

(2015) 10 BOM CK 0129

In the Bombay High Court

Case No : Writ Petition (L) No. 1806 of 2015 and Writ Petition No. 789 of 2015

Ferani Hotels Pvt. Ltd.

APPELLANT

Vs

The State Information Commissioner and Others

RESPONDENT

Date of Decision : 30-10-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Copyright Act, 1957 — Section 2(1)(c), 52(1)(f)
Right to Information Act, 2005 — Section 11, 11(1), 19(1), 19(3), 2

Citation : (2016) 2 ALLMR 26

Hon'ble Judges : M.S. Sanklecha and G.S. Kulkarni, JJ.

Bench : Division Bench

Advocate : S.U. Kamdar, Sr. Counsel i/b K.D. Abhichandani, for the Appellant;
H.S. Venegaonkar, AGP, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Kulkarni, J.

WRIT PETITION (L) No. 1806 Of 2015

1. By this writ petition under Article 226 of the Constitution of India, the petitioner challenges the order dated January 31, 2015, passed by the 1st respondent - the State Information Commissioner, whereby the appeal filed by the 3rd respondent under Section 19(3) of the Right to Information Act 2005 (for short the "Act"), has been allowed directing the 2nd respondent to provide information to the 3rd respondent as per his application made under Section 6 of the Act.

In a nutshell the facts are:

2. The 3rd respondent is stated to be the Sole administrator of the estate and effects of one late E.F. Dinshaw. A Development agreement dated January 2, 1995 came to be entered between the 3rd respondent and the petitioner, under which the petitioner agreed to develop lands belonging to the estate of late E.F.

Dinshaw situated at Malad (West), Mumbai. An irrevocable power of attorney was also executed by the 3rd respondent in favour of the petitioner. Disputes arose between the petitioner and the 3rd respondent sometime in 2008. On May 12, 2008 the 3rd respondent terminated the development agreement as also the power of attorney. Thereafter on May 13, 2008 the 3rd respondent filed Civil Suit No. 1628 of 2008 in this Court inter alia seeking a declaration that the said development agreement and the power of attorney are validly terminated. It is the Petitioner's case that in the proceedings of this suit, which is pending adjudication, the 3rd respondent had sought documents pertaining to the development undertaken by the petitioners in respect of the said lands. However the 3rd respondent could not succeed in this attempt.

3. The 3rd respondent submitted an application under section 6(1) of the Act, to the Public Information Officer of the Municipal Corporation of Greater Bombay on December 10, 2012 demanding information pertaining to these lands. The information as applied for was for the certified copies of the property card, certified copies of plans and amendments to the plans as submitted by the petitioner or its architects, certified copies of all layouts, subdivision plans and amendments, certified copies of development plans and amendments thereon and certified copies of all reports submitted to the Municipal Commissioner and his approval thereon.

4. By a letter dated January 2, 2013 of the petitioners advocate, an objection was raised as permissible to be raised by a third party under the provisions of section 11 of the Act, inter alia stating that the information as applied for by the 3rd respondent does not serve a social or public interest but the information was sought for a private interest for the purposes of suit number 1628 of 2008, which was sub-judice in this Court. It was stated that an attempt to seek such information in the suit proceedings had failed right up to the Supreme Court. It was the petitioner's case that the 3rd respondent was a competitor of the petitioner and disclosure of the information would cause harm and injury to the business of the petitioner company as also would violate the intellectual property rights. Information as sought by the 3rd respondent were also trade secrets and thus would be detrimental to the business of petitioner interest as also in the pending suit and proceedings in various Courts.

5. By an order dated January 8, 2013, the public information officer rejected the application of the 3rd respondent taking into consideration the objections as raised on behalf of the petitioner. The public information officer recorded that information as applied for by the 3rd respondent was hit by the provisions of section 8(1)(d) , 8(1)(g) , 8(1)(j) , 9 and 11 (1) of the Act. It was recorded that the information sought by the 3rd respondent was for personal use and not for public interest.

6. The 3rd respondent filed a first appeal against the order of the Public Information Officer, under section 19(1) of the Act before the first appellate authority. By an order dated April 1, 2013, the first appellate authority partly

allowed the appeal inasmuch as the request for providing copy of the property card came to be granted and the prayers in respect of the other documents namely the development plans approvals etc came to be rejected on the same grounds as held by the public information Officer.

7. The 3rd respondent therefore approached the 1st respondent- State Information Commissioner in a second appeal under section 19(3) of the act. By the impugned order the 1st respondent allowed the appeal setting aside the orders passed by the Public Information Officer and the 1st appellate authority and directed the Public Information Officer to furnish information to the 3rd respondent as sought in his application dated December 10, 2012. In allowing the appeal the 1st respondent observed that the development proposals as submitted by the petitioners have concern with the public interest as the flats and commercial premises being erected thereon would be purchased by the citizens. The 1st respondent considered the objections as raised by the petitioners and held that the objections were not maintainable and that public interest and interest of transparency required that the information be furnished to the 3rd respondent. It is this order which is assailed by the petitioners.

8. Mr. Kamdar learned senior counsel for the petitioner submits that the impugned order cannot be sustained and deserves to be set aside principally for the following reasons:

"(i) The impugned order is clearly hit by the provisions of section 8 (1) (d) and (j) of the Act and accordingly the information was exempted from disclosure. The reason being that the 3rd respondent had sought information in question purely for private purposes and there is no element of public interest involved in the 3rd respondent seeking this information. This is clear from the fact that the initial RTI application was preferred by one Mr. Chandrashekharan, constituted attorney of the 3rd respondent, whereas Second Appeal for the first time discloses the capacity of the 3rd respondent as being the sole administrator of the estate of Late. E.F. Dinshaw. This itself showed that the Second Appeal is not filed by the same person who had filed the First Appeal. The Second Appeal was therefore not maintainable. That a suit is already pending between the 3rd respondent and the petitioner in this Court.

(ii) The information sought by the 3rd respondent pertains to the plans submitted by the petitioners for development of the lands in question. The 3rd respondent is a competitor of the petitioner in business, and thus if this information is provided the same would amount to trade secrets being disclosed to the 3rd respondent. Section 8 (1) (d) clearly protects from disclosure of such information.

(iii) The plans which are submitted by the petitioner to the Municipal Corporation are valuable intellectual property of the petitioner. The plans are the artistic work as defined under the Copyrights Act, 1957. The petitioner being the owner of the copyright the disclosure of this information would amount to violation of the

petitioners copyright. Section 8(1)(d) read with section 9 of the Act protects a copyright.

(iv) In the proceedings of the Civil Suit before this Court the 3rd respondent had made similar prayers seeking this very information from the petitioner however the 3rd respondent could not succeed in such attempts and not only before this Court but also before the Supreme Court. This is clear from the correspondence entered between the advocates for the parties in the said proceedings which are tendered during the course of arguments of this petition.

(v) The impugned order is based on conjectures inasmuch as in paragraph 8.11 the 1st respondent has relied upon the Maharashtra Housing (Regulation and Development) Act, 2012 which had not come into force on the date of the order. As also the observation of the 1st respondent that it is a prevailing practice to furnish plans is also without a legal basis. In supporting the above submissions Mr. Kamdar relied on the following decisions:-- 1. Mysore State Road Transport Corporation Vs. Babajan Conductor and Another, ; (2) State Bank of India Vs. Ram Chandra Dubey and Others, (3) Reliance Industries Ltd. Vs. Gujarat State Information Commission and Others, (4) Harish Kumar v. Pro Vost Marshal cum-Appellate Authority & ors ILR (2012) V. Delhi 41 (5) Kunche Durga Prasad and Another Vs. Public Information Officer, Oil and Natural Gas Corporation Ltd. and Others, (6) Bihar Public Service Commission Vs. Saiyed Hussain Abbas Rizwi and Another, "

9. On the other hand, Mr. Dhond learned senior counsel appearing for the 3rd respondent supporting the impugned order submits that the impugned order correctly directs the public information officer to furnish information to the 3rd respondent which pertains to the development of land of which the 3rd respondent is the Sole administrator. He submits that the 1st respondent has correctly held that there is a public element involved in the said information to be furnished to the 3rd respondent inasmuch as information pertains to the plans which are sanctioned by the Municipal Corporation exercising its statutory powers as a planning authority. He submits that the contention of the petitioner that the information as sought by the 3rd respondent could not have been furnished under the provisions of section 8(1)(d) and (j) of the Act, is misconceived. Mr. Dhond would submit that these provisions are inapplicable in the facts of the present case inasmuch as information which was sought pertains to information from the public records and which are in the control of a public authority namely the Municipal Corporation. Mr. Dhond next submits that there is no breach of any copyright of the petitioners if such information is provided to the 3rd respondent. He submits that there cannot be any breach of copyright for the reason that the development proposal and the plans as sanctioned by the Municipal Corporation are part of the public records. He submits that this is not a case where the access to the information as demanded by the 3rd respondent would amount to breach of a copyright as section 9 of the Act would envisage. The Municipal Corporation in its character as a public authority is under an obligation under the

statute to provide such information to maintain transparency. If such information is denied it would defeat the very purpose of the legislation. Mr. Dhond would thereafter submit that the contention of the petitioner that the 3rd respondent had failed in its attempt to secure these documents in the suit proceedings, is misplaced. He submits that there is no order of any Court prohibiting furnishing these documents to the 3rd respondent. He submits that there is a statutory right available to the 3rd respondent to seek information under the provisions of the said Act, and this right cannot be either taken away or in any manner rendered meaningless only because a suit is pending between the 3rd respondent and the petitioner. Mr. Dhond would thereafter submit that the petitioner is creating unnecessary confusion in contending that the 3rd respondent had changed his capacity seeking information only looking at the title of the right to information application and the title of the second appeal filed before the 1st respondent. It is submitted that the RTI application and the appeal if perused clearly reveals that they are filed in the same capacity. Mr. Dhond submits that information which is applied for very much concerns a public interest.

10. Mr. Sathe learned senior counsel for the 2nd respondent Corporation has made submission on the provisions of the Act. He submits that only when there is an overwhelming public interest the Municipal Corporation would be obliged to give information under the Act. Mr. Venegaonkar learned Assistant Government Pleader for the State made submissions in support of the impugned order to submit that the writ petition deserves to be dismissed.

11. With the assistance of the learned counsel for the parties we have gone through the paper-book of this writ petition and the impugned order.

12. It is not in dispute that there was an agreement entered between the 3rd respondent and the petitioner for development of the lands in question. For this development a power of attorney came to be issued in favour of the petitioners by the 3rd respondent. The petitioners accordingly appears to have submitted development proposals by submitting plans etc. to the Municipal Corporation. Disputes have arisen between the 3rd respondent and the petitioners in this regard. The 3rd respondent has filed a suit seeking declaration that the development agreement and the power of attorney issued in favour of the petitioner was validly terminated. As regards the development in question the 3rd respondent on December 10, 2012 submitted an application under section 6 (1) of the Act to the Public Information Officer of the Municipal Corporation, seeking copies inter alia of the proposals and plans as submitted by the petitioners. This application was however rejected by the public information officer taking into consideration the objection as raised on behalf of the petitioner on the ground that the information pertained to a third-party and was confidential in nature as it involved trade and commercial secrets. In a First Appeal preferred by the 3rd respondent the order passed by the Public Information Officer was substantially maintained except for a direction to provide

to the 3rd respondent copies of the property card of the said lands. In the Second Appeal preferred by the 3rd respondent before the 1st respondent, by the impugned order the request of the 3rd respondent as made in the RTI application dated December 10, 2012 has been granted. On these facts the issue which arises for consideration is whether the objections as raised by the petitioner against the application of the 3rd respondent were valid in law so as to sustain the rejection of the RTI application of the 3rd respondent requiring us to hold that the impugned order is illegal.

13. The principal grievance of the petitioner is that the information as sought by the 3rd respondent is sought purely for private purposes and not in the capacity of the administrator of the estate of late E.F. Dinshaw. The 3rd respondent is a business rival and thus information which is in the nature of proposals for development and the approvals granted thereon involves trade secrets as also copyright and is a personal information, thus taking into consideration the provisions of section 8 (1) (d) , (g), (j) of the Act, this information cannot be granted to the 3rd respondent.

14. The preamble of the Act would make it clear that the object of the Act is to bring about a regime of securing to the citizens access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority as a democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed. To appreciate the submissions as made on behalf of the petitioner it would be useful to extract some of the relevant provisions of the Act namely Section 2 (f) which defines "information". Section 2 (j) which defines "right to information" Section 8(1) (d) , (g), (j) of the Act which exempts from disclosure certain information and Section 9 which pertains to copyright infringement. These provisions read thus:--

"2. (f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

(i) inspection of work, documents, records;

(ii) taking notes, extracts, or certified copies of documents or records; (iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print outs where such

information is stored in a computer or in any other device;

8 (1): Exemption from disclosure of information:(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen-

a.....

b.....

c.....

(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;

(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;

(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."

15. A perusal of the definition of the term "information" (supra) it is quite clear that it inter alia includes information relating to any private body. The "right to information" has been defined as a right to information accessible under the Act which is held by or under the control of any public authority in respect of material as set out in clause (j) of section 2 . Sub-sections (d),(g) and (j) of section 8 (1) makes it clear that notwithstanding the other provisions of the Act, there is an exemption from disclosure of information, the nature of which includes 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; further information the disclosure of which would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes. Also 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 authorities are satisfied that the larger public interest justifies the disclosure of such information is exempted.

16. A perusal of the application dated December 10, 2012 filed by the 3rd

respondent seeking information under the Act makes it quite clear that the copies of the documents as sought are the documents which are submitted by the petitioners in relation to the development to be undertaken in respect of the lands in question. The documents as sought thus include, copies of plans, layouts sub divisions and amendments made therein from time to time, copies of development plans and amendments made therein from time to time and copies of all the reports submitted to the municipal Commissioner and his approvals on the same. The documents are admittedly under the control of the Municipal Corporation which is a public authority. The development proposals and plans are required to be submitted for the purpose of any development to be undertaken by any person/citizen so as to enable the Municipal authorities to examine whether the development can be permitted and whether the same is in accordance with the rules and regulations and requirements under law. The municipal authorities undoubtedly are required to consider these proposals and pass orders to approve the same as the law would require. If information which is sought from the records of the authorities is of this nature then we do not see as to how it cannot be provided under the Act. If the submissions as made on behalf of the petitioners are accepted then it would amount to rendering the provisions of the Act nugatory and no person would be in a position to seek information on the development proposals and the sanctioned plans pertaining to any construction from the files of the authority. This would result in total lack of transparency and accountability in such authorities discharging their obligations under the relevant laws under which they are supposed to function.

17. Now we examine as to whether the exception as carved out under section 8 can be applied to the right to information application of the 3rd respondent. The contention of the petitioner is that as per Section 2 (1) (c) of the Copyright act 1957, in the plans submitted by the petitioners there subsists a copyright, and thus disclosure of such information would violate the provisions of section 9 of the RTI Act. We are not impressed with this submission. This is for the reason that furnishing of copies of the plans or drawings would not ipso facto amount to infringement of the copyright as the nature of these documents is not such that the mere access to such information itself would breach a copyright. We are in agreement with this submission as made on behalf of the 3rd respondent that mere disclosure of information would not amount to breach of copyright. A confidential information cannot be equated with a copyright. A plain reading of section 9 makes it clear that a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person can only be rejected by the concerned authorities under the Act. We fail to appreciate as to how mere disclosure of information would amount to any breach of copyright of the petitioners. Significantly, Section 52(1)(f) of the Copyright Act provides that the reproduction of any work in a certified copy made or supplied in accordance with any law for the time being in force does not constitute an infringement of copyright. The 3rd respondent had sought copies of the development plans and approvals thereon.

18. The contention of Mr. Kamdar is that the provisions of section 8(1)(d)(g)(j) are clearly attracted qua the application of the 3rd respondent in seeking the information in question and there is a clear exemption from providing this information. This submission in our opinion is not well founded. We have observed above that the nature of the information as sought by the 3rd respondent in no manner would fall under the prohibition under section 8(1)(d) (g) and (j) of the Act. We are certain that once building proposals are considered and plans are sanctioned, by the Municipal authorities, such permission, plans and documents pertaining to the same form part of public record. Once the approvals are granted such information as in the present case in our opinion, is not of the nature of any trade secret or of a commercial confidence or of a nature which would harm the competitive position of the petitioner. If the contention as urged on behalf of the petitioners is accepted to be the position in law, then in that event, plans submitted for development to any authority would always remain a secret, sacrificing public interest, transparency and accountability in public offices. The information as sought by the 3rd respondent was also not in the nature which would endanger life or physical safety of any person so as to attract section 8(1)(d) and (g) of the Act. The petitioners in our opinion cannot stretch the meaning of sub-section (g) to this extent. As regards the submission of violation of section 8(1)(g) that the information as sought by the 3rd respondent is personal information also cannot be countenanced in view of our observations that the same pertains to sanctions/approvals granted by the Municipal Corporation on plans and proposals of the petitioners. The order of a permission or approval cannot be separated from its essential ingredients namely proposals and plans submitted in that regard which form the basis on the decisions and any citizen subject to requirement being fulfilled under the Act would be entitled to such information. Moreover, the observations in para 11 of the decision of the Delhi High Court in the case of Harish Kumar v. Pro Vost Marshal cum-Appellate Authority & ors (supra) militates against the submission of the petitioner in as much as it has been held that only personal information which has no nexus with any public activity or interest cannot be provided. Such is not the situation in the present case. Also in the decision in the case of Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi & anr. (supra) the Supreme Court considering the provisions of section 8(1)(j) of the Act has observed that personal information which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual would fall within the exempted category unless the authority concerned is satisfied that larger public interest justifies the disclosure of such information. It is also observed that "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. Taking into consideration these principles of law it cannot be said that there is no public interest involved when the petitioner would undertake developments on the basis of approved plans to sell flats and commercial premises to the public at large. Moreover, the Municipal authorities are required to act upon these proposals and in terms thereof have passed orders granting sanction which

shows involvement of public element as also public interest.

19. It is urged on behalf of the petitioner that an application under section 6(1) of the Right to Information Act and the First Appeal were filed by the 3rd respondent as filed through his constituted attorney Mr. R. Chandrasekharan, however the Second Appeal was filed by the 3rd respondent in his capacity as a Sole Administrator of the Estate and Effects of late E.F. Dinshaw though also filed through the constituted attorney Mr. R. Chandrasekharan, indicates that the Second Appeal has not been filed by the same original party and hence the Second Appeal filed by the 3rd respondent was not maintainable. A preliminary objection to this effect was raised by the petitioner before the 1st respondent which was rejected by an order November 10, 2014. The petitioner has pressed this ground to assail before us the impugned final order passed by the 1st respondent. We have perused the original application, the memo of the First Appeal and the Second Appeal and more particularly the title describing the 3rd respondent. A perusal of these documents clearly indicate that the 3rd respondent through his constituted attorney Mr. R. Chandrasekharan had preferred the original application under section 6(1) of the Act seeking information. We may note that the section 6(2) of the Act clearly provides that an applicant making request for information is not required to give any reason for requesting the information or any other personal details, except that may be necessary for contacting him. The First Appeal filed before the First Appellate Authority was also filed by the 3rd respondent through his constituted attorney Mr. R. Chandrasekharan. In the memo of the First Appeal the 3rd respondent had clearly averred as follows : "By application dated 10th December 2012 ("the said application) the appellant had sought information in respect of various plots of land (mentioned therein) of which the applicant in his capacity as the Administrator of the Estate and Effects of late E.F. Dinshaw is the owner." These averments clearly shows that the 3rd respondent had stated that he was pursuing the appeal arising from the rejection of the RTI application in his capacity as an Administrator of the Estate and Effects of late E.F. Dinshaw. When the first Appeal came to be rejected in the Second Appeal the 3rd respondent described himself as "Mr. Nusli Neville Wadia in his capacity as the Sole Administrator of the Estate and Effects of the late E.F. Dinshaw through his duly constituted attorney Mr. R. Chandrasekharan (a copy of the power of attorney attached)", which further makes it clear that the 3rd respondent was pursuing the application under the Act in his capacity as the Sole Administrator of the Estate and Effects of late E.F. Dinshaw which was filed through his constituted attorney Mr. R. Chandrasekharan. Considering these clear statements as made in the First Appeal as also in the Second Appeal by the 3rd respondent, we do not see as to how it can be urged by the petitioner that the application and First Appeal was filed by the 3rd respondent in his personal capacity and not as a Sole Administrator of the Estate of late E.F. Dinshaw. Thus, in our opinion this contention as urged on behalf of the petitioner is wholly misconceived and has been rightly rejected by the 1st respondent in dealing with the Second Appeal.

20. As regards the contention of the petitioner that the 3rd respondent had attempted to seek the same information in the suit proceedings and such applications were not entertained by this Court as also the Supreme Court and hence the 1st respondent could not have granted such information in passing the impugned order in our opinion, is also without any substance. The Act is a legislation which confers an independent legal right de hors inter se rights between the parties. As to whether the application made under section 6(1) of the Act would satisfy the requirement of the provisions of the Act and whether such an information can be granted taking into consideration the statutory provisions enunciated therein is required to be examined by the authorities under the Act. There may be a situation where inter se rights between two private parties and the rights under the RTI Act may appear to overlap. In such a case, the approach of the authorities would be to consider whether the requirements which are laid down under the Act for furnishing such information to an applicant are satisfied. The tests are that the documents are in the custody and in control of the public authority and that none of the provisions under the Act would prohibit dissemination of such information. In doing so, the authorities under the Act are required to take into consideration that public interest and transparency are not sacrificed by denial of such an information. In the present case, the information is admittedly in control of the public authorities namely the Municipal Corporation. The same pertains to the submission for development plans and/or proposals in that regard on which the Municipal authorities in exercise of its statutory powers have granted approvals/development permissions. If this is the nature of the documents when a public element as also larger public interest is involved at the hands of the Municipal Corporation then certainly irrespective of any private dispute inter se between the petitioner and 3rd respondent, these documents could not be withheld and/or not furnished to the 3rd respondent. The submission on behalf of the petitioner that in the lis inter se between the parties the 3rd respondent could not succeed in getting these documents in our opinion, cannot be countenanced as in matters which fall within the purview of the Act are required to be tested only on the parameters as provided under the Act and a inter se lis between the parties in such an event becomes secondary and cannot override what the legislature would intend by providing the legislation. Further there is no prohibitory order passed by any Court in denying to the 3rd respondent either the copies of the documents sought for or for that matter to pursue an application under the Act. In this context, the decisions of the Supreme Court in the case of Mysore State Road Transport Corporation Vs. Babajan Conductor and Another, and the decision in State Bank of India Vs. Ram Chandra Dubey and Others, as relied on behalf of the petitioners in our opinion, are of no avail as these were not cases where an independent substantive right was conferred on the parties under a legislation as in the present case but were cases dealing with disputes which had arisen between the parties and adjudicated by Courts.

21. The next contention of Mr. Kamdar learned senior counsel for the petitioner

that the impugned order is based on conjectures in as much as in para 8.11, takes into consideration the Maharashtra Housing (Regulation and Development) Act, 2012 which was not brought into force, in our opinion cannot be a ground for us to interfere in the impugned order. The 1st respondent has made a passing reference to the provisions of this legislation when the same was not brought into force on the date of passing of the impugned order by the 1st respondent (January 31, 2014). Even if it is assumed that such a reference was not warranted, however for reasons as recorded above, we do not feel that the impugned order passed by the 3rd respondent is rendered erroneous when it takes into consideration several other aspects which we have referred above, on which it allows the information to the 3rd respondent would require any interference of this Court.

22. The next contention urged on behalf of the petitioner that the petitioner is a third party whose information was sought by the 3rd respondent and thus the provisions of section 11 of the Act were required to be strictly adhered by the authorities on a perusal of the orders passed by the Public Information Officer and the subsequent orders it is clear that all the objections as raised by the petitioners are considered and appropriate reasons are recorded by the authorities. In fact the petitioner has succeeded before the Public Information Officer as also before the First Appellate Authority. The 1st respondent has considered all the contentions as urged by the petitioners in passing the impugned order. The petitioners reliance on the decision of the learned Single Judge of the Gujarat High Court in the case of Reliance Industries v. Gujarat State Information Commissioner (supra) in our opinion, is inappropriate as we have already observed above that considering the facts of the present case it cannot be denied that the larger public interest requires the information to be supplied to the 3rd respondent.

23. In the light of our above discussions, we find no merit in the writ petition. Writ petition accordingly fails and stands rejected. No order as to costs.

WRIT PETITION No. 789 OF 2015

24. In this writ petition the petitioners had challenged the order dated 10th November 2014 passed by the State Information Commissioner rejecting the application raising preliminary objection to the maintainability of the Second Appeal. The objection was that the Second Appeal was not filed by the same party namely respondent No. 3 who had preferred First Appeal. After this preliminary objection was rejected by the 1st respondent final orders were passed on the Second Appeal on January 31, 2015 which was assailed in the above writ petition (Writ Petition (L) No. 1806 2015). The petitioners had also raised the issue as urged in this petition as one of the issues to assail the final orders. In view of our observations in deciding Writ Petition (L) No. 1806 of 2015 this writ petition has become infructuous and accordingly stand disposed of. No order as to costs.

25. At this stage Mr. S.U. Kamdar, learned Senior Counsel appearing for the petitioner seeks continuation of the ad interim orders continued by the order dated 17 October 2015, for further period of six weeks from today. Mr. Dhond, learned Senior Counsel appearing for respondent No. 3 opposes the same. The ad interim relief granted by the earlier order dated 17 October 2015 would continue for a period of four weeks from today.