

4 November 2021

07

RTI Details

3:02

RTI REQUEST DETAILS

Registration No. : MBMCO/R/2021/60198

Date of Receipt : 23/11/2021

Type of Receipt : Online Receipt

Language of Request : English

Name : Jatin Dadhich

Gender : Male

Address : A-202 , Indraprasth ,, Pin:401105

State : Maharashtra

Country : India

Phone No. : +91-9768777900

Mobile No. : +91-7977055266

Email : sharmamanish1999.ms@gmail.com

Status(Rural/Urban) : Rural

Education Status : Graduate

Is Requester Below Poverty Line ? : No

Citizenship Status : Indian

Amount Paid : 10

Mode of Payment : Payment Gateway

Mode(s) of information Supply : Hard Copy

Does it concern the life or Liberty of a Person ? Details not provided.

Request Pertains to : Saec Wadke

Information Sought :

Information to be provided regarding the petition filed by the citizen against MBMC commissioner , State govt for appointment of the mbmc commissioner in Wp / 8551 / 2021 and WP / 4142 / 2021 in Bombay High court . Kindly provide duly stamped , signed , certified true copy as follows :- 1. Complete document of the case to be provided present in your office and probably scan document to be provided as per the Maharashtra state govt Gr dated 01/02/2017 . 2. Status of the case and WS filed by law dept . 3. All Reports , documents submitted by the petitioner and respondent of the case . 4. All communication done within MBMC dept , with another govt dept , principal secretary mantralaya, etc.

Print Close

Jadhav pls. speak  
see

मिना-भाईदर महानगरपालिका  
विधी विभाग  
आवक क्र... 010 भा. 01...  
दिनांक: 23/11/2021



## मिरा भाईंदर महानगरपालिका

जाक्र.मनपा/विधी/मा.अ./ऑनलाईन/००/२०२१-२२  
दि. १५/१२/२०२१

प्रति,

श्री. जतिन दाधीच  
अ-२०२, इंद्रप्रस्थ, पिन ४०११०५

विषय :- केंद्र शासनाचा माहिती अधिकार २००५ अन्वये ऑनलाईन अर्ज.

संदर्भ :- आपला दि. २३/११/२०२१ रोजीचा ऑनलाईन पोअर्लवरील अर्ज.

महोदय,

संदर्भिय माहिती अधिकाराच्या ऑनलाईन पोअर्लवरील अर्जान्वये आपण मा. आयुक्त यांच्या विरुद्ध मा. उच्च न्यायालय, मुंबई येथे दाखल रिट याचिका क्र. ८५५१/२०२१ व रिट याचिका क्र. ४१४२/२०२१ बाबतची मुद्दा क्र. १ ते ४ नुसार माहिती अपेक्षिली आहे. त्याअनुशंगाने आपणास खालीलप्रमाणे मुद्देनिहाय माहिती देत आहे.

मुद्दा क्र. १ :- आपण मा. आयुक्त यांच्या नियुक्तीबाबत दाखल झालेल्या वरील रिट याचिकेची प्रत अपेक्षिली आहे. परंतु सदर याचिकेत मा. आयुक्त यांची वैयक्तिक माहिती संलग्न असल्यामुळे मा. सर्वोच्च न्यायालय, दिल्ली येथील Civil Appeal No. 10044/2010 CPIO Supreme Court of India v/s Subhash Chandra Agarwal या न्यायालयीन प्रकरणामध्ये पारीत केलेल्या आदेशामध्ये Personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. असे मत मांडले आहे. सदर निर्णयात नमुद केल्यानुसार अर्जदार यांनी त्यांच्या अर्जामध्ये अपेक्षिलेली माहिती जनहितार्थ आवश्यक असल्याबाबत स्पष्ट केलेले नाही त्यामुळे आपणास सदरची माहिती देता येणार नाही.

मुद्दा क्र. २ व ३ :- सदर याचिकेत मनपाच्या वतीने शपथपत्र दाखल केलेले नाही. तरी सदर याचिकेतील सद्यस्थितीची माहिती मा. उच्च न्यायालयाच्या संकेतस्थळावरून उपलब्ध करून घेण्यात यावी.

मुद्दा क्र. ४ :- सदर याचिकेसंदर्भात कोणत्याही विभागासोबत, शासकिय कार्यालयासोबत, मा. सचिव, मंत्रालय यांच्यासोबत पत्रव्यवहार करण्यात आलेला नाही.

सदरच्या माहितीने आपले समाधान न झाल्यास सदरचे पत्र प्राप्त झाल्यापासून ३० दिवसांत श्री. मारुती गायकवाड, मा. प्रथम अपिलिय अधिकारी तथा उपायुक्त (मु), मिरा भाईंदर महानगरपालिका, मुख्य कार्यालय, तिसरा मजला यांच्याकडे प्रथम अपिल दाखल करता येईल.

*Jatin*  
16-12-2021

*Seenadke*

सई वडके

जनमाहिती अधिकारी तथा विधी अधिकारी  
मिरा भाईंदर महानगरपालिका





माहितीचा  
अधिकार

जा.क्र.मिभामनपा/उपआ.विधी/ १९३ /२०२१

स्व.इंदिरा गांधी भवन, छत्रपती शिवाजी महाराज मार्ग,  
भाईदर (प.), ता.जि.ठाणे ४०११०१,

दुरध्वनी क्र.२८१९२८२८, २८१९३०२८

दिनांक: २९/१२/२०२१



सुनावणी दिनांक:- ०४/०१/२०२२

वेळ:- सकाळी ११.१५ वाजता

प्रति,

श्री.जतीन कमल दाधीच,

ए-२०२, इंद्रप्रस्थ, मिठालाल जैन बंगल्याच्या मागे,

न्यू गोल्डन नेस्ट, भाईदर (पूर्व), जि.ठाणे ४०११०५.



विषय:- माहितीचा अधिकार अधिनियम, २००५ अन्वये दाखल प्रथम अपिल

संदर्भ:- आपला दि.२२/१२/२०२१ रोजीचा अपील अर्ज.

(या कार्यालयाकडे प्राप्त दि.२४/१२/२०२१, आ.क्र.१५४)

उपरोक्त संदर्भिय माहितीचा अधिकार अधिनियम, २००५ चे कलम १९(१) अन्वये दाखल केलेला दि.२२/१२/२०२१ रोजीचा अपिल अर्ज दि.२४/१२/२०२१ रोजी इकडील कार्यालयास प्राप्त झाला आहे.

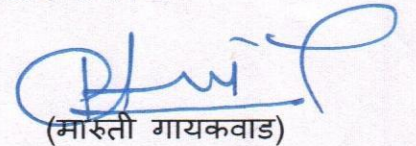
सदर संदर्भाधिन प्रथम अपिलाची सुनावणी, खाली दिलेल्या नमुद दिवशी/वेळी आयोजित करण्यात आलेली असुन सुनावणीस आपण उपस्थित रहावे.

सुनावणीचा दिनांक व वेळ :- दि.०४/०१/२०२२ सकाळी ११.१५ वाजता.

ठिकाण :- प्रथम अपिलीय अधिकारी तथा उपायुक्त (विधी) यांचे दालन,

चौथा मजला, स्व.इंदिरा गांधी भवन, छत्रपती शिवाजी महाराज मार्ग,

मिरा भाईदर महानगरपालिका, भाईदर (प.). ता.जि.ठाणे ४०११०१.

  
(मारुती गायकवाड)

प्रथम अपिलीय अधिकारी तथा

उपायुक्त (विधी)

मिरा भाईदर महानगरपालिका

प्रत:- जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग, मिरा भाईदर महानगरपालिका,

यांना सुनावणीचे दिवशी आवश्यक त्या कागदपत्रांसह उपस्थित राहणेकामी

(सोबत श्री.जतीन कमल दाधीच यांच्या संदर्भिय अर्जाची छायांकित प्रत)

यात  
दि.२९/१२/२१

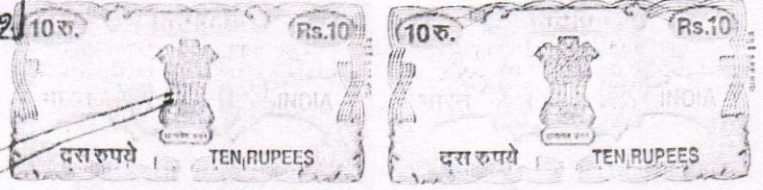
Jadhav  
See  
9/12



FIRST APPEAL UNDER SECTION 19(1) OF THE RIGHT TO INFORMATION ACT, 2005

उपायुक्त (सु.)  
क्र.सं. 948  
दिनांक 28/12/21

To,  
First Appellate Authority  
Law Department  
MBMC



A. Contact details of applicant.

1. Name of the Applicant	Jatin Kamal Dadhich
2. Address	A-202, Indraprasth, Behing Mithalal Jain Bungalow , New Golden Nest, Bhayandar East, District - Thane - 401105, Maharashtra Mob.: 9768777900 / 7977055266, Email.: sharmamanish1999.ms@gmail.com

B. Details about RTI request:

Particulars of the CPIO/SPIO against whom order appeal is preferred :	(a) Name	Sae Vadke
	(b) Address	Law Department, Head office, Mbmc
2. Date of submission of application :	23/10/2021	
3. Brief facts leading to appeal:	1. PIO responded but Applicant is not satisfied with decision of PIO.	
4. Prayer or relief sought :	Kindly Furnish required information without any charges as soon as possible.	
5. Copies of documents relied upon by the applicant :	1. Photostat copy of RTI application. 2. Reply of PIO.	

Date.: 22 / 12 / 2021

Signature of the Applicant,

*Jatin*  
Jatin Kamal Dadhich



Information to be provided regarding the petition filed by the citizen against MBMC commissioner, State govt for appointment of the mbmc commissioner in Wp / 8551 / 2021 and Wp / 4142 / 2021 in Bombay High court . Kindly provide duly stamped , signed , certified true copy as follows :-

1. Complete document of the case to be provided present in your office and probably scan document to be provided as per the Maharashtra state govt Gr dated 01/02/2017 .
2. Status of the case and WS filed by law dept .
3. All Reports , documents submitted by the petitioner and respondent of the case .
4. All communication done within MBMC dept , with another govt dept , principal secretary mantralaya, etc.



महाराष्ट्र शासन

ऑनलाईन माहितीचा अर्ज

मुख्यपत्र अर्ज सादर करा प्रथम अपील सादर करा सद्यस्थिती पाहा नेहमीचे प्रश्न संपर्क

### Online RTI Status Form/ऑनलाईन आरटीआय सद्यस्थिती अर्ज

Note: सुचना Table marked with \* are Mandatory / \* किर्ताकित घटक घालून घ्यावे लागतील. गैर अनिवार्य आहे

Registration Number /नोंदणी क्रमांक :	MBMCO/R/2021/60198
Name /नाव	Jatin Dadhich
Date of Filing /भरणे तारीख :	23/11/2021
Status /स्थिती :	REQUEST FORWARDED TO SPIO /एसपीआयओ कडे विनंती पाठवली as on 23/11/2021
Details of SPIO :- Telephone Number:- , Email Id:-	
<b>Note :- You are advised to contact the above mentioned officer for further details.</b>	
View Document /दस्तऐवज पाहा :	Reply Document Not Attached
[Nodal Officer Details]	
Telephone Number /टेलिफोन क्रमांक :	02228192828
Email Id /ई-मेल आयडी :	gadmmbmc@gmail.com

Print RTI Application Print Status Go-Back

मुख्यपत्र 1 भारताने राष्ट्रीय पोर्टल माहिती आयुक्त, महाराष्ट्र यांच्याकडे तक्रार आणि डिजिटल अपील नेहमीचे प्रश्न  
कर्णारवटे १२, २०१५ सर्व हक्क सुरक्षित. राष्ट्रीय सुचना निदेशक केंद्र, नवी दिल्ली द्वारा मकल्पित. विकसित व स्थापित.

Best viewed in Google Chrome and Mozilla Firefox web browsers



## Written Submission for Appeal :

Section 8 (1) (j) exempts "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.

If the information is personal information, it must be seen whether the information came to the public authority as a consequence of a public activity. Generally, most of the information in public records arises from a public activity. Similarly, the details sought by me are of a public activity, since it is on a public record.

PIO has denied disclosing the sought information reasoning that it would be an "unwarranted invasion on the privacy of an individual". Privacy is to do with matters within a home, a person's body, sexual preferences etc. as per the Kharak Singh and the R.Rajagopal judgements of the Supreme Court. On the other side the PIO has mentioned that "conditional access is available when stipulation of larger public interest is satisfied, as the applicant has not clearly mentioned in the application that the sought information is in public interest, so the information cannot be furnished". But the PIO hasn't even tried to ask the applicant that whether the asked information is in public interest or not because he/she knew that it is in larger public interest.

Anyway, I would now like to inform you that 'yes', the information asked is in larger public interest as the information asked is regarding the Commissioner (Civic Chief) of Mira Bhaindar Municipal Corporation, the decisions taken by him directly impacts the 12 - 15 lakh citizens of the Mira Bhaindar City. For Example, the unnecessary and pointless decision of charging Tax on parking area of the housing society with an intention to increase the income of the municipal corporation had been taken last month, but these would have directly impact and burden the pockets of the 12 - 15 lakh citizens of the Mira Bhaindar City. Despite of recovering around 100 crores pending amount from various defaulters like Open Land Tax, Hoarding arrears, Mobile Tower arrears, etc. It was the politicians who opposed continuously and made the civic chief to cancel the said unwanted decision taken.

As a journalist, I had received information that Central Government of India had issued a Notification in the year 2018 regarding appointment of IAS Officers in various municipal corporation under various states, and accordingly the Maharashtra Government has accepted that only IAS



officers should be appointed in Municipal Corporation under the MMR region , if there are any unavailability of IAS officer , in that case a Non IAS officer can be appointed temporarily but not more than 3 months.

As the Mira Bhaingar Municipal Corporation was already having one IAS officer "Dr. Vijay Rathod" as Civic Chief during the Covid-19 crisis , It was the Maharashtra Government's Urban Development Department who issued transfer order of " IAS Dr. Vijay Rathod" and appointed a Non IAS officer , Shri Dilip Dhole (recently appointed Addittional commissioner at Mbmc) as Civic Chief of Mira Bhaingar Municipal Corporation. It has been alleged that the MVA Government has intentionally done these postings at MBMC to take over the control of the Municipal Corporation in their hands as Shri Dilip Dhole had worked as the P.S. of MVA Government's Urban Development Minister Shri Eknath Shinde.

Thus a petition has been filed before Hon'ble High Court regarding the same. Mbmc Lawyers are working on these case from the Civic Chief's Side , and therefore to gain complete information about the case I had made an application under RTI Act seeking documents available with mbmc law department regarding the same. Hence , ***NO QUESTION ARISES OF UNWANTED INVASION OF PRIVACY & THE SEEKED INFORMATION IS IN LARGER PUBLIC INTEREST*** , as the 12 - 15 lakh Citizens of the city have the right to know about the government and the way it functions while making decisions, this is what the Right to Information Act endeavours.

Even if it is felt that the information is not the result of any public activity or disclosing it would be an unwarranted invasion on the privacy of an individual, before denying information it must be subjected to the acid test of the proviso: 'Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.' The proviso is meant as a test which must be applied before denying information claiming exemption under Section 8 (1) (j).

Hence, when a PIO, FAA, Information Commissioner or judge invoke the exemption under Section 8 (1)(j). they must first come to the subjective conclusion that they would not provide the information to MPs and MLAs and record this when denying information to citizens.

In giving your decision I request you to first determine whether the information sought is a result of a private activity; secondly whether it relates to the privacy of the individual and would violate 'decency or morality'. Even if you feel that one of these applies, please record your subjective assessment that you would deny the information to Parliament or State Legislature. Otherwise, the denial will not be in consonance with the RTI Act or the Constitution.



For your convenience and reference I am also quoting the ratio decidendi of the Supreme Court judgement in R Rajagopal and Anr. v state of Tamil Nadu (1994), SC which states: "26. We may now summarise the broad principles flowing from the above discussion : The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a &quot;right to be let alone&quot;. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above - indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104



respectively of the Constitution of India, represent exceptions to this rule.”

This judgement effectively lays down that matters of public records cannot claim privacy, unless it relates to violation of 'decency or morality'. This reiterates the principle in Article 19 (2) of the constitution.

If you disagree with this contention, please record your disagreement giving reasons for such determination. It is my submission that all personal information is not exempt from disclosure by law, hence there is no reason to establish a larger public interest. This would be necessary only when the information is exempt. The denial of information is not in consonance with the law and hence is an error.

I do not wish to come for a hearing and request you to pass an appropriate order based on my written submission.

Relief Sought: Please direct the PIO to send the information within 7 days, as the denial is not as per law. Direct him/her to send the information free of charge as per Section 7(6) since the information has not been provided within the mandated period of 30 days.

Note:- If however you disagree with my contentions please mention in your order the point wise reasons.



**Jatin Kamal Dadhich**

**A-202 , Indraprasth ,**

**New Golden Nest,**

**Bhayander (East)**

**976877900 / 7977055266**





माहितीचा  
अधिकार

दुरध्वनी क्र.२८१९३०८७,

अपिलीय अधिकारी तथा उपायुक्त (विधी)

यांचे कार्यालय, मिरा भाईंदर महानगरपालिका,  
भाईंदर (प.), ता.जि.ठाणे ४०११०१.

जा.क्र.माअधि/अपिल/१५४/२०२१

दि.०४/०१/२०२२.



प्रथम अपिलीय अधिकारी तथा उपायुक्त (विधी), मिरा भाईंदर महानगरपालिका यांचे समोर माहितीचा  
अधिकार अधिनियम २००५ च्या कलम १९ (१) अंतर्गत दाखल झालेले प्रथम अपील.

श्री.जतीन कमल दाधीच,

ए-२०२, इंद्रप्रस्थ, मिठालाल जैन बंगल्याच्या मागे,  
न्यू गोल्डन नेस्ट, भाईंदर (पूर्व), जि.ठाणे ४०११०५

श्रीम.सई वडके,

जनमाहिती अधिकारी तथा विधी अधिकारी,  
विधी विभाग

अपिलार्थी

मिरा-भाईंदर महानगरपालिका  
विधी विभाग

आवक क्र..... मा.अ.:

दिनांक: 05/01/2022

प्रतिवादा

### -: विवेचन :-

श्री.जतीन कमल दाधीच यांनी माहितीचा अधिकार अधिनियम २००५ नुसार जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग यांचेकडे "मा.आयुक्त यांच्या विरुद्ध मा.उच्च न्यायालय, मुंबई येथे दाखल रिट याचिका क्र.८५५१/२०२१ व रिट याचिका क्र.४१४२/२०२१ बाबत" खालील माहिती मिळणेस दि.२३/११/२०२१ रोजी आर.टी.आय. ऑनलाईन पोर्टलद्वारे माहिती अधिकार अर्ज सादर केला.

- १) मा.आयुक्त यांच्या नियुक्तीबाबत दाखल झालेल्या रिट याचिकेची प्रत.
- २) सदर याचिकेत महानगरपालिकेच्या वतीने दाखल केलेले शपथपत्र.
- ३) सदर याचिकेसंदर्भात कोणत्याही विभागासोबत, शासकीय कार्यालयासोबत, मा.सचिव, मंत्रालय यांच्यासोबत केलेला पत्रव्यवहार.

### अपिल दाखल करण्याची कारणे:-

जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग यांनी दिलेली माहिती समाधानकारक नसल्याने अपिलार्थी अर्जदार यांनी दि.२२/१२/२०२१ रोजी प्रथम अपिलीय अधिकारी तथा उपायुक्त (विधी) यांचेकडे प्रथम अपिल दाखल केले.

### सुनावणीचा तपशिल:-

अपिलार्थी व जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग यांना प्रथम अपिलाच्या सुनावणीस दि.०४/०१/२०२२ रोजी सकाळी ११.१५ वाजता उपस्थित राहण्याबाबत जा.क्र.मिभामनपा/उपआ.विधी/१९३/२०२१ दि.२९/१२/२०२१ अन्वये कळविण्यात आले आहे.

Jadhav  
Kee  
6/1/2022



सबब, जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग व अपिलार्थी अर्जदार हे सुनावणीस उपस्थित आहेत.


अपिलार्थी यांचा सुनावणी दरम्यान केलेला युक्तिवाद:- दि.२३/११/२०२१ रोजीच्या अर्जान्वये मला समाधानकारक माहिती दिलेली नसून मी कोणत्याही प्रकारची वैयक्तिक माहिती मागितलेली नाही. तसेच मी जे लेखी म्हणणे मांडले आहे त्यानुसार निर्णय पारित करून मला विनाशुल्क माहिती उपलब्ध करून देण्यात यावी.

जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग यांचा सुनावणी दरम्यान केलेला युक्तिवाद:- अपिलार्थी अर्जदारास दि.१५/१२/२०२१ रोजीच्या पत्रान्वये माहिती उपलब्ध करून देण्यात आलेली आहे.

वरील वस्तुस्थिती विचारात घेऊन खालीलप्रमाणे निर्णय देण्यात येत आहे.

**-: निर्णय :-**

- १) जनमाहिती अधिकारी तथा विधी अधिकारी, विधी विभाग यांनी अपिलार्थी अर्जदारास दि.१५/१२/२०२१ रोजीच्या पत्रान्वये माहिती उपलब्ध करून दिलेली असल्याने सदरचे अपिल निकाली काढण्यात येत आहे.
- २) सदर आदेशाविरुद्ध अपील करावयाचे असल्यास मा.राज्य माहिती आयुक्त, महाराष्ट्र, कोकण खंडपीठ, ५ वा मजला, दालन क्र.५२८, कोकण भवन, सी.बी.डी. बेलापूर, नवी मुंबई ४००६१४ यांच्याकडे सदर आदेशाच्या दिनांकापासून ९० दिवसांच्या आत अपील दाखल करता येईल.

  
(मारुती गायकवाड)

प्रथम अपिलीय अधिकारी तथा  
उपायुक्त (विधी)  
मिरा भाईंदर महानगरपालिका

**प्रति:-**

- १) श्री.जतीन कमल दाधीच,  
ए-२०२, इंद्रप्रस्थ, मिठालाल जैन बंगल्याच्या मागे,  
न्यू गोल्डन नेस्ट, भाईंदर (पूर्व), जि.ठाणे ४०११०५.
- २) जनमाहिती अधिकारी तथा  
विधी अधिकारी, विधी विभाग.
- ३) माहिती अधिकार अपिल नस्ती  
प्रथम अपिलीय अधिकारी तथा  
उपायुक्त (विधी) यांचे कार्यालय.