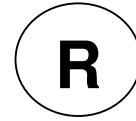




HC-KAR



NC: 2025:KHC:41361
WP No. 17341 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 17341 OF 2025 (GM-RES)

BETWEEN:

PRAKASH CHIMANLAL SHETH
S/O. CHIMANIAL SHETH.
AGED ABOUT 59 YEARS,
RESIDING AT 1103-SULSA APARTMENT
254-RIDGE ROAD, MALBAR HILL,
MUMBAI - 400 006.

...PETITIONER

(BY SRI. G. RAVISHANKAR SHASTRY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
TO DEPARTMENT OF PERSONAL AND
ADMINISTRATIVE REFORMS (DPAR)
M.S. BULLDING, DR. B.R. AMBEDKAR ROAD
BENGALURU - 560 001.
2. THE STATE INFORMATION COMMISSION
ROOM NO. 104, 1ST FLOOR,
"MAHITHI SOUDHA", D. DEVARAJ URS ROAD,
OPP VIDHANA SOUDHA
WEST GATE-02, BENGALURU,
REPRESENTED BY ITS COMMISSIONER
PIN - 560 001.





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3. FIRST APPELLATE AUTHORITY AND
SUPERINTENDENT OF POLICE
(DAKSHINA KANNADA DISTRICT)
OFFICE OF SUPERINTENDENT OF POLICE
PANDESHWARA ROAD, NEAR A. B. SHETTY CIRCLE
MANGALURU - 575 001.
4. PUBLIC INFORMATION OFFICER
AND ASSISTANT ADMINISTRATOR
OFFICE OF THE SUPERINTENDENT OF POLICE
PANDESHWARA ROAD,
NEAR A. B. SHETTY CIRCLE
DAKSHINA KANNADA DISTRICT
MANGALURU - 575 001.

...RESPONDENTS

(BY SMT. SARITHA KULKARNI, AGA FOR R1, R3 AND R4;
SRI. G.B. SHARATH GOWDA, ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO (I) QUASHING THE
ORDER DATED 19-03-2025 IN KA MA AA 1267/APL 2025
PASSED BY THE RESPONDENT-2, CERTIFIED COPY OF WHICH
IS PRODUCED AT ANNEXURE A AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. Learned Additional Government Advocate accepts
notice for the respondent Nos.1, 3 and 4 and Sri.



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G.B.Sharath Gowda, learned counsel accepts notice for respondent No.2.

2. The petitioner is before this Court seeking for the following reliefs:

- (a) *Writ of certiorari quashing the order dated 19-03-2025 in KA MA AA 1267/APL 2025 passed by the 2nd respondent, certified copy of which is produced at Annexure A.*
- (b) *Writ of Certiorari quashing the order dated 04-12-2024 in No. ACT-8/360534/RTI/DK/2024-25 passed by the third respondent copy of which is produced at Annexure B.*
- (c) *Writ of Certiorari quashing the order dated 22-10-2024 in NO. ACT-8/360534/RTI/DK/ passed by the 4th respondent copy of which Is produced at Annexure C.*
- (d) *Issue a writ of Mandamus directing the 4th respondent to furnish the information sought by the petitioner as per the application dated 27-09-2024 copy of which is produced at Annexure D.*

3. The petitioner had filed a private complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act') which subsequently came to be registered in C.C.No.467/2022 on the file of the JMFC, Puttur, Dakshina Kannada.



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4. In the said matter, the accused having absconded, a lookout circular had been issued, in pursuance of which the accused had been detained at Mumbai International Airport and later released. The petitioner had made an application under the Right to Information Act for furnishing a copy of the passport of the accused, the date on which the LOC was issued against the accused, and a copy of the LOC issued against him. All information, records available with SP, Mangalore Office about the detention of the accused at Mumbai International Airport on 01.12.2023 and about his release on 01.12.2023.
5. The said application came to be rejected by respondent No.4 on the ground that the information sought for cannot be furnished in view of Rule 8(1)(h) of the RTI Act and further on the ground that the document sought for pertains to the Special Branch and in terms of the notification issued, the



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RTI Act does not apply to Special Branches in District Police Offices.

6. Challenging the same, the petitioner had approached respondent No.3, who rejected the said application on the ground that the rejection was proper and correct. An appeal has been filed before respondent No. 2. Respondent No. 2 rejected the second appeal on the ground that in terms of the decision of the Hon'ble Apex Court in SLP No.27734/2012, the information sought for is a personal information and as such, under Section 8(1)(g) of the RTI Act, it cannot be granted. Challenging these orders, the petitioner is before this Court.
7. From the perusal of the above, it is clear that the petitioner has sought for a copy of the passport, a copy of the LOC and all documents which are available with the SP, Mangaluru, in relation to the same. The documents relating to Section 8(1)(h) of



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RTI Act, Section 8(1)(h) of the RTI Act is reproduced hereunder for easy reference:

"8. Exemption from disclosure of information -

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

xxxxxx

xxxxxx

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;"

8. The exemption under Section 8 of the RTI Act is available to information which would impede the process of investigation or apprehension or prosecution of offenders. Apart from 8(1)(h) of the RTI Act, respondent No.4 has categorically rejected the same on account of the RTI Act not being applicable to special units in terms of the notification issued under Section 24(4) of the RTI Act, which is reproduced hereunder for easy reference:

"Section 24 Act not to apply to certain organizations -

xxxx

xxxxxx



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(4) Nothing contained in this Act shall apply to such intelligence and security organisations, being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in Section 7, such information shall provided within forty-five days from the date of the receipt of request."

9. A perusal of Subsection (4) of Section 24 of the RTI Act would indicate that nothing contained in the RTI Act would apply to such an intelligence and security organization being organized and established by the State Government, as the government may from time to time by notification in the official gazette specify. Since it is contended that there is a notification which has been issued exempting the special branches of the District Police Officers in terms of Subsection (4) of Section 24, the RTI Act would not be applicable.



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10. Be that as it may, even respondent No.2/The State Information Commission, taking into account the judgment of the Hon'ble Apex Court in Justice ***Putswamy's case***, has come to a conclusion that the information which has been sought for would be governed by the law of privacy and as such, cannot be granted and reference has been made to Section 8(1)(g), Section 8(1)(g) is reproduced hereunder for easy reference:

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

xxxxxx

xxxxxx

(h) 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;"

11. The disclosure of the information like a passport, in my considered opinion, being personal in nature would cause immense harm and injury to a person. The details of a passport are private to a person and



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if those details of a passport are made available to any third party, including the petitioner who has filed Section 138 of NI Act proceedings, it could cause a danger to the life or physical safety of the concerned person.

12. In that view of the matter, I do not find any infirmity in the orders passed by respondent No.4, subsequently by respondent No.3 and then by respondent No.2.
13. In the event the petitioner seeking for and the said information for use in the prosecution of the proceedings under Section 138 of the NI Act, the petitioner could always make an application in the said proceedings for the summoning of those documents, which the Court in its wisdom, could consider. It is made clear that this Court has not expressed any opinion on the merits of the application.



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With the above liberty, the petition stands
dismissed.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

GJM
List No.: 1 Sl No.: 13
CT: BHK