?
- 3) I/C / O/G members list published in AGM. Permission obtained?
- 4) Leave Licenses copies with society / members custody?
- 5) How many members have pancard? Paying regularly I / taxes to Govt. & also single married once / twice male / female (Live or death) ?
- 6) Who appointed Legal Advisor? What is his salary fixed? & Court Cases are accepted?
- 7) Court Cases pending? Why? How he won and why also continuing permission in AGM?
- 8) How many Court Cases and other than Court Cases settled? how? why? Why not earlier? Under which rules adopted by society? what type of punishment taken by society? Either member or self? till date. Give in details why not accommodated me?

The Public Information officer by his letter dated 04.08.2008 informed the appellant that information relating to point no 1 can be had from the Authority. As regards points No 2, the tenements cannot be sold out without the Authority's permission. Information relating to point no 3 to 7 are available at society's level. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the RTI Act 2005. The First Appellate Authority by his order dated 29.05.2008 disposed off the appeal.

The appeal was heard on 27.11.2008. The appellant was present. The respondent did not turn up. I have gone through the case papers and considered the arguments advanced by the appellant. As it appears, the scope of the information sought is very broad. The PIO has furnished information relating to some and advised the appellant to seek remaining information from the society. In fact whether the society is a public authority has not been finally decided. The Hon Karnataka High Court in its Judgment in writ petition No 16901/2006 (GM-RES) dated 30.06.2008 has observed that 'solely on the basis of supervision and control by the Registrar of societies.... a society cannot be termed as 'Public Authority'. So as to include a society within the definition of the term 'Public Authority', it should fulfill the conditions stipulated in sub-clause (d) of clause (h) of section 2 of the RTI Act.

We however entertain applications where we feel that the information asked is 'held' by the deputy registrar because the RTI Act ensures furnishing of available information with the public authority. In this case bulk of the information is available at society level. The appellant can invoke the Maharashtra Cooperative Society Act 1960. In fact there is a letter on record showing that the society's office has been inspected under section 89 A of the MCS Act and show cause notice under section 78 (1) of the MCS Act has been issued. It is also says that hearing of the matter was on. The appellant may pursue this matter.

In the light of the above discussion I decide to close the case as the information available at the level of the Dy. Registrar has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/1272/02

**Shri. Premchand Dugaram Rajora,
Plat No.49, Kherwadi, Bandra (E),
Mumbai – 400 051.**

... Appellant

V/s

**First Appellate Officer cum Assist. Commissioner,
Municipal Corporation, H/West, 137 TPS-5,
Second Road, Prabhat Colony, Santacruz (E)
Mumbai – 400 055.**

... Respondent

**Public Information Officer cum Assist. Engineer,
Municipal Corporation, H/West, 137 TPS-5,
Second Road, Prabhat Colony, Santacruz (E)
Mumbai – 400 055.**

GROUNDS

This appeal has been filed under section 19(3) of the Right to Information Act 2005. The appellant had complained against an authorized extension and construction by his tenant. He wants to know what action has been taken on his application. The Public Information Officer by his letter dated 11.01.2008 informed the appellant that the place has been inspected and it was found that a shed with Plastic sheet has been erected. It was informed that the land was given to the appellant for his own stay and the Collector Mumbai Suburban has issued notice to him in this regard. The appellant filed the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 04.04.2008 directed the Public Information Officer to furnish information to the appellant and also allow him the inspection of documents. The appellant has filed the second appeal before the commission.

The appeal was heard on 24.11.2008. The appellant and respondent were present. I have gone through the case papers and have come to the conclusion that the First Appellate Authority's order needs to be confirmed. I therefore pass the following order.

Order

The appeal is allowed and the order passed by the First Appellate Authority is confirmed PIO to furnish information and arrange inspection of documents if any.

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

Place: Mumbai
Date: 27.11.2008

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

Appeal No.2008/720/02

**Shri.P.R.Pillai
Elphiston Building,
1st Floor, 10 V.S.Road,
Horniman Circle,
Fort, Mumbai – 400 001.**

...Appellant

V/s

**First Appellate Officer cum the Member,
Motor Accident Claims Tribunal,
9 Hazarimal Somani Marg, C.S.T.,
Mumbai – 400 001.**

.... Respondent

**Public Information Officer cum Registrar,
Motor Accident Claims Tribunal,
9 Hazarimal Somani Marg, C.S.T.,
Mumbai – 400 001.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information on 251 points relating to functioning of the Motor Accident Claims Tribunal. The appellant is not satisfied with responses from Public Information Officer and the first appellate authority and hence this appeal.

The appeal was heard on 22-10-2008. The appellant could not remain present. The respondent was present. It has been contended by the respondent that point wise information has been furnished. It appears from the case papers that the information has been received by the appellant. He has however raised 46 issues on which he finds the information incomplete or misleading. I admire motive behind the long questionnaire as the appellant himself has prefaced: - The information has been solicited to suggest ways and means to rejuvenate the working of the Motor Accident claims Tribunal and to make it transparent. Nobody can dispute or doubt his motive. The only constraint is time, energy and resources. The PIO responded to 251 points but was bombarded with 46 supplementaries. No system can survive such lengthy interaction. In fact the RTI Act itself says that information shall be ordinarily be provided in the form in which it is sought unless it would disproportionately direct the resources of the public authority. The information sought in this case would disproportionately divert the resources of the public authority. I therefore pass the following order.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.11.2008.

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

...Appellant

V/s

First Appellate Officer cum Chairman,
Bar Council of Maharashtra & Goa,
2nd Floor, High Court, (Extention),
Fort, Mumbai – 400 032.

.... Respondent

Public Information Officer
Bar Council of Maharashtra & Goa,
2nd Floor, High Court, (Extension),
Fort, Mumbai – 400 032.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant by his application dated 8-1-2008 had sought the following information from the Bar Council of Maharashtra and Goa.

- 1) Status of DC No.80 of 2007 complaint filed on 5-4-2007
- 2) Copy of Roznama dictated by Shri.M.P.Vashi related to DC No.80/2007
- 3) Status of any letter dated 29th October 2007.

It appears that the appellant's complaint to the Bar Council has been dismissed and he has been advised to file a case of criminal defamation and get a favourable judgment from the appropriate court. The Bar Council will take cognizance of his complaint only after that.

The appellant is not satisfied with responses from the PIO and the first appellate authority and hence this appeal. The appeal was heard on 31-10-2008. The appellant was present. The respondent came late. The appellant has contended that he has not been furnished the information he had sought.

I have gone through the case papers and tried to understand the background of the case. The most crucial question before the commission is whether the Bar Council of Maharashtra and Goa is a public authority. Section 2 (h) of the RTI Act defines public authority as follows,

“Public authority” means any authority or body or institution of self-government established or constituted –

- a) By or under the Constitution;

- b) By any other law made by Parliament;
- c) By any other law made by State Legislature;
- d) By notification issued or order made by the appropriate Government,

And includes any –

- I. Body owned, controlled or substantially financed;
- II. Non-government organization substantially financed,
Directly or indirectly by funds provided by the appropriate Government.

Thus it would appear that the Bar Council does not fit into the definition of public authority. It is not a body or institution of self govt. established by law. It is also not substantially financed by govt. It is true that it has been established by law but any organization or body which claims to be doing anything legitimate has to be registered under some or the other law. The Hon'ble Karnataka High Court in its judgment in writ petition no.16901/2006(GM-RES) has held that co-operative societies are not public authority even though they are constituted by law "Solely on the basis of supervision and control by the Registrar of societies and the definition of 'public servant' in the co-operative societies and in the Karnataka Lokayukta Act, 1984 a society cannot be termed as 'Public authority'. So as to include a society within the definition of the term 'Public authority', it should fulfill the conditions stipulated in sub-clause (d) of clause (h) of section 2 of the RTI Act" In the light of the above I conclude that the Bar Council is a not a public authority. I therefore, pass the following order.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.11.2008.

**Shri.Harsh Pipalia,
A/702/703 Rahul Enclave,
Opp. Kale College, Saibaba Nagar,
Borivali (W), Mumbai – 400 092.**

.....Appellant

V/s

**First Appellate Officer cum Dist.Dy.Chief Engineer
Municipal Corporation, 1st Floor, Dr.Dalvi Rd.,
Dr. Ambedkar Market Bldg.,
Kandivali (W), Mumbai – 400 067.**

.... Respondent

**Public Information Officer cum Executive Engineer
Municipal Corporation, 1st Floor, Dr.Dalvi Rd.,
Dr. Ambedkar Market Bldg.,
Kandivali (W), Mumbai – 400 067.**

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 relating to Duplex flat in Rahul Classic 'B' wing (flat no. 107/207) Borivali, Mumbai. The Public Information Officer by his letter dated 19-03-2008 informed the appellant that no action was taken on his complaints, the ward office has not carried out any inspection and the ward office had no information regarding approval or otherwise. He was also informed that appellant's application was being sent to Executive Engineer (BP) WS R ward for furnishing the requisite information. His appeal under section 19(1) of the RTI Act was dismissed because it was not in the prescribed format. The appellant has come in appeal against this order.

The appeal was heard on 10-11-2008. The respondent did not turn up. I have gone through the case papers and also considered the oral submission made by the appellant. There is a letter on record from the Executive Engineer Building proposal 'R' ward informing the appellant that he could inspect the file and copies will be supplied on payment. I would like to clarify that normally inspection is offered when the information sought is not specific. In this case the appellant has sought very clear and specific information. He wants a copy of the structural plan approved by the Building Proposal deptt. There is therefore, no need to inspect unless the appellant himself is keen about it.

The fact that he has come in second appeal means that he wants information rather than inspection.

In the light of the above discussion, I pass the following order.

Order

The Building Proposal depts. 'R' ward to furnish the information sought by the appellant within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.11.2008.

Shri.T.D.Chafe
60-C, Bhupen Chambers,
4th floor, 9, Dalal Street,
Fort, Mumbai – 400 001.

.....Appellant

V/s

First Appellate Officer cum Charity Commissioner,
Maharashtra State, Mumbai,
Dharmadaya Ayukta Bhavan,
3rd floor, 83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

.... Respondent

Public Information Officer cum Charity Commissioner,
Maharashtra State, Mumbai,
Dharmadaya Ayukta Bhavan,
3rd floor, 83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

GROUND

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

Inspection of File/s, papers and records pertaining to CURRIMBHOY EBRAHIM KHOJA ORPHANGE, a Public Trust, registered under P.T.R. No. B – 375 (Bom.) and Application, Papers and Records pertaining to Permission granted by Ld.Joint Charity Commissioner, Maharashtra State, Mumbai to sell the property of the said Trust situated at Altamount Road, Mumbai – 400 026 bearing C.S.No.1/669 of Malabar and Cumballa Hill Division to Antilia Commercial P.Ltd. by order dated 27-08-2002 and require, which will be shown to you at the time of inspection, within time as per provision of the Right to Information Act, 2005.

The Public Information Officer furnished the information after getting deposited Rs.1664. The appellant was not satisfied and he filed the first appeal under section 19(1) of the RTI Act. The first appellate authority by his order dated 4-1-2008 disposed off the appeal. Hence this second appeal.

The appeal was heard on 17-11-2008. The appellant was present. The PIO and the first appellate authority were also present. The appellant in his written submission has stated that the information was not furnished in time and therefore he should not have

been charged Rs.1664/-. He has stated that the documents were not organised properly and the entire exercise of Xerox copies was done in half hazed way and carelessly. He also contends that the copies were not readable and the plan was Xeroxed in part. The respondents have contended that initially the application dated 6-8-2007 for information was received at the office of Greater Mumbai Region on 9-8-2007. Thereafter the said application was received in the office of the Charity Commissioner on 28-8-2007. Immediate steps were taken to furnish the information. As regards the quality of Xeroxing, it has been stated that this was because of the mechanical fault and copies were prepared from the Xerox machine available in the office of the Charity Commissioner. The first appellate authority has also observed that if records are to be taken outside for Xeroxing necessary permission from the Charity Commissioner will have to be obtained.

I have gone through the case papers and also considered arguments advanced by parties. It is clear that the appellant has received the information but is not happy with the physical quality of it I can imagine his frustration but I am also aware of the limitation under which a govt. office works. It may not be desirable to take these documents out for Xeroxing. As far as the point of furnishing information beyond 30 days is concerned, prima facie there has been delay. But the explanation given by the respondent is convincing and makes me believe that there was no deliberate or mischievous intention to deny or delay the information. I agree with findings of the first appellate authority.

Order

The appeal is disposed off.

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

Place: Mumbai
Date: 20.11.2008.

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

Appeal No.2008/916/02

**Shri. Prof. Patankar Nisarali Muhammad
2/204 Aghadi Nagar,
Andheri East, Mumbai – 400 093.**

....Appellant

V/s

**First Appellate Officer cum Hon. Gen. Secretary
Khairul Islam Higher Education Society's
Maharashtra College of Arts Science and Commerce,
2, Prince Court, 53/c, Clare Road, Byculla,
Mumbai – 4000008.**

.... Respondent

**Public Information Officer cum Principal
Maharashtra College, Bellasis Road,
Mumbai – 400008.**

GROUNDS

The appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought copy of his confidential report for the year 1989 – 1990.

The appellant has stated that the college has not implemented the Right to Information Act 2005. That is the reason he has not approached the PIO or the first appellate authority. He has also brought to the Commission's notice govt's clarification dated 26-3-2007 which says that since the college receives govt. grants, the Right to Information Act is applicable to the college.

The appeal was heard on 24-11-2008. Appellant and respondent were present but the Appellant has stated that he needs copies of his annual confidential report for submitting to the Tribunal which is hearing his petition against his dismissal from his job.

I have gone through the case papers and also considered the arguments advanced by the appellant. The preamble to the RTI Act 2005 very clearly 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. It also says that revelation of information in actual practice is likely to conflict with other public interest including efficient operation of govt. and optimum use of limited resources and the preservation of confidentiality of sensitive information. The RTI Act is designed to harmonies those conflicting interest while preserving the paramountcy of democratic ideal. The annual confidential reports have

been traditionally confidential. There are circumstances under which it is communicated to the person concerned. It remains confidential otherwise. As far as the appellant's case before the Tribunal is concerned, there have been instances where the courts have called for these reports and evaluated them and passed orders. Finally, giving copies of appellant's annual confidential reports has no element of public interest, it is purely personal. Under these circumstances I am of the view that no public interest is likely to be served by furnishing copies of appellant's annual confidential reports to him. I pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 24.11.2008.

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

Appeal No.2008/1315/02

**Shri. L.S.Kolhe
At post Kopargaon,
Indira Path, Kopargaon - 423601,
District – Ahmednagar.**

.....Appellant

V/s

**First Appellate Officer cum Dy.Secretary
Service
Public Works Department,
Mantralaya,
Mumbai – 400 032.**

.... Respondent

**Public Information Officer cum Under Secretary
Service
Public Works Department,
Mantralaya,
Mumbai – 400 032.**

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant by his application dated 02.04.2008 had sought copies of records / notings by officers of GAD and Law & Judiciary culminating in the sanction of his prosecution under section 197 of the Criminal Procedure Code (Act 11 of 1974) by the Government of Maharashtra. The Public Information Officer by his order dated 03.05.2008 informed the appellant that since the prosecution has been launched and the matter is in the court of law, the information cannot be provided as per section 8 of the RTI Act 2005. The appellant preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 02.06.2008 confirmed the PIO's order and hence this second appeal.

The case was heard on 27.11.2008. The appellant did not turn up. The respondents were present. The respondent has reiterated that since the case is in the court of law, the required information cannot be furnished in accordance with section 8 of the RTI Act.

I have gone through the case papers and also considered the submission made by the respondent. It is true that the govt. has sanctioned his prosecution after examining the material placed before it and after fully satisfying itself. The process is over. The final outcome is sanction of his prosecution under section 197 of the Criminal Procedure Code.

The appellant wants to know how the file has moved from one department to another department leading to the sanction. This in no way attracts section 8 of the RTI Act. Section 8 of the RTI Act simply says there shall be no obligation to give any citizen information which would impede the process of investigation or apprehension or prosecution of offenders. In the instant case the prosecution has been sanctioned and launched. Disclosure of the notings of the relevant file in no way attracts section 8 (1) (h) of the RTI Act. Denial of the information would go against the spirit of the RTI Act. I therefore pass the following order.

Order

The appeal is allowed. The appellant to be furnished the required information within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 28.11.2008.

Shri.Hemant Vissanji
Trustee,
Laxmi Charitable Trust,
9, Wallace Street, Fort,
Mumbai- 400 001.

.....Appellant

V/s

First Appellate Officer cum
University of Mumbai,
Room No.114, Fort Campus,
Mumbai -400 032.

.... Respondent

Public Information Officer cum Dy. Registrar
(CONCOL Section)
Fort Campus,
Mumbai – 400 032.

GROUNDS

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

- a) Furnish the list of Colleges, the University initiated action for an appointment of Administrator under Maharashtra University Act 1994 and Transfer of Management Act 1970 or under the old Act, Statutes.
- b) Complete details of each of the case.
- c) Details of Administrator actually appointed.

The Public Information Officer by his letter dated 24.04.2008 informed him that the information asked for cannot be furnished in the light of section 8 (3) of the Right to Information Act. The appellant filed the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 16.6.2008 confirmed the order of the PIO. Hence this appeal.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondents turned up. The appeal is decided on merits.

I have gone through the case papers. My conclusion is that section 8 (3) is not applicable in this case. Section 8 (3) of the Right to Information Act reads as follows:-

Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place,

occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section.

Thus it is clear that section 8(3) is in fact an enabling provision which allows disclosure after 20 years except in case of *(a)* *(c)* and *(i)*. I therefore pass the following order.

Order

The appeal is allowed. The PIO to furnish information within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

Shri.R.P.Yajurvedi (Rao)
Bhrashtachar Nirmoolan Sanghtana,
182, J.B.Nagar, Andheri (E),
Mumbai – 400 0053.

.....Appellant

V/s

First Appellate Officer cum Asst.Commissioner
Municipal Corporation of Greater Mumbai,
‘L’ Ward Office,
S.G.Barve Marg,
Kurla (W), Mumbai – 400 070.

.... Respondent

Public Information Officer cum Sr.Inspector
License,
Municipal Corporation of Greater Mumbai,
‘L’ Ward Office,
S.G.Barve Marg,
Kurla (W), Mumbai – 400 070.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant by his application dated 29.12.2007 had sought the following information:-

- 1) Action taken by the Asstt. Municipal Commissioner / AE Maintenance on the subject matter addressed.
- 2) Is there any court order restraining the MCGM from taking action?. If so please provide copy of the order with respect to mentioned sheds on the Saki Vihar Road.
- 3) Has the court order on Gala No.24 in suit No.6044 of 2003 contested or pleaded for revocation?. If so provide details arising out of the said action.
- 4) Reasons for allowing commercial activity on the said municipal footpath (s) is it legal ? If so act or law Pls state or quote.
- 5) Action the declaration of duty by the concerned is filed and ignored as per MMC Act and Service Condition rules of MCGM?
- 6) Please provide updated list of godowns / sheds /stalls / makeshift repair shops at the said place opposite to Jalaram Shopping Centre.

The PIO by his letter dated 30.01.2008 replied to his letter. There is another letter on record signed by the Sr. Inspector License "L" ward giving point wise information. The appellant was not satisfied and he filed the first appeal under section 19(1) of the RTI Act. The First Appellant Authority by his orders dated 08.04.2008 ordered that the AE B & FL should arrange inspection of relevant files and furnish copies of selected documents. There is another order by the same appellate authority directing to take suitable action against unauthorised construction.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor respondents turned up. The appeal is being decided on merit.

I have gone through the case papers. It appears from the case papers that the Sr. Inspector by his letter dated 25.02.2008 has furnished detailed information and action initiated against those engaged in unauthorised activity. The RTI ensures furnishing of available information and not replies to queries which an appellant might have raised. My conclusion is that, the required information has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

**Shri. Ajay Vishwas Ranade
15, Aslam Manzil,
Juhu Tara Road,
K.K.Ganguli Marg,
Mumbai – 400 049.**

.....Appellant

V/s

**First Appellate Officer cum Dy. Commissioner,
Pheriwale Niyaman,
Municipal Corporation of Greater Mumbai,
Annex Bldg., Mahapalika Marg,
Fort, Mumbai – 400 001.**

.... Respondent

**Public Information Officer cum Chief Officer,
Disaster Management & Central Complaint Registration,
Ground Floor,
Municipal Corporation of Greater Mumbai,
Annex Bldg., Mahapalika Marg,
Fort, Mumbai – 400 001.**

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant by his application dated 18.07.2007 had sought the following information:-

- 1) What action has been taken by the complaint officer, AMC and MC in the matter?
- 2) By what date the huge stock of plywood and fire hazardous materials will get removed?
- 3) I may be given the report submitted by fire brigade officer to AMC K-Ward West, during the period 25.04.2007 to 13.07.2007, in relation to the above mentioned unauthorised huge stock of wood
- 4) State what action is taken or proposed to be taken against the officers who are responsible for not removing this unauthorised fire stock, dangerous to the human lives in the area.
- 5) What action is taken for non-attending the complaint No. WZ-87282490?

The Public Information Officer by his letter dated 04.08.2008 informed him that the shop was inspected by the staff of license deptt. and since the shopkeeper did not

have any valid license required under section 394 of the MMC Act, two court cases have been filed against him. The appellant preferred appeal under section 19(1) of the RTI Act. The appeal was disposed off by the Deputy Commissioner (Hawking) advising the appellant to approach the Asstt. Commissioner K –West. The Asstt. Commissioner K – West by his order dated 02.11.2007 directed the PIO to furnish the required information within two days. The PIO furnished the information dated 03.11.2007. The appellant is not satisfied and hence this second appeal.

The appeal was heard on 21.10.2008. The appellant could not make it. The respondents were present. They have submitted that there has been no deliberate delay in furnishing the information and the required information has been furnished. This issue of delay has been discussed by the DMC (Hawking) who concluded that there has been no delay. The PIO also submitted that he has made all efforts to furnish the required information. I would therefore conclude that the available information has been furnished and there was no malafide intention to delay or deny the information. I therefore pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

**Shri. Moin Akhter Qureshi
Baitul Akhter Bldg.,
First Floor, Room No.18 /19,
Above Delhi Darbar Hotel,
Patthe Bapurao Marg,
Mumbai – 400 004.**

.....Appellant

V/s

**First Appellate Officer cum Asst. Commissioner,
Municipal Corporation of Greater Mumbai,
'C' Ward Office,76,
Shrikant Palekar Marg,
Chandanwadi,
Marine Lines,
Mumbai – 400 002.**

.... Respondent

**Public Information Officer cum Asstt. Engineer,
Municipal Corporation of Greater Mumbai,
'C' Ward Office,76,
Shrikant Palekar Marg,
Chandanwadi,
Marine Lines,
Mumbai – 400 002.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant by his application dated nil had asked for names of the concerned officers working in building department from 2003-2006, Dhobi Talao area. The Public Information Officer by his letter dated 25.07.2007 furnished the names of officers. The appellant was not satisfied and he preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 12.09.2008 disposed off the appeal and observed that no penalty had to be imposed on the Public Information Officer. Hence this appeal.

The appeal was heard on 18.10.2008. Appellant and respondents were present. The appellant's main contention is that the PIO should be penalized for not furnishing the required information in time. The respondent submitted that the information was furnished free of cost because of delay and he should not be penalized. I have gone through the case papers and also considered the arguments advanced by parties. It is true that there has been delay but the same has been remedied by furnishing the information

free of cost. I do not find this to be fit case for imposing penalty because the conditions under section 20 are not fulfilled. I am also advising appellant to be careful in his choice of words and language while dealing with officers entrusted with quasi judicial matters. I pass the following orders.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

Shri. Nitesh Sanjiv Acharya
5/10, Hema Niwas, Hardevibai Society,
Caves Road, Jogeshwari (East),
Mumbai – 400 060.

.....Appellant

V/s

First Appellate Officer cum District Dy. Registrar,
Co-operative Societies (3) Mumbai,
Mhada Building, Kala Nagar,
Bandra (E), Mumbai – 400 051.

.... Respondent

Public Information Officer cum Dy. Registrar,
Co-operative Societies,
K / East ward,
Malhotra House,
Opp.G.P.O.,
Mumbai – 400 001.

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought inspection of files / records / documents / audit reports / minutes / record available in the office of the Dy. Registrar of Co-operative Societies, K / East ward pertaining to affairs of Hardevibai Co-operative Housing Society Ltd. The Public Information Officer by his letter dated 04.10.2007 informed the appellant that the information asked for was not available in his office and he should get in touch with the society. The appellant was not satisfied and he preferred the first appeal. The First Appellate Authority by his order dated 10.12.2007 disposed off his appeal but directed that the society be asked to furnish the information. Hence this appeal.

The appeal was heard on 24.10.2008. Appellant and respondent were present. I have gone through the case papers and also considered the oral arguments advanced by parties. The PIO as well as the First Appellate Authority seem to be of the view that the information should be collected from the society. The commission does not agree. The information has to be furnished by the Public Authority who holds it. We know that the Maharashtra Co-operative Societies Act 1960 requires society to furnish a lot of information to the Dy. Registrar. Then there are pieces of information which are generated in the office of the Dy. Registrar (Registration, bifurcation etc.) The appellant is asking for inspection and inspection has to be necessarily of available documents. I

therefore set aside the orders passed by the PIO and the First Appellate Authority and pass the following order.

Order

The appeal is allowed. The PIO is directed to facilitate inspection of available document within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

**Smt.Prachi Vishwas Sawant
406, Shrinath Dham,
Vamanrao Sawant Road,
Dahisar (East),
Mumbai – 400 068.**

.....Appellant

V/s

**First Appellate Officer cum Director,
(Engineering Service & Process)
Municipal Corporation of Greater Mumbai,
3rd Floor,
Mahapalika Marg,
Mumbai – 400 001.**

.... Respondent

**Public Information Officer cum City Engineer
Municipal Corporation of Greater Mumbai,
5th Floor,
Mahapalika Marg,
Mumbai – 400 001.**

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought information relating to appointment of ten reserved category (Schedule Caste) candidates more particularly three SC female candidates to the post of Sub Engineer in Mumbai Municipal Service. The Public Information Officer informed the appellant that 10 posts have been filled in according to the merit list finalised and two of them are female (No. 04 and 10 in the Merit list) The appellant was not satisfied and she preferred the first appeal under section 19 (1) of the RTI Act. The First Appellate Authority by his order dated 29.09.2007 confirmed the PIO's order. Hence this appeal.

The appeal was heard on 24.11.2008. Appellant and respondent were present. I have also gone through the case papers. I can understand the reason for appellant's dissatisfaction. This is one of those cases where information alone cannot help. In fact it is not intended to. The appellant has to take it forward with the competent authority. There has been a clear violation of govt's instruction which requires that 30% of the total positions must go to female candidates. If this was followed strictly, the appellant would have been at no.10. Thus although 10 posts have been filled in. 30% of positions have not gone to female candidates. I would therefore advise the appellant to bring these facts

to the notice of the Municipal Commissioner MCGM for relief. As far as the Commission is concerned, my conclusion is that the available information has been furnished.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

**Shri. Vinod Kumar L.Dhawan
101, Krishna Kunj CHS Ltd., Plot No.13,
L.T.Nagar Road No.1, Off M.G.Road,
Goregaon (W), Mumbai – 400 062.**

...Appellant

V/s

**First Appellate Officer cum Asstt. Commissioner,
Municipal Corporation Greater Mumbai,
P / South Ward Office,
Mithanagar, Goregaon (W),
Mumbai – 400 062.**

.... Respondent

**Public Information Officer cum Asstt. Engineer,
(Building & Factories)
AEBF, Municipal Corporation Greater Mumbai,
P / South Ward Office,
Mithanagar, Goregaon (W),
Mumbai – 400 062.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought the following information regarding property bearing survey no. 896, 896/1, 896/3, 896/8 of village Pahadi and admeasuring 6950 sq. meters at Goregaon (West) (Popularly known as Patkar College).

- 1) Certified true copies of all documents relating to said matter including the following – 1) Show Cause Notice No. AEBF / PSII / 15483 / 07.07.2006 /354 to owners / occupiers of the said property.
- 2) Dr. G.V.Pandit's reply letter dated 18.07.2006 to BMC.
- 3) All other correspondence exchanged between the owners / occupiers of said property and various departments (PS Ward, the A.A. & C., the building proposal department etc of BMC.
- 4) BMC's approved / sanctioned plan for buildings constructed in said premises.
- 5) Present Status.

The Public Information Officer by his letter dated 10.12.2007 furnished the information but the same was not acceptable to the appellant. He filed the first appeal under section 19 (1) of the Right to Information Act. The First Appellate Authority by

his letter dated 14.12.2007 passed his order which was not acceptable by the appellant and hence this second appeal.

The appeal was heard on 07.11.2008. Appellant and respondent were present. I have gone through the orders passed by the PIO and the First Appellate Authority. The only point on which information remains to be furnished is a true copy of the building plan sanctioned by the Building Proposal Department of BMC. The PIO has asked the appellant to get in touch with the Executive Engineer Building Proposal (WS) Office. I am of the view that if this information was not available with ward office, the same should have been sent to the Building Proposal Department under intimation to the appellant. This has not been done in this case. I would therefore direct the ward office to get this information from Building Proposal Department (WS) and furnish to the appellant within 30 days.

Order

The appeal is partially allowed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

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

Appeal No.2008/1158/02

Shri.S.G.Kulkarni & A.A.Faridi
6-74, Shashtri Nagar Transit Camp,
Linking Road (Extension),
Santacruz (W),
Mumbai – 400 054.

...Appellant

V/s

First Appellate Officer cum Dy.Chief Engineer,
(Commercial – South)
B.E.S.T.,
Electric House,
Colaba, Mumbai – 400 005.

.... Respondent

Public Information Officer cum Divisional Engineer,
(Commercial – South)
B.E.S.T.,
Electric House,
Colaba, Mumbai – 400 005.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought information regarding electric connections (Five No.) to Kulkarni Uphar Sadan at 169 – 173, Raja Ram Mohan Rai Road, Mumbai. The appellants were not satisfied with responses from the Public Information Officer and the First Appellate Authority and hence this appeal.

The appeal was heard on 31.10.2008. The appellants did not turn up. Respondents were present. It is seen from case papers that the PIO by his letter dated 27.08.2007 offered inspection of records relating to meter no. 1972759 and also informed them that documents regarding meter no.322892 were not available. The First Appellate Authority by his letter dated (not visible) furnished the details of 5 meters. The RTI Act requires public authority to furnish available information. It is possible that the available information may not satisfy the information seeker. After going through the case papers I have come to the conclusion that the available information in this case has been furnished. I therefore pass the following order.

Order

The appeal is disposed off.

Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

Shri.Vimal Singhania
501, Sherton Height,
Charatsingh Colony Road,
Chakala, Andheri (East),
Mumbai – 400 093.

...Appellant

V/s

First Appellate Officer cum Dy.Chief Engineer,
(B.P.) / W.S.,
Municipal Corporation of Greater Mumbai,
1st Flr., R.K.Patkar Marg,
Bandra (W),
Mumbai – 400 050.

.... Respondent

Public Information Officer cum Executive Engineer
(B.P.) / K/E Ward,
Municipal Corporation of Greater Mumbai,
1st Flr., R.K.Patkar Marg,
Bandra (W),
Mumbai – 400 050.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant by his application dated 28.09.2007 had sought the following information:-

The building plans for Sheraton building were passed on the entire Plot bearing C.T.S. No. 112B at Chakala village Andheri (E) of Tondon co op Hsg. Society by taking FSI and TDR as per accompanying Block plan showing both the building as A and B. Hence is it correct that the occupants of both the buildings are equally entitled to use and enjoy the entire plot for parking, laying of sewer or water line etc.

The old compound wall in between the two building is required to be demolished by the Architect / Builder before getting the O.C. however the said illegal wall is not demolished, though O.C. was granted. We want to know when this wall will be demolished since parking spaces of our building are shown on the other side of this old. Wall further due to inadequate side margin it is very difficult to attend complaints.

As per D.C. rule the toilet windows cannot open into duct and must open to external open space where as all toilet windows open into ducts that creates obnoxious smell and heavy pigeon nuisance. We desire to know now when this problem will be set right.

It appears that I.O.D. condition no.3 was not enforced and faulty overhanging drainage system was passed due to which drainage and sewage water is required to be pumped up and then discharge it to storm water drain which is creating constant nuisance and health hazard problems. We want to know now how this nuisance will be abated.

The Public Information Officer by his letter dated 20.10.2007 informed the appellant to take inspection of the file and ask for Xeroxed copies of relevant information. The First Appellate Authority by his order dated 22.02.2008 has virtually confirmed the order passed by the PIO.

The appeal was heard on 31.10.2008. The appellant did not turn up. The Executive Engineer (BP) K Ward was present. It appears from the application of the appellant that he wants his grievances to be sorted out. He wants the compound wall between two buildings to be demolished so that he can have access to the open space and parking area which according to him is common as the building plan was passed for the entire plot. It is also clear that fact of the case is known to both parties. I am however of the view that even though it is a complaint which has been brought to the notice of the PIO. He is required to furnish information as to what has been done to the appellant's complaint. I therefore pass the following order.

Order

The appeal is allowed. The PIO to inform the appellant what action has been taken on appellant's complaint. In case the PIO comes to the conclusion that it not within his powers, he shall send it to the competent authority under intimation to the appellant.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

Shri.Demla Sumir Manoharlal
A – 202, Godavari – Shantivan,
Borivali (E),
Mumbai – 400 066.

...Appellant

V/s

First Appellate Officer cum Hon'ble Dean
Grant Medical College & Sir J. J. Group of Hospitals,
Byculla,
Mumbai – 400 008.

.... Respondent

Public Information Officer cum Chief Administrator
Grant Medical College & Sir J. J. Group of Hospitals,
Byculla,
Mumbai – 400 008.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought a copy of the antiragging register and CD / DVD of informal held during 2003, 2004 and 2005. The appellant was not satisfied with replies given by the Public Information Officer and the First Appellate Authority and hence this second appeal.

The appeal was heard on 31.10.2008. The appellant was present. The respondent did not turn up. I have gone through the case papers and also considered the submission made by the appellant. It appears that the appellant has been informed that informals are held by the students and the college does not have CD / DVD of those events. It is also seen that a copy of the enquiry committee report regarding appellant's complaints has been provided. As far as copy of the antiragging register is concerned the PIO by his letter dated 20.11.2007 has informed that there was no complaint from the appellant in the register (2005). After going through the case papers I have come to the conclusion that the information sought has been provided. I therefore pass the following order.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 29.11.2008.

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

Appeal No.2008/1153/02

**Shri. Suryakant Chandraro Nawle
Prathmesh Apartment,
A L, 6-17-8, Sector – 5,
Airoli, Navi Mumbai – 708.**

...Appellant

V/s

**First Appellate Officer
Bhagubai Mafatlal Polytechnic,
Ram Ganesh Gadkari Marg,
Vile Parle (W),
Mumbai – 400 056.**

.... Respondent

**Public Information Officer
Bhagubai Mafatlal Polytechnic,
Ram Ganesh Gadkari Marg,
Vile Parle (W),
Mumbai – 400 056.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had asked information about the name, designation, pay scale monthly remuneration received by teaching and non teaching staff of SBM Polytechnic, Vile Parle, Mumbai. The Principal in charge by his letter dated 28.01.2008 informed the applicant that the polytechnic is in receipt of grant in – aid and the matter would have to be referred to the Director of Technical Education. The First Appellate Authority by his order dated 25.02.2008 informed the appellant that as per section 8(J) of the RTI Act, they are exempted from furnishing the information. The appellant has come in second appeal.

The case was fixed for hearing. Neither party turned up. The information sought is simply and straight forward. Section 8 (J) of the RTI Act does not apply in this case. In fact section 4 casts responsibility on all public authorities to resort to voluntary disclosure on all these points. I therefore conclude that information must be furnished to the appellant.

Order

The appeal is allowed. The appellant must be giving the information within 30 days.

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

Place: Mumbai
Date: 29.11.2008.

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

Appeal No.2008/1152/02

**Shri. Suryakant Chandraro Nawle
Prathmesh Apartment,
A L, 6-17-8, Sector – 5,
Airoli, Navi Mumbai – 708.**

...Appellant

V/s

**First Appellate Officer
Bhagubai Mafatlal Polytechnic,
Ram Ganesh Gadkari Marg,
Vile Parle (W),
Mumbai – 400 056.**

.... Respondent

**Public Information Officer
Bhagubai Mafatlal Polytechnic,
Ram Ganesh Gadkari Marg,
Vile Parle (W),
Mumbai – 400 056.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act, 2005. The appellant had sought information as per section 4 (1) A and 4 (1) B of the Right to Information Act 2005. The appellant is not satisfied with responses received from the PIO and the First Appellate Authority and hence this second appeal.

The case was fixed for hearing on 31.10.2008. Neither the appellant nor the respondent turned up. The information sought is simple, sharp and straight forward. The Public Information Officer must furnish the information.

Order

The appeal is allowed. The Public Information Officer is directed to furnish the required information within 30 days.

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

Place: Mumbai
Date: 29.11.2008.

Shri.Ramesh N.Sarkate
2, Swamini Apartment,
Sharda Nagar,
Bhusalwal,
Dist.- Jalgaon – 425 201.

...Appellant

V/s

First Appellate Officer cum Secretary
Maharashtra Rajya Sahitya and Sanskriti Mandal,
Ravindra Natya Mandir Building,
2nd Floor, Sayani Road,
Prabhadevi,
Mumbai – 400 025.

.... Respondent

Public Information Officer
Maharashtra Rajya Sahitya and Sanskriti Mandal,
Ravindra Natya Mandir Building,
2nd Floor, Sayani Road,
Prabhadevi,
Mumbai – 400 025.

GROUND

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

- 1) Name of experts to whom appellant's manuscript – 'Deep-Stambh' was sent.
- 2) Comment's on Appellant's manuscript by experts.
- 3) The writers who were sanctioned assistance during the period and names of experts who gave favourable opinion on them.

The Public Information Officer by his letter dated 13th July 2007 informed the appellant that in view of the written undertaking given by the Mandal to the experts the information sought cannot be furnished. The appellant went in appeal under section 19(1) of the RTI Act 2005. The First Appellate Authority by his order dated 03.01.2008 informed the appellant that information cannot be given on the grounds mentioned by the PIO. The appellant has come in second appeal before the Commission.

The appeal was heard on 04.12.2008. Appellant and respondent were present. The appellant has pleaded that the manuscript submitted to the Mandal was his first

literary work and comments from experts good or bad will help him a lot in improving his writing. The respondent has submitted that the Mandal has given an undertaking in writing to experts that their names will not be revealed and therefore the information cannot be furnished.

I have gone through the case papers and also considered the arguments advanced by parties. According to the respondent the 'Maharashtra Rajya Sahitya ani Sanskriti Mandal' grants assistances to new writer for publishing their books. The appellant had also submitted his manuscript 'Deep-Stambha' which was sent to experts for remarks and final decision was taken by the Mandal on the basis of expert's opinion. They name also stressed that the Mandal has given an undertaking that their names will not be revealed and therefore it may not be possible for them to furnish the information. It is to be noted that the appellant has sought information on 3 points and experts name with their remarks is one of them. There should be no problem in furnishing the remaining information. I therefore pass the following order.

Order

Appellant should be given a copy of the remarks / opinion received on his manuscript without mentioning the name of the expert who offered those remarks. The appellant should also be provided with names of writers whose works have been selected for award during the period. The information should be furnished within 30 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 05.12.2008

Shri.Mahesh Choudhary
D – 602, Madhuvihar,
M.G.Cross Road No.4,
Kandivali (W),
Mumbai – 400 067.

.... Appellant

V/s

First Appellate Officer cum Registrar,
Mumbai University, Registrar Chambers,
3rd Floor, Dr. B. A. Bhavan,
Vidyanagri,
Santacruz (E),
Mumbai – 400 098.

.... Respondent

Public Information Officer
Mumbai University, Exam Department,
Vidyanagri,
Santacruz (E),
Mumbai – 400 098.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information regarding correction of his son's name in his certificate. The appellant has alleged that the correction has been carried in a manner which gives an impression that his mothers name has been written after his name. The Asstt. Public Information Officer by his letter dated 07.07.2007 informed him that the name written in the certificate is as per the form filled in by the candidate. He was also informed that all corrected certificates are handwritten only. The appellant filed appeal under section 19 (1) of the RTI Act. The appellant has not attached a copy of the order passed by the First Appellate Authority.

The appeal was heard on 17.11.2008. It appears from the case papers that the university has corrected the certificate as per guidelines and to the appellant's interpretation is not in accordance with the guidelines.

The university has furnished the required information. I pass the following order.

Order

The appeal is dismissed.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

Shri. Charuhas A. Hambire
Dwara, Maharashtra Machhimar Mase Vikrete Sangh
25, Gr. Flr., Mrudangacharya Narayan Koli Co-op. Hos. Socty.,
Causway Road,
Mahim (W),
Mumbai – 400 016.

..... Appellant

V/s

First Appellate Officer cum Asst. Chief Officer,
Maharashtra Housing Development Authority
Room No. 404,
Grihnirman Bhavan,
Bandra (E),
Mumbai – 400 051.

.... Respondent

Public Information Officer Executive Engineer,
Maharashtra Housing Development Authority,
2nd Floor, Room No. 321,
Grihnirman Bhavan,
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 MHADA Plot bearing CTS No.703 its allotment reservation and possession. The appellant was not satisfied with replies received and hence this second appeal before the Commission.

The appeal was heard on 25.11.2008. The appellant was present. The respondent was not present. The information sought is simple and straight forward. The PIO is directed to furnish it immediately.

Order

The appeal is allowed. PIO to furnish information within 15 days. He should also explain why action tender section 20 of the RTI Act should not be initiated against him for not furnishing the information. His explanation to reach Commission within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

Shri. Dr.S.S.Prabhu
B – 23, “Udyan Prabha”,
Tejpal Scheme Road No.2,
Vile Parle (E), Mumbai – 400 057

.... Appellant

V/s

First Appellate Officer cum Divisional Joint Registrar
Co-op. Socs., Mumbai Division,
Malhotra House, 6th Floor,
Fort, Mumbai – 400 001.

.... Respondent

Public Information Officer Divisional Joint Registrar
Co-op. Socs., Mumbai Division,
Malhotra House, 6th Floor,
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 information regarding action taken on his complaint. The appeal memo does not reveal the nature of complaint. It is also not clear whether the PIO or the First Appellate Authority has passed any order. The appeal was heard on 25.11.2008. The appellant was present. The respondent was absent. I pass the following order.

Order

The PIO to show cause why action under section 20 of the RTI Act should not be initiated against him. His explanation to reach the Commission within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

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

Appeal No.2008/1257/02

Shri. Jagtap Jalindar Tatoba
Clearing & Forwarding Establishments Labour
Board for Greater Bombay,
84 A, Broach Sadan, Devji Ratansey Marg, Danabunder,
Mumbai – 400 009.

.... Appellant

V/s

First Appellate Officer cum Asst. Commissioner,
Office of the Labour Commissioner,
Commerce Centre,
Tardeo,
Mumbai – 400 034.

... Respondent

Public Information Officer Cleaning Labour Officer
Office of the Labour Commissioner,
Commerce Centre,
Tardeo,
Mumbai – 400 034.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information whether Labour Commissioner's guidance in accordance with circular no.2393 dated 24.04.1993 was obtained by Mathadi Mandals while recruiting / registering workers in different CFS at Nhava Sheva and Panvel. The appellant was not satisfied with the reply received and therefore he has filed this second appeal.

The appeal was heard on 20.11.2008. Appellant was present. Respondents were not present. The appellant has stated that he has been put to a lot of hardship because of non furnishing of the information. It appears that the Labour Commissioner has sent a copy of the report received from the railway goods Clearing and Forwarding Establishments Labour Board for Greater Bombay. It says that the Mandal registered 270 workers on 01.01.2004 and guidance in accordance with circular dated 25.04.1993 has been obtained. Thus although the information was asked from the Labour Commissioner, he has sent, copy of the report received from the Mandal. The fact however remains that the required information has been obtained and furnished. I therefore pass the following order.

Order

The appeal is disposed off.

Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

Shri. Steven D'Costa
Block No. 7, Ronda C.H.S.Ltd.,
Tank Road, Aarey Lane,
Malad (W),
Mumbai – 400 064.

.... Appellant

V/s

First Appellate Officer cum Asst .Commissioner,
Municipal Corporation of Greater Mumbai,
Liberty Garden,
Malad (W),
Mumbai – 400 064.

.... Respondent

Public Information Officer Asst. Engineer,
Water Works,
Municipal Corporation of Greater Mumbai,
Liberty Garden,
Malad (W),
Mumbai – 400 064.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant by his application dated 20.02.2008 had sought information relating to the following departments:-

- 1) Water Department
- 2) Healthy Department
- 3) Shops and Establishment Department
- 4) Assessment Department
- 5) Sanitary Department

The Public Information Officer and Asstt. Engineer Water Works by his letter dated 19.03.2008 informed the appellant that his request for information related various departments of MCGM and copies of his application had been sent to concerned departments for furnishing the related information. He also pointed out most of the information sought are in question – answer form and cannot be replied. He however offered to arrange inspection of documents. The appellant was not satisfied and preferred the first appeal under section 19(1) of the RTI Act. The First Appellate Authority by his order dated 06.05.2008 directed different PIO's to furnish the required information and progress report. The appellant has come in second appeal before the Commission.

The appeal was heard 26.11.2008. Appellant and respondents were present. The appellant stated that he has not yet got the required information. After going through the case papers have come to the conclusion that although the PIO denied the information, the First Appellate Authority has done a good job by calling all concerned officers and informing the progress. As it appears action has been initiated in some cases and is proposed in others. The appellant has to follow it up. I therefore confirm the order passed by the First Appellate Authority.

Order

The appeal is disposed off.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

Shri.Sayajirao Ganpatrao Bagal
At Post – Nimgud,
Taluka – Shindkheda,
Dist.- Dhule – 425408.

.... Appellant

V/s

First Appellate Officer cum Managing Director,
Maharashtra Rajya Apang Vitta Va Vikas Mahamandal,
Room No. 74, Ground Floor,
Maharashtra Grihnirman Bhavan,
MHADA, Bandra (E),
Mumbai – 400 051.

.... Respondent

Public Information Officer General Manager

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 loan application with all documents made by Sau. Suvarnabai Yogesh Bagal. The Public Information Officer by his letter dated 29.02.2008 asked the appellant to deposit Rs.444/- and information would be sent by registered post. The appellant did not get the information even after depositing Rs.444/- and he filed the first appeal under section 19 (1) of the RTI Act. The First Appellate Authority by his order dated 3rd April, 2008 informed him that he has been replied by the General Manager's letter dated 29.02.2008. The appellant has filed this second appeal against this order.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondent turned up. The appeal is being decided on merits.

I have gone through the case papers. It is very clear that the appellant as per the order of the PIO has deposited Rs.444/- but did not get the information. The First Appellate Authority instead of verifying and ensuring that the required information is furnished has sent a copy of the same letter dated 29.2.2007 written by the PIO.

The Commission has taken serious note and passes the following order.

Order

The appeal is allowed. The information to be furnished within 15 days. The Public Information Officer to show cause why he should be penalized under section 20 of

the RTI Act. His explanation to reach within 15 days failing which it will be presumed that he has nothing to say and the Commission will proceed further.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

Shri. Abdul Hamid Quazi
A -1, Footware, Shop No. 747,
Kurla Kadam Co-op. Hsg. Society,
Kurla (W),
Mumbai – 400 024.

.... Appellant

V/s

First Appellate Officer cum Asst. Commissioner,
Municipal Corporation of Greater Mumbai,
L Ward Office,
Laxmanrao Yadav Mandai Bldg.,
1st floor, S.G.Barve Marg,
Kurla (W),
Mumbai – 400 070.

.... Respondent

Public Information Officer cum Senior Inspector
License,
Municipal Corporation of Greater Mumbai,
L Ward Office,
Laxmanrao Yadav Mandai Bldg.,
1st floor, S.G.Barve Marg,
Kurla (W),
Mumbai – 400 070.

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information regarding 14 residential and 6 Commercial tenements in annexure II of the Kurla Kadam Co-operative Housing Society. The Public Information Officer by his letter dated 31.05.2008 furnished information regarding commercial tenements advised the appellant to get in touch with MHADA / SRA for information regarding residential tenements. The appellant was not satisfied and he preferred the first appeal under section 19 (1) of the Right to Information Act. There is nothing on record to show that the First Appellate Authority has passed any order.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondent turned up. The appeal is being decided on merit.

I have gone through the case papers. It appears that the appellant has grievance against annexure II. Which is prepared by the agency who owns the land. There is a set procedure for inclusion of names in the annexure, redressal of grievances relating to inclusion or exclusion from the list. I am of the view that the PIO has rightly advised him to get in touch with MHADA / SRA for clarification. There is no need to interfere in the PIO's order.

Order

The appeal is disposed off..

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

**Shri.Gulam Varish Shaikh
Janata Seva Mandal,
Off Shankar Dairy Farm,
M.G. Road, Laxmi Baug,
Sion, Mumbai – 400 022.**

.... Appellant

V/s

**First Appellate Officer cum Asst. Commissioner,
Municipal Corporation of Greater Bombay,
Harishchandra Yewale Marg,
Dadar (W),
Mumbai – 400 028.**

.... Respondent

**Public Information Officer cum Project Officer,
Municipal Corporation of Greater Bombay,
Harishchandra Yewale Marg,
Dadar (W),
Mumbai – 400 028.**

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information regarding construction of toilet blocs in different parts of Dharavi, funds spent on them and details of individuals / institutions permitted to run them. The Public Information Officer by his letter dated 14.08.2007 furnished pointwise information. It seems that this information has been furnished as per the order of the First Appellate Authority dated 18.06.2008 although the PIO does not make it clear.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondent turned up. The appeal is decided on merit.

I have gone through the case papers. The information sought pertains to large no. of depts. and is huge. It is also obvious that some information has been furnished some promised and the appellant has been advised to get in touch with other departments. The PIO's letter also informs the appellant that information on some points was being collected specially point no. 6, 10, 11, 14 and 15. I would therefore direct that information on these points should be furnished by the PIO. Taking into account nature of the information sought there is no need to interfere with the order passed by the PIO.

Order

The appeal is allowed. The PIO is directed to furnish information on points as mentioned in this order. This should be done within 30 days.

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

Place: Mumbai
Date: 27.11.2008.

Shri. Iqbal G.Patel
Advocate High Court,
Fardeen Mansion,
15 / 15 A, V.S.Marg,
Mahim, Mumbai – 400 016.

.... Appellant

V/s

First Appellate Officer cum Sub-Division Officer
And Dy. Chief Officer,
Mumbai Suburban District,
IXth Floor, New Administrative Building,
Near Chetna College,
Bandra (E),
Mumbai – 400 051.

.... Respondent

Public Information Officer cum Tehsildar
Dadabhoy Naoroji Road,
Andheri (W),
Mumbai – 400 058.

GROUNDS

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant had sought information regarding existence of a canteen, a Xerox stall and sale of stamp by the stall owner at rates higher than one which has been fixed by Government. The appellant was not satisfied with responses from the Public Information Officer and First Appellate Authority and hence this appeal.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondent turned up. The appeal is decided on merit.

After going through the case papers I have come to the conclusion that the required information must be furnished to the appellant. The information asked is simple and straight forward and it is not understood why the PIO has not furnished the information. I therefore pass the following order.

Order

The appeal is allowed. The appellant to get information within 15 days. The PIO should also submit his explanation as to why penalty @ Rs.250/- per day should not be imposed on him. His reply to reach the Commission within 15 days.

(Ramanand Tiwari)
State Information Commissioner, Mumbai.

Place: Mumbai
Date: 27.11.2008.

**Shri. Haribhai Popatlal Shah
Cum Mohanrao S. Sawant
A -201, Rupal Apartment,
Shivaji Chowk,
Daftari Road,
Malad (E), Mumbai – 400 097.**

..... Appellant

V/s

**First Appellate Officer cum Addl. Commissioner,
& Special Registrar,
Co-operative Commissioner & Registrar,
Co-operative Societies,
Office of the Maharashtra State,
Pune - 1.**

.... Respondent

**Public Information Officer cum Dy. Registrar,
Co-operative Societies,
Malhotra House, 6th floor,
Opp. G.P.O.,
Fort, Mumbai – 400 001.**

GROUND

This appeal has been filed under section 19 (3) of the Right to Information Act 2005. The appellant by his application dated 20.12.2007 had sought information regarding documents relating to Filka Co-operative Housing Society and New Shop Owners Premises Co-operative Society Ltd., Daftari Road in front of Railway Station Malad (E), Mumbai. Not satisfied with the reply given by the Public Information Officer, he preferred the first appeal under section 19 (1) of the RTI Act. The First Appellate Authority by his order dated 25.03.2008 directed the PIO furnish the required information. Not satisfied with this order, the appellant has come in second appeal before the Commission.

The appeal was fixed for hearing on 27.11.2008. Neither the appellant nor the respondent turned up. The appeal is being decided on merit.

I have gone through the case papers. My conclusion is that the First Appellate Authority has dealt with the subject in detail and also directed the PIO to furnish the information. In case the appellant has not received the information he can approach the Commission under section 18 of the RTI Act. The order passed by the First Appellate Authority needs no interference is confirmed.

Order

The appeal is disposed off.

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

Place: Mumbai
Date: 27.11.2008.

**Shri.Farook Kably
Corinthian E2, 4th Floor,
Justice Vyas Road, Colaba,
Mumbai – 400 005.**

...Complainant

**V/s
Public Information Officer
cum Asst. Engineer,
'A' Ward M.C.G.M.,
134, E.S.B.Sindh Marg,
Fort, Mumbai – 400 001.**

.... Respondent

GROUNDS

This complaint has been filed under section 18 of the Right to Information Act 2005. The complainant had filed an application dated 28-2-2007 seeking the following information:

- 1) Copy of Notice BMC has been sent to Occupant / Landlord / Owner of the unauthorised construction on open terrace / 5th flr. Of Corinthian building, Colaba in December 2001
- 2) Copy of Demolition order for the unauthorised construction on open Terrace / 5th floor of Corinthian building against the Notice issued for this illegal construction in December 2001.
- 3) Date on which the demolition of this illegal construction was done in December 2001. (It was demolished twice, please give both the dates.)
- 4) Copy of Notice to occupants and Landlord of Unauthorised Construction on open terrace /5th floor of Corinthian building consisting of illegal rooms, offices, school etc. illegal lift rose from 4th floor to open terrace level on 5th floor, illegal roof on top of unauthorised construction of rooms etc. on terrace / 5th floor etc. This Notice was sent in December 2005.
- 5) Copy of Demolition order if sent for above stated notice in December 2005. If Demolition order is not sent as yet why is it not sent as yet? Why is it not demolished?
- 6) Present status of this illegal construction and what action is being taken by BMC to demolish it.

- 7) Copies of documents submitted by Landlord / occupants to BMC against the Notice issued to them for this illegal constructions on open terrace / 5th floor of Corinthian building in December 2001 and December 2005.

The Asst.Engineer, Building and factory 'A' ward by his letter dated 26-3-2007 furnished the information. The complainant has received the information under protest and without prejudice. He did not file any first appeal under section 19 (1) of the Right to Information Act. Instead he filed this complaint dated 7-6-2007. In his complaint he admitted having received certain information but balance information was denied to him. Allegation of suppression of information and fraud has also been made.

The complaint was fixed for hearing on 7-8-2008. A copy of the complaint's submission was given to the respondent who was asked to offer his comment within one month. The assistant engineer building and factory 'A' ward by his letter dated 7-10-2008 informed the complainant that order as regards to unauthorised construction on the 5th floor of Corinthian Building was served to the party on 22-8-2008 and the owner approached the City Civil Court and the Hon'ble Court has granted stay (LC suit No. 2125 / 2008) The complainant was informed that the matter is subjudice and further action in the matter will be taken as per orders of the Hon'ble Court.

I have gone through the case papers and also considered the submissions made by parties. The right course for the complainant was to approach the first appellate authority but he preferred to complain. The commission entertains only second appeal after the first appeal has been filed irrespective of the fact whether order has been passed or not. There has been procedural irregularity in this case. The complainant has deprived himself of an opportunity to present his case. The complaint however is considered on merits. The information officer has furnished available information in time. The complaint is about the content. The Assistant Engineer (B&F) 'A' ward has finally served the order of demolition but the matter has been stayed. The first hearing of the complaint was dated 7-8-2008 and the order of demolition is dated 22-8-2008. The allegation of deliberate delay also is not proved. I therefore conclude that the complaint does not deserve to be entertained. I pass the following order.

Order

The complaint is rejected.

(Ramanand Tiwari)
State Information Commissioner, Mumbai

Place: Mumbai
Date: 15.11.2008.