IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11135 OF 2025

Adarsh S/o Gautam Pimpare
Age: 35 years, Occu: Service,
R/o: at Post. Gandhi Nagar,
Udgir, Dist. Latur-431517. ... **PETITIONER**

V/s.

1. The State of Maharashtra,
Through it's Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

2. Jan Mahiti Adhikari /
Assistant State Tax Commissioner
(VAT-NOD-D-0001)
Goods and Service Tax Bhavan,
Gandhi Chowk, Latur.

3. First Appellate Officer/
Deputy State Tax Commissioner
(VAT-NOD-D-0001)
Goods and Service Tax Bhavan,
Gandhi Chowk, Latur.. ... **RESPONDENTS**

.....
Mr. Maniyar Irfan D., Advocate for the Petitioner
Mrs. M.N. Ghanekar, Advocate for the Respondents
.....

CORAM : ARUN R. PEDNEKER, J.
DATE : 14.10.2025

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

2. By the present petition the Petitioner challenges the order dated 03.03.2023 passed by the Respondent No.2- Jan Mahiti Adhikari / Assistant State Tax Commissioner, order dated 31.03.2023 passed by Respondent No.3- First Appellate Officer/ Deputy State Tax Commissioner and the order dated 30.12.2024 passed by the State Information Commissioner, Ch. Sambhajinagar.

3. The case in brief of the Petitioner is that on 13.02.2023 he filed an application under the Right to Information Act, 2005 with Respondent No.2- Jan Mahiti Adhikari / Assistant State Tax Commissioner and sought information in respect of submissions of GST from the financial year 2008 to 2023 of six different industries from Tq. Udgir, Dist Latur. Those are M/s. Vyankateshwara Mahila Audyogik Utpadak Sahakari Sanstha, Udgir, M/s. Aniket Trading Company, Udgir, M/s. Mayureshwar Trading Company, Udgir, M/s. New Prasad Products and Agencies, Udgir, M/s. Kalyani Trading, Udgir and M/s. Prasad Industries, Udgir.

4. In pursuance of the application the Information Officer issued notice to the concerned Industries seeking response on the application. The concerned Industries responded with objection to provide information to the Petitioner. Thereafter, the application filed by the Petitioner was rejected. The counsel for the Petitioner in this regard submits that the Information Officer ought not to have issued notices to the concerned Industries and that the information ought to have been provided to him without issuing notice to the

Respondents. Thereafter, the petitioner filed an appeal under Section 19 (1) of the RTI Act before the First Appellate Officer/ Deputy State Tax Commissioner. The Petitioner preferred separate appeals. The Appellate Authority rejected the appeals for the reason that the firms has denied consent to provide information to a third party and confirmed the order passed by the Respondent No.2- Jan Mahiti Adhikari / Assistant State Tax Commissioner. Thereafter, the Petitioner preferred second appeal under Section 19(3) of the RTI Act before the State Information Commissioner. By the impugned order dated 30.12.2024 the State Information Commissioner dismissed the second appeal filed by the Petitioner upholding the orders passed by the Respondent Nos.2 and 3. Therefore, the present petition is filed to challenge the aforesaid orders.

5. It is the contention of the Petitioner that the six firms filed GST before the Respondent No.2 and that the information is not a personal information of the individuals and the Petitioner was only seeking the GST returns filed. The documents are public documents and that the Respondent No.2 was not required to take consent from the concerned firms for providing the information.

6. It is also submitted that all six firms are working under the Maharashtra State Government and obtained tenders from the State Government by manipulating documents and by not submitting the GST they had committed huge fraud of the public money. The Petitioner in order to

substantiate the grievance needs the information which is denied illegally. He submits that the impugned orders are illegal and deserve to be quashed.

7. The learned counsel submits that the GST returns are public documents and not a secret information that is not to be disclosed. It is also not a third party information given under Section 11 of the RTI Act. In the instant case the information sought is not protected by law or cause harm to the public at large and therefore the information sought by the Petitioner is a public document and needs to be provided.

8. Considering the submission, the first issue that needs to be considered is whether the respondent no.2 erred in issuing notice to the industries under Section 11 of the RTI Act. The said issue is answered by the Constitution Bench in the case of **Central Public Information Officer, Supreme Court of India V/s. Subhash Chandra Agarwal; (2020) 5 SCC 481**. The Hon'ble Supreme Court has held that in any case where the information sought is personal information within the meaning of Section 8(1)(j) of the RTI Act the procedure under Section 11 must be complied with before final order is passed and the third party concerned are required to be issued notice and heard as they are not parties before it. Third party information relates to or has been supplied by any other person (including a public authority) other than the information applicant and has to be treated as confidential by such third party. Where disclosure of third party information is sought, such information must

be *prima facie* treated as confidential by the third party and the procedure under Section 11 of the RTI Act must be mandatorily followed. Section 8 and 11 must be read together. Section 11 (2) encapsulates the fundamental idea that a party whose personal information is sought to be disclosed is afforded the opportunity to contest disclosure. The proviso to sub-section (1) of Section 11 permits disclosure where the public interest in disclosure outweighs any possible harms in disclosure highlighted by the third party.

9. For ready reference Section 8 and Section 11 of the RTI Act are quoted below:

> *"Section 8. Exemption from disclosure of information.-(1) Notwithstanding anything contained in this Act, there shall be no obligation to give 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, relation 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 fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrens 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 decisions 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 taken, 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 (19 of 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 any 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.

Section 11. Third party information.- (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision."

10. This Court has dealt with the issue of applicability of of Section 8 and 11 of the RTI Act by analyzing the judgment of the Hon’ble Supreme Court

in **Central Public Information Officer, Supreme Court of India V/s. Subhash Chandra Agarwal (supra)** and the Court has explained that the RTI Act operationalize the disclosure of information held by public authorities to reduce the asymmetry of information between individual citizens and the State apparatus. However, the Constitution Bench has observed that enacting the RTI Act the Parliament was cognizant that an unrestricted disclosure of information could be fiscally inefficient, result and would do real-world harms and infringe the rights of others. Thus, the Constitution Bench while quoting the provisions of Section 8 of the RTI Act explained the non-obstante phrase carved exceptions under Section 8 to the general obligation to disclose information under the RTI Act. Therefore, where the conditions set out in any of the sub-clauses of Clause (1) of Section 8 are satisfied, Information Officers are under no obligation to provide information of any applicant. Clause (d) of Section 8 (1) provides that information is exempt from disclosure where such disclosure would harm the competitive position of a third party and the exemption is further qualified by the phrase, unless the competent authority is satisfied that larger public interest warrants the disclosure. Thus, the exemption under clause (d) of Section 8(1) is not absolute but is qualified and cannot be invoked where a larger public interest exists. In the context of clause J of Section 8 (1) explanation provides a qualified exemption from disclosure where the information relates to personal information the disclosure of which has no relationship to public activity or interest and the information would cause an unwarranted invasion of the privacy. However, the exemption may be overridden where the Information Officer is satisfied that the larger public interest justifies the disclosure. Thus, clause (j) of Section 8 is not an absolute exemption from the disclosure of information on the ground of privacy and the disclosure is exempted where personal information is sought and there is no larger public interest. Thus under Section 8 (1) (j) an information which has relevance to privacy and relates to personal information can be denied. If such an information relates to a third party then Section 2 (n) of the RTI Act defines third party to mean a person other than a citizen requesting information and includes a public authority. Section 11 is concerned with third party information. Third party information is an information which relates or has been supplied by any other person other than the information applicant and has been treated as confidential by third party. Wherever the disclosure of third party is sought and such information has been *prima facie* treated as confidential by the third party in question, the procedure under Section 11 of the RTI Act is mandatory. The provision expressly mandates the Information Officer to consider the objections of third party while deciding whether to disclose or not disclose the Information. In the instant case the information which is sought relates to the third party and the GST Authorities holds the information i.e. GST returns of the third party. When such an information is asked the Authorities constituted has to issue under Section 11 to the effected person as this provision is held to be mandatory. As such, the first objection of the Petitioner that no notice ought to have been given to the Industries whose GST returns were asked by applicant is rejected.

11. The next issue is whether Section 158 of the GST Act would also be an impediment in providing information under the RTI Act. Section 158 (1) of the GST Act provides that the information of the GST cannot be provided to third parties. For ready reference, Section 158 of GST Act is as below:

> "Section 158. Disclosure of information by a public servant.-
>
> *(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.*
>
> *(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).*
>
> *(3) Nothing contained in this section shall apply to the disclosure of,-*
>
> *(a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988 (49 of 1988), or any other law for the time being in force; or*
>
> *(b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or*
>
> *(c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or*
>
> *(d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other*

law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information."

12. Section 158 (1) of the GST Act specifically prohibits giving information of GST returns except as provided in sub-section 3, so also Section 8 (1) (j) of the RTI Act prohibits 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.

13. Section 158 sub-clause (1) specifically provides that all particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the GST Act, or in any record of evidence given in the course of any proceedings under the GST Act (other than the proceedings before a criminal court), or in any record of any proceedings under the GST Act shall, save as provided in sub-section (3) not be disclosed. Thus, the returns furnished by the industries under Section 158 (1) cannot be disclosed by the GST authorities except as provided in sub-section 3 of Section 158. GST ACT being a special enactment and a later enactment would override the RTI Act (general enactment) and the information which is prohibited to be provided under Section 158 of the GST Act cannot be disclosed under the RTI Act.

14. In the instant case, the Petitioner has applied for the information contending that that there is a large scale fraud and that he needs the information in order to prosecute the industries. The allegation is bald in nature. There is no *prima facie* evidence to show that the industries have indulged in large scale fraud. Although the response given by the industries is

that the industries are closed on account of the harassment by the Petitioner. Based on the reply the Authorities have not provided information of GST returns of the Industries as there is no larger public interest involved in the matter. Thus no case is made out under proviso to Section 8 (1) (j) to grant information.

15. In view of above, Writ Petition is dismissed. Accordingly, the Rule is discharged.

[ARUN R. PEDNEKER, J.]

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