

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1023 OF 2017

Vijay Kondayya Manthena ..Petitioner
Versus
Public Information Officer & Ors. ..Respondents

Mr. S. G. Kudle, Advocate for Petitioner.
Mr. S. B. Gore, A.G.P for State.
Mr. R. Y. Sirsikar, for MCGM.

CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATED : 20th JANUARY, 2020.

PC :

1. Heard the learned counsel for the parties.
2. By this Writ Petition under Article 226 of the Constitution of India, the petitioner is seeking direction against the Respondent No.4 to take action against the respondent Nos.1 to 3 who failed and neglected to provide relevant information to the petitioner as per his application dated 10/09/2014 under the Right to Information Act, 2005.
3. The learned counsel for the petitioner submits that, the respondents have filed their affidavit in reply dated 12/06/2017 through Shri. Chandrakant K. Kud, working as Deputy Assessor and Collector (Election) stating that the

relevant files were missing from their department.

4. Learned counsel for the petitioner submits that our High Court, as well as, Delhi High Court specifically held that, before making a statement that papers are missing, they have to hold an inquiry and take action against the person who is responsible for that. In support of his contention, he relies on the Judgment dated 27/02/2015 in ***Writ Petition No.6961 of 2012 Vivek Vishnupant Kulkarni Vs. The State of Maharashtra and others*** and the Judgment dated 13/09/2013 of the Delhi High Court, at New Delhi, in ***Writ Petition (Civil) No.3660 of 2012 Union of India Vs. Vishwas Bhamburkar***. He relies on a portion of paragraph 3 which reads thus:

“Even in the case where it is found that the desired information though available in the record of the Government at some point of time, cannot be traced despite best efforts made in this regard, the department concerned must necessarily fix the responsibility for the loss of the record and take appropriate departmental action against the officers/officials responsible for loss of the record. Unless such a course of action is adopted, it would be possible for any department/office, to deny the information which otherwise is not exempted from disclosure, wherever the said department/office finds it inconvenient to bring such information into public domain, and that in turn, would necessarily defeat the very objective behind enactment of the Right to Information Act.”

5. At this stage, learned counsel Mr. Sirsikar appearing on behalf of the Respondent Corporation submits that, he requires some time to file an additional affidavit in reply on the basis of those Judgments as cited above. Same is granted.

6. Additional Affidavit in reply to be filed on or before 07/02/2020, with copy to other side.

7. Matter to appear on board on 17/02/2020.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
