





K. K. Wagh Education Society's  
**K.K. Wagh College of Agriculture,**  
(Affiliated to Mahatma Phule Krishi Vidyapeeth, Rahuri)  
Saraswati Nagar, Panchavati, Nashik- 422 003. Maharashtra  
College Code:-11135    AISHE Code: C-50690

---

 : (0253) 2555221, 2555224     - [principal-bscagri@kkwagh.eu.in](mailto:principal-bscagri@kkwagh.eu.in)     <https://agri-bsc.kkwagh.edu.in>

---

## **Statutory Declaration under Section 4(1) (b) of the RTI Act, 2005**



K. K. Wagh Education Society's  
**K.K. Wagh College of Agriculture,**  
(Affiliated to Mahatma Phule Krishi Vidyapeeth, Rahuri)  
Saraswati Nagar, Panchavati, Nashik- 422 003. Maharashtra  
College Code:-11135      AISHE Code: C-50690

☎ : (0253) 2555221, 2555224      ✉ - principal-bscagri@kkwagh.eu.in      🌐 https://agri-bsc.kkwagh.edu.in

Ref. No. :KKW/B.Sc.(Agri.)/737 /2024

Date: 06/07/2024


## Declaration

- 1) K. K. Wagh College of Agriculture, Nashik is established and run by K. K. Wagh Education Society, Nashik. A petition was filed in the Hon'ble Bombay High Court Bench at Aurangabad on behalf of K. K. Wagh Education Society as to whether the Right to Information Act 2005 is applicable to unaided educational institutions or not. The Hon'ble High Court Bench Aurangabad has allowed petition on dt. 09/07/2009.

As per said order K.K. Wagh Education Society is not public authority under section 2(h) of Right to Information Act 2005 and Hon'ble High Court also clearly stated that as K.K. Wagh Education Society is not public authority, hence Right to Information act is not applicable to it.

- 2) The Hon'ble State Information Commissioner, State Information Commission Bench at Nashik also on 25/06/2019 clearly stated that "Karmaveer Kakasaheb Wagh Education Society is not a public authority as per Section 2 (h) of Right to Information Act 2005, so Right to Information Act should not apply to unaided institutions."



  
**Principal**  
K.K. Wagh College of Agriculture  
Saraswatinagar, Panchavati, Nashik

U/o Application No. 13324/09  
Copy xeroxed by computer  
Copy compared by [Signature]  
Copy applied on 12/07/09  
Appr. completed on 12/07/09  
Copy delivery date given 31/07/09  
Copy ready on 12/07/09  
Copy returned on 18/07/09

Fees for  
copying and  
comparing  
inclusive of  
paper costs  
Rs. 50

Section Officer  
Certified Copy Branch

1

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.4264 OF 2008

Karmaveer Kakasaheb Wagh Education  
Society, Amrutdham, Panchwati, Nashik  
Through its Secretary,  
Devram S/o.Shankar Shinde,  
Age-74 years, Occu-Service,  
R/o.Amrutdham, Panchwati, Nashik,  
District Nashik.

PETITIONER

VERSUS

1. The Assistant Charity Commissioner  
Kharwanda Park, Nashik,  
District Nashik.
2. Vilas Sahebrao Gadakh,  
At and Post : Sukane,  
Tq.Niphad, District : Nashik.
3. The State of Maharashtra,

RESPONDENTS

Mr.V.D.Hon, advocate for petitioners.  
Mr.K.B.Chaudhary, for respondent no.1 and 3  
Respondent no.2 absent even though duly served.

(CORAM : A.V.POTDAR, J.)

DATE : 09/07/2009



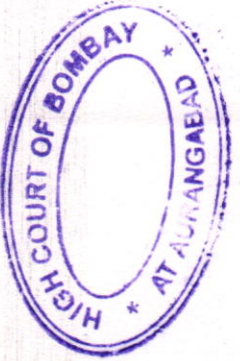
**ORAL JUDGMENT :**

1. By the present writ petition under Article 227 r.w. 226 of The Constitution of India, the petitioner has challenged the order passed in Appeal No.2007/RMA/APL/CR/1258, passed by The State Information Commissioner, Aurangabad bench at Aurangabad, dated 16/06/2008, by which the appeal was partly allowed and directions were given to the Public Relation and Information Officer of the first respondent to furnish the information to the appellant therein, who is respondent no.2 in the present writ petition within the period of 7 days. Also directions were given to the petitioners to appoint Public Information Officer within the period of 7 days.

2. Rule.

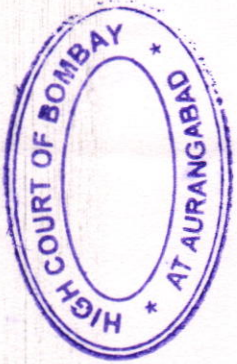
3. Rule made returnable forthwith. By consent of the parties, writ petition is heard at the stage of admission itself.

4. In brief, the facts gave rise to file the present writ petition can be summarized as the petitioner is registered under the provisions of Bombay Public Trust Act, 1950 and also registered under the Societies Registration Act. The second respondent preferred an application under the provisions of Right to Information Act to the Secretary of the petitioner seeking the information from the petitioner trust. Reply was given by the petitioner after receipt of this application and it was informed that as there was no General Body Meeting, therefore the copy of the proceedings of the alleged General

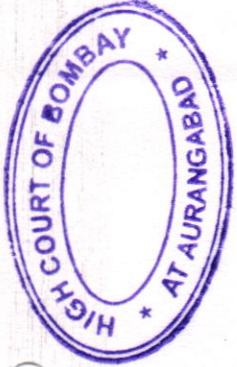


Body Meeting can not be supplied. Second respondent has challenged this communication dated 29/08/2006 before the Assistant Charity Commissioner, first respondent in this writ petition. After hearing the parties, the claim of the second respondent was dismissed/denied by the first respondent. It appears that and as alleged to harass the petitioner, again 2<sup>nd</sup> respondent filed fresh application of the similar nature. This application was replied by the petitioner that the provisions of Right to Information Act are not attracted as the petitioner is not covered or financed by the Government and coming within the provisions of Section 2(h) of Right to Information Act. Again the 2<sup>nd</sup> respondent filed appeal no.11/2007 before the Assistant Charity Commissioner challenging the communication of the petitioner dated 26/09/2006. It further appears that the Assistant Charity Commissioner after hearing the parties, came to the conclusion that as the 2<sup>nd</sup> respondent has not mentioned the purpose for which the information is sought, therefore rejected the application of the 2<sup>nd</sup> respondent. 2<sup>nd</sup> respondent has challenged this order by filing an appeal u/s.19 of the Right to Information Act before the State Information Commissioner, bench at Aurangabad. The State Information Commissioner has passed the order dated 16/06/2008, the impugned order under the present writ petition.

5. Heard advocate for applicant petitioner, followed by the arguments of learned AGP for respondent no.1 and 3. Respondent no.2 who has applied under the Right to Information Act is absent

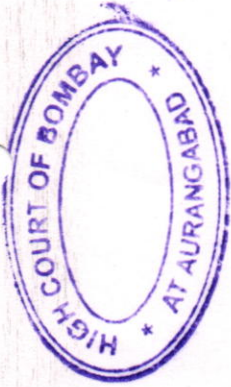


even though duly served. Considering the submissions across the bar the only point for consideration is whether the provisions under the Right to Information Act are applicable to the petitioner institution or not. In support of the submissions of petitioner, reliance is placed upon the reported judgment in 2009(3) Mh.L.J. 365 in the matter of Dr.Panjabrao Deshmukh Urban Co-operative Bank Ltd., Amravati versus State Information Commissioner, Vidarbha Region Nagpur and others. It is observed in para no.12 and 13 of the said cited judgment that Right to Information Act is not applicable to the institutions, who are not public authority within the meaning of section 2(h) of the Right to Information Act. It is not under dispute that the petitioner is a trust registered under the provisions of the Bombay Public Trust Act as well as also registered under the provisions of Maharashtra Co-operative Societies Act. There is nothing on record to show that the petitioner is a public authority within the meaning of section 2(h) of The Right to Information Act. If the petitioner is not a public authority within the meaning of section 2(h) of The Right to Information Act, then the provisions under the Right to Information Act are not applicable to the petitioner institution. Once this legal proposition is clear that the provisions under the Right to Information Act are not attracted and applicable to the petitioner institution, then the order passed by the State Information Commissioner vide order dated 16/06/2008 is the order passed under the provisions of the Right to Information Act under the assumption that the provisions of Right to Information Act are applicable to the petitioner institution. Once it is held that the



provisions under Right to Information Act are not applicable to the institution of the petitioner, then the order passed by the State Information Commissioner is nullity in the eye of Law and if it is so, then the order dated 16/06/2008, the impugned order under this writ petition is required to be quashed and set aside and accordingly it is quashed and set aside.

6. Rule thus made absolute as indicated above, and writ petition stands disposed of with no order as to costs.



*sd/-xxx*  
**(A.V.POTDAR, J.)**

khs/JULY 2009/wp4264-08

Authenticated Copy

*K.H. Shekatkar*

(Sau.K.H.Shekatkar)  
P.A. to Hon'ble Judge

*sd/r*  
*for Dy. Registrar*



**True Copy**

*[Signature]*  
**Assistant Registrar**  
**High Court of Judicature of Bombay**  
**Bench at Aurangabad**

*07/07/09*  
*18/7/09*

*17/07*  
*[Signature]*

राज्य माहिती आयोग, खंडपीठ नाशिक

(पिन्कल मॉल, ४ था मजला, त्र्यंबक नाका सिग्नलजवळ, जुना आग्रा रोड, नाशिक ४२२००२)

माहितीचा अधिकार अधिनियम, २००५ मधील कलम १९(३) अन्वये दाखल झालेले दाखल झालेले अपील  
द्वितीय अपील क्रमांक :- ३०४५/२०१७/नाशिक

१ श्री. दिपक रामदास मोगल,  
मु. पो. कोडुरे,  
ता. निफाड, जि. नाशिक.

: अपिलार्थी

विरुध्द

१ सचिव,  
के. के. वाघ एज्युकेशन सोसायटी, पंचवटी,  
ता. जि. नाशिक - ०३.

: उत्तरवादी

२ अध्यक्ष,  
के. के. वाघ एज्युकेशन सोसायटी, पंचवटी,  
ता. जि. नाशिक - ०३.

आदेश पारित दिनांक २५/०६/२०१९

अपिलार्थी यांनी दिनांक ११/०८/२०१७ रोजीच्या अर्जांन्वये राज्य माहिती आयोगाकडे द्वितीय अपील दाखल केले आहे. त्यामध्ये दिनांक २५/०६/२०१९ रोजी आयोजित सुनावणीदरम्यान अपिलार्थी उपस्थित होते. जन माहिती अधिकारी आणि प्रथम अपिलीय अधिकारी अनुपस्थित होते.

अपिलार्थी यांनी द्वितीय अपील अर्जात नमूद केले आहे की, त्यांच्या दिनांक १९/०६/२०१७ रोजीच्या माहिती अर्जास अनुसरून जन माहिती अधिकारी यांनी अद्याप माहिती पुरविली नाही. त्यामुळे मला प्रस्तुत द्वितीय अपील दाखल करावे लागले.

सुनावणीदरम्यान द्वितीय अपिलाशी संबंधित उपलब्ध कागदपत्रांचे अवलोकन केले असता, असे दिसून आले की, अपिलार्थी यांनी दिनांक १९/०६/२०१७ रोजीच्या माहिती अर्जांन्वये सन २००५ ते सन २०१७ या कालावधीतील के. के. वाघ एज्युकेशन सोसायटीमधील कार्यरत असलेले जन माहिती अधिकारी तसेच प्रथम अपिलीय अधिकारी यांचा परिपूर्ण तपशिल (नांव, पत्ता व संपर्क दुरध्वनी) याबाबत माहिती मागितली होती. त्यास अनुसरून सचिव, के. के. वाघ एज्युकेशन सोसायटी, पंचवटी यांनी अपिलार्थीस दिनांक १०/०७/२०१७ रोजीच्या पत्रान्वये असे कळविले की, कर्मवीर काकासाहेब वाघ शिक्षण संस्थेच्या वतीने मा. उच्च न्यायालय खंडपीठ, औरंगाबाद येथे याचिका दाखल केली होती. माहितीचा अधिकार अ अधिनियम, २००५ हा विनाअनुदानित शिक्षण संस्थेस लागू आहे की नाही, यासंदर्भात ही याचिका दाखल केलेली होती. सदर याचिकेमध्ये दिनांक ०९/०७/२००९ रोजी मा. उच्च न्यायालय,

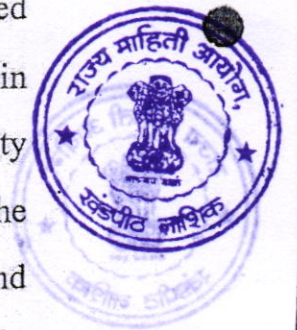


खंडपीठ औरंगाबाद यांनी अंतिम निकाल दिलेला आहे. सदर निकालामध्ये के. के. वाघ शिक्षण संस्था ही माहितीचा अधिकार अधिनियम, २००५ मधील सेक्शन २(h) प्रमाणे पब्लिक अॅथॉरिटी नाही आणि के. के. वाघ शिक्षण संस्था ही सेक्शन २(h) प्रमाणे पब्लिक अॅथॉरिटी नसल्याने माहितीचा अधिकार अधिनियम, २००५ हा के. के. वाघ शिक्षण संस्थेस लागू नसल्याने माहितीचा अधिकार अधिनियमांतर्गत येणाऱ्या अर्जानुसार माहिती पुरविणे योग्य होणार नाही. तदनंतर अपिलार्थी यांनी दिनांक १७/०७/२०१७ अन्वये प्रथम अपील दाखल केले. त्यानंतर अपिलार्थीस दिनांक १०/०७/२०१७ रोजी पुरविलेली माहिती पुन्हा दिनांक ०२/०८/२०१७ रोजीच्या पत्रान्वये पुरविली.

सुनावणीवेळीचा युक्तिवाद व आयोगास सादर करण्यात आलेली कागदपत्रे विचारात घेता असे दिसून आले की, अपिलार्थी यांच्या दिनांक १९/०६/२०१७ रोजीच्या माहिती अर्जाला अनुसरून वर नमूद केल्याप्रमाणे सचिव, के. के. वाघ एज्युकेशन सोसायटी, पंचवटी यांना माहितीचा अधिकार अधिनियम, २००५ हा कायदा लागू नसल्याने माहिती पुरविली नाही.

तसेच अपिलकर्ता यांनी त्यांच्या माहिती अर्जाच्या अनुषंगाने मागितेल्या माहितीबाबत नमूद करण्यात येते की, याबाबत उच्च न्यायालयाच्या नागपूर खंडपीठाने याचिका क्र. ५१३२/२००८ मधील दिनांक २०/०८/२००९ रोजी खालीलप्रमाणे आदेश दिलेले आहेत:-

Public Trust is not run by the Government either directly or indirectly and its management and affairs are controlled by the trustees. The reimbursement made by such Govt. under their respective scheme is for the students and not for the petitioners towards the fees recoverable from backward class students or other instrumentation provided by the appropriate Government and the Hon'ble High Court held that the trust is not controlled in strict sense of the term, public trust is not run by the Government either directly or indirectly and it's management and affairs are controlled by the trustees. No doubt public trust are subject or regulatory measures to be found in the Bombay Public Trust Act. But that does not mean that either the Charity Commissioner or the appropriate Government controls this public trust by virtue of the fact that such public trust is registered under the Bombay Public Trust Act and regulatory provisions are made applicable and hence the Parliament has deliberately used the word "Substantially finance" with a view to exclude such institutions which are financed directly or indirectly with a small or little contribution of funds by the appropriate Government.



Public Trust is subject to regulatory measures found in the Bombay Public Trust Act. But that does not mean that either the Charity Commissioner or appropriate Government controls Public Trust. For the above reasons, I am of the opinion that the none of the petitioners are covered by the definition of Public Authority within the meaning of section-2 {h} of the Right to Information Act, 2005.

याबाबत नमूद करण्यात येते की, कर्मवीर काकासाहेब वाघ शिक्षण संस्थेतील एकूण ३३ शाळा/महाविद्यालयांपैकी ०३ शाळा/महाविद्यालयांसाठी शासनाकडून शिक्षकांच्या वेतनासाठी अनुदान प्राप्त होते. त्याव्यतिरिक्त संस्थेसाठी अथवा इतर शाळांसाठी शासनाकडून कोणतेही अनुदान प्राप्त होत नाही. त्यानुसार माहिती अधिकार अधिनियम, २००५ मधील २(ज) (घ) नुसार सदर संस्थेस शासनाकडून मोठया प्रमाणावर अनुदान/वित्त पुरवठा होत नसल्याने कर्मवीर काकासाहेब वाघ शिक्षण संस्था, नाशिक "सार्वजनिक प्राधिकरण" च्या व्याख्येत बसत नाही. त्यानुसार संस्था व विना अनुदानित शाळा/महाविद्यालयांची माहिती मागितली तर संस्थेस, शाळेस/महाविद्यालयास माहिती पुरविणे बंधनकारक आहे. अपिलार्थी यांच्या माहिती अर्जाचे अवलोकन केले असता त्यांनी के. के. वाघ एज्युकेशन सोसायटी मधील जन माहिती अधिकारी तसेच प्रथम अपिलीय अधिकारी यांचा परिपूर्ण तपशिल याबाबत माहिती मागितली आहे.

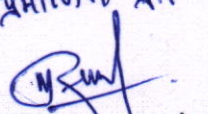
यावरून कर्मवीर काकासाहेब वाघ शिक्षण संस्था ही मुंबई सार्वजनिक विश्वस्त ॲक्ट, १९५० अंतर्गत स्थापन झाली असती तरी सदर संस्था/कॉलेजला शासनाकडून मोठया प्रमाणावर अनुदान मिळत नसल्याने, माहिती अधिकार अधिनियम, २००५ मधील कलम २(ज) प्रमाणे सार्वजनिक प्राधिकरण नाही. म्हणून विनाअनुदानित संस्था/कॉलेज यांना माहितीचा अधिकार कायदा लागू नाही. म्हणून अपिलार्थी यांना या अधिनियमांतर्गत संबंधित ट्रस्ट/संस्थेकडून माहिती देणे अभिप्रेत नाही. त्यामुळे प्रस्तुत अपिलात काहीही तथ्य नाही.

सबब, या प्रकरणी आयोग खालीलप्रमाणे आदेश पारित करित आहे.

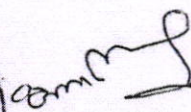
### आदेश

द्वितीय अपील क्रमांक ३०४५/२०१७/नाशिक निकाली काढण्यात येत आहे.



'प्रमाणित प्रत'  
  
(मनोज सांगळे)  
अध्यक्ष अधिकारी,  
राज्य माहिती आयोग,  
खंडपीठ नाशिक.



  
(के. एल. बिश्नोई)  
अध्यक्ष माहिती आयुक्त,  
खंडपीठ नाशिक

क्र. रामाआ-नाशिक/द्वि-अ.क्र. ३०४५/२०१७/नाशिक/ओ. ३१९९

दि. 25 JUL 2019

**State Information Commission, Bench at Nashik**

(Pinacle Mall, 4<sup>th</sup> Floor, Near Trimbak Naka, Singal, Old Agra Road,  
Nashik- 422 002)

Appeal filed under Section 19(3) of the Right to Information Act, 2005

**Second Appeal No. 3045/2014/Nashik**

1. **Shri. Dipak Ramdas Mogal** : Appellant  
At.Post, Kothure,  
Tal. Niphad, Dist. Nashik

V/s

1. **Secretary** : Respondent  
K.K.Wagh Education Society, Panchavati,  
Tal.- Dist. Nashik-03.

2. **Chairman**  
K.K.Wagh Education Society, Panchavati,  
Tal.- Dist. Nashik-03.

**Order passed dated- 25/06/2019**

The appellant has filed a Second Appeal before the State Information Commission, dated 11/08/2017. Appellant was present in it during the hearing has on 25/06/2019. Public Information Officer & First Appellant Officer were absent.

The appellant has stated in the second Appeal application that the Public Information Officer has not yet provided the Information pursuant to his information application did. 19/06/2017. Hence I had to file the present second appeal.

During the hearing, when perusing the available documents related to the second appeal. It was seen that the appellant filed information application dated 19/6/2017, in the period from 2005 to 2017, information was sought regarding the complete details (name, address and contact

TRANSLATED BY ME

*Shraddha Kulthe*  
**Shraddha Kulthe**  
B.S.L,LL.B,LL.M,D.I.P.R.  
ADVOCATE

R.No :- Mah/1704/2009

details) of the Public Information Officer working in the K.K.Wagh Education Society as well the first Appellate Officer. Accordingly, Secretary, K.K.Wagh Education Society, Panchavati informed the appellant that through letter dated 10/7/2017 that on behalf of karmaveer Kakasaheb Education Society, a petition was filed in the Hon. High Court Bench at Aurangabad. The petition was filed regarding whether the Right to Information Act, 2005 is applicable to unaided education institution. In the said petition on 9/7/2009, the Hon. High Court, Aurangabad Bench has given the final verdict. In the said result, K.K.Wagh Education Society, Panchavati is not a Public Authority as per section 2(h) of the Right to information Act, 2005 and K.K.Wagh Education Society, Panchavati is not Public Authority as per section 2 (h) Right to Information Act, 2005 applicable to K.K.Wagh Education Society, Panchavati, it will not be appropriate to provide information as per application under Right to information Act. Thereafter the appellant filed the first appeal on 17/7/2017. Then the appellant has provided the information on 10/7/2017 again provided by letter dtd. 2/8/2017.

During the hearing, it appears that, taking into consideration the arguments and documents submitted to the commission, as per the information application dated 19/6/2017 of the appellant as mentioned above, the secretary, K.K.Wagh Education Society, Panchavati was not provided the information, as Right to Information Act, 2005 was not applicable.

Also, regarding the information sought by the appellant in connection with his information application, it is mentioned that the Nagpur Bench of High Court in this regard in petition No. 5132/2008 dated 20/08/2009 order as follows:-

*Public Trust is not run by the Government either directly or indirectly and its management and affairs are controlled by the trustees. The reimbursement made by such Govt. under their respective scheme is for the students and not for the petitioners towards the fees recoverable from backward class students or other instrumentation provided by the appropriate Government and the Hon`ble High Court held that the trust is not controlled in strict sense of the term, public trust is not run by the Government either directly*

TRANSLATED BY ME

*Shraddha Kulthe*  
**Shraddha Kulthe**  
B.S.L,LL.B,LL.M,D.I.P.R.  
ADVOCATE  
R.No :- Mah/1704/2009

*or indirectly and its management and affairs are controlled by the trustees. No doubt public trusts are subject to regulatory measures to be found in the Bombay Public Trust Act. But that does not mean that either the Charity Commissioner or the appropriate Government controls the public trust by virtue of the fact that such public trust is registered under the Bombay Public Trust Act and regulatory provisions are made applicable and hence the Parliament has deliberately used the word "Substantially financed" with a view to exclude such institutions which are financed directly or indirectly with a small or little contribution of funds by the appropriate Government.*


*Public Trust is subject to regulatory measures found in the Bombay Public Trust Act. But that does not mean that either the Charity Commissioner or appropriate Government controls Public Trust. For the above reasons, I am of the opinion that the none of the petitioners are covered by the definition of Public Authority within the meaning of section-2 {h} of the Right to Information Act, 2009.*

It is mentioned in this regard that out of total 33 schools/ colleges in Karmveer Kakasaheb Wagh Education Society, Panchavati 03 School/ colleges receive subsidy for teachers salary from the Government. Apart from this no subsidy/grant is received from the government for the institute or for other schools. Accordingly, as per section 2 (J) (g) of the Right to Information Act, 2005. Karmveer Kakasaheb Wagh Education Society, Nashik does not fit in the definition of "Public Authority" as the said institution does not receive substantial grant / funding from the Government. Accordingly, it is mandatory to provide information to the institution, school/ colleges, if information is requested about the institution and unaided school/college.

While perusing the information application of the appellant, the appellant had sought the information regarding full details of Public information officer and first appellate officer in K.K.Wagh Education Society, Panchavati, Nashik.

From this, Karmveer Kakasaheb Wagh Education Society, Nashik was established under the Bombay Public Trusts Act, 1950, as the said Institution/ college does not receive a large amount of subsidy from the

TRANSLATED BY ME

  
**Shradha Kulthe**  
B.S.L., LL.B., LL.M., D.I.P.R.  
ADVOCATE  
R.No :- Mah/1704/2009.

Government, it is not a Public Authority as per section 2(h) of the Right to information Act, 2005. Hence Right to information Act, 2005 is not applicable to unaided institutions / colleges. Therefore, the appellant is not intended to give information by the concerned Trust/ Institution under this Act. Therefore, there is no merit in the present appeal.

So, the commission is passing the following order in this matter:

### **Order**

Second Appeal No. 3045/2017 /Nashik is being disposed of.

Sd/-  
**(K.L. Bishnoi)**  
**State information Commissioner,**  
**Bench Nashik.**

---

No. RaMaAa-Nashik/ Second Appeal No. 3045/2017/Nashik/O.-3197, dtd. 25/7/2019

TRANSLATED BY ME

*Shraddha Kulthe*  
**Shraddha Kulthe**  
B.S.L,LL.B,LL.M,D.I.P.R.  
ADVOCATE  
R.No :- Mah/1704/2009