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RTI Act | Information Commission Can't Turn Blind Eye To Culpable Delay In Furnishing Info By PIO: Karnataka High Court Imposes Penalty

Mustafa Plumber

1 Aug 2022 4:51 PM



RIGHT TO INFORMATION ACT 2005



The Karnataka High Court recently observed that the Information Commission cannot let the undue delay caused by a Public Information Officer in furnishing information as sought for under the Right to Education Act, go unpunished.

Leaving the culpable delay to go with impunity strikes at the root of law, a single judge bench of **Justice Krishna S Dixit** said.

The court was hearing a writ petition seeking exemplary punishment under Section 20 of the RTI for dereliction of duty by PIO attached to attached the Block Education office in Bengaluru.

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The Petitioner averred that the information sought by him came to be furnished with a delay of about two years whereas his statutory appeal was disposed off by the State

Information Commission information was furnished to the petitioner. His essential grievance was of that the subject appeal could not have been so "casually" closed, turning a blind eye to the enormous delay brooked by the PIO.

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pendent-Commission being a statutory quasi judicial body cannot act like a raja or mogul, its functions being of public law character," it was said.

Court noted that Section 20 of the RTI Act prescribes a penalty of Rs.250 for delay of day brooked in furnishing the information; sub-section (1) prescribes the maximum ty amount of Rs.25,000.

Accordingly, it directed the PIO to pay a penalty of Rs 25,000 to the Petitioner, along with Rs. 10,000 cost.

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"Access to information is also a key tool in combating corruption and wrongdoing. Investigative journalists and watchdog civil society organizations can use the right to access information to expose wrongdoing and help root it out. These laws reflect the fundamental premise that government and public officials are supposed to serve the people. There are, however, a number of more practical ideas underlying the widespread recognition of the right to information," the Court said.

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Further it said, *"The right of access to information is recognized even under the provisions of the Universal Declaration of Human Rights, as an element of freedom of expression. It is understood in the said instrument as the right to seek and receive information."*

Further in view of Section 20, the Court observed,



1st Proviso to sub-section (1) of Sec. 20 enacts audi alteram partem and therefore the levying the penalty the erring person needs to be heard, is true. The 2nd Proviso is a negative burden and places it on the shoulders of the erring official to prove that acted reasonably & diligently in furnishing the information in time or not furnishing. The second proviso itself shows the significance of the right to information as legislated by the Parliament. That being the position, there was absolutely no reason for closing the appeal of the petitioner without levying penalty on the 2nd respondent, who has chosen to remain unrepresented despite service of notice."

Case Title: SIJO SEBASTAIN v. KARNATAKA INFORMATION COMMISSION & Others

Case No: WRIT PETITION NO.4913 OF 2022

Citation: 2022 LiveLaw (Kar) 298

Date of Order: 26TH DAY OF JULY, 2022

**Appearance: SIJO SEBASTAIN, PARTY IN PERSON; Advocate SHARATH GOWDA G B,
FOR R1**

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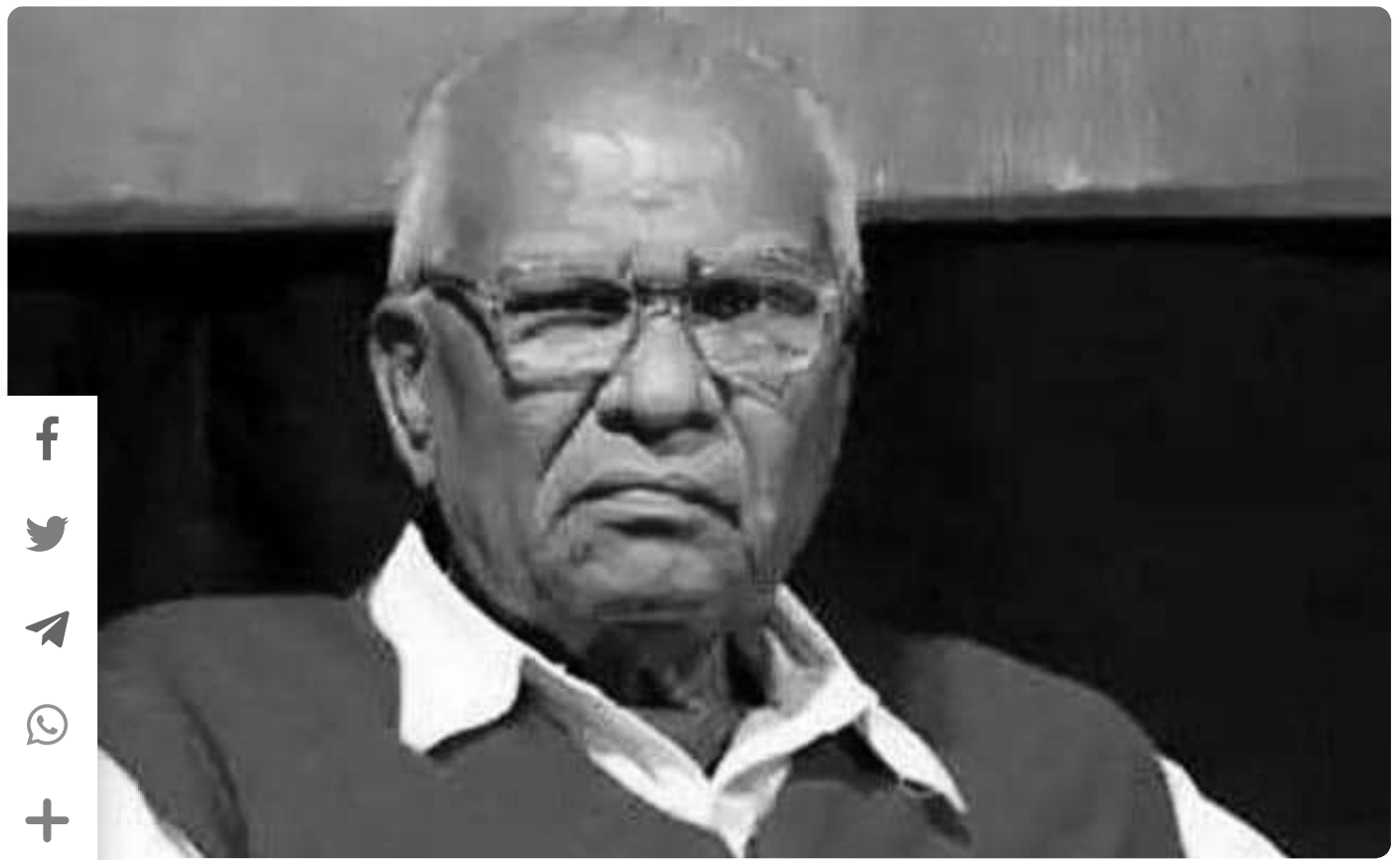
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Govind Pansare Murder: State Tells Bombay High Court It Has No Objection In Transferring Investigation To Maharashtra ATS

Sharmeen Hakim & Amisha Shrivastava

1 Aug 2022 5:06 PM





The Maharashtra Government informed the Bombay High Court that it has no-objection in transferring the murder investigation of slain communist leader Govind Pansare to the Maharashtra ATS from the state SIT.


Special Public Prosecutor Ashok Mundargi said that if the victims and relatives are not satisfied with the investigation the State has no problem in transferring the investigation.

While the Bombay High Court is likely to take a final call on transfer of investigation on Wednesday, it asked the SPP to take instructions if a few officers from the SIT could be a part of the ATS's investigation team.

A division bench of **Justice Revati Mohite Dere** and **Justice Sharmila Deshmukh** was hearing Pansare's kin's plea for transfer as nearly seven years after the 82-year-old was gunned down on his morning walk, the SIT failed to make any clinching breakthrough in the case.

Therefore they have sought transfer of the investigation. The connection between the murders of rationalist Narendra Dabholkar, Professor Kalburgi, Pansare and Gauri Lankesh were made by the Maharashtra ATS while investigating the 2019 Nalla Sopara Arms Case of 2019, advocate Abhay Nevagi for the petitioners said.

According to the application, alleged shooters Sarang Akolkar and Vinay Pawar are still

 absconding in the case. With several of the co-accused filing for discharge "*if immediate*

 *are not taken, the investigation to bring absconding accused may not happen,"* the

 states.

 *Identify the masterminds as well the as well as shooters of Comrade Govind Pansare,*

onal Case may be transferred from the respondent SIT to Maharashtra ATS with

 *mediate effect,"* the plea read.

It adds that five different charge sheets have been filed by different investigating agencies "*however, no efforts are made by any of the Investigating Agencies to reach out to the masterminds behind all the 5 cases.*"

At present, the respective State Governments have in fact provided protection to the people named in the hitlist. Even today, 40 intellectuals along with the petitioner are provided with the security, the plea states. "*The combined reading of all 5 Chargesheets and specific reading of Chargesheet in the case of Nalasopara Bomb Blast case, it becomes clear that there exists a deeper and larger conspiracy and masterminds behind all the 5 cases are not traced.*"

During the hearing today, Justice Dere asked the petitioners what is to be achieved by a new investigation team.

Advocate Abhay Nevagi reiterated the contents of the petition, *"In 2019 ATS found that same accused was involved in all four murders, and was only a frontline person, not the mastermind."*

"There is some common thread running in all these cases. The shooters identified haven't been found. All investigation agencies are after them but still not found," he said.



Mundargi then said, *"We have no issue in sending the matter to ATS if the court feels*



desirable. But the fresh agency will need some time to understand the case."



Justice Dere then asked the SPP to take instructions if some of the investigators could



be in the same.



Justice Dere will keep it day after tomorrow. We'll go through the report and see."

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ललित मोदी पारिवारिक विवाद : सुप्रीम कोर्ट ने दूसरे दौर की मध्यस्थता की इजाजत दी, जस्टिस आरवी रवींद्रन को मध्यस्थ नियुक्त किया



"न्याय के मानवीय पक्ष को देखें": सुप्रीम कोर्ट ने केंद्र सरकार को शराब पर निर्भरता के कारण सर्विस से डिस्चार्ज कारगिल युद्ध के सैनिक को विकलांगता पेंशन देने का सुझाव दिया



"मैंने पहले याचिका दायर की, इसलिए मुझे प्रमुख याचिकाकर्ता बनना चाहिए": एमएल शर्मा ने ईडी डायरेक्टर के कार्यकाल के खिलाफ जनहित याचिकाओं के आदेश पर आपत्ति जताई



सुप्रीम कोर्ट ने भारत के उपराष्ट्रपति पद के लिए उनके नामांकन स्वीकार करने के लिए चुनाव आयोग को निर्देश देने की मांग वाली डॉ मंदाती थिरुपति की याचिका खारिज की



'प्रक्रिया सजा न बन जाए, ये सोचकर कि आरोपी की दोषसिद्धि नहीं हो पाएगी, जमानत से इनकार न करें' :
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