IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2267 OF 2006

The Bhusawal Peoples Co-operative Bank
Limited,
Station Road, Bhusawal,
Taluka : Bhusawal,
District : Jalgaon,
Through its Managing Director .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Co-operation Department,
Mantralaya Mumbai – 32

2. The District Dy. Registrar
Co-operative Societies,
Jalgaon, Dist. Jalgaon

3. The Assistant Registrar,
Co-operative Societies, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon

4. Santosh Namdeo Paratane,
Age : Major, Occu. : Business,
R/o Vidyanagar, Bhusawal Road,
Faizpur, Tq. Yawal,
District : Jalgaon .. Respondents

Shri V. D. Hon, Senior Advocate for the Petitioner
Smt. M. A. Deshpande, A. G. P. for the Respondent Nos. 1 to 3
Shri A. G. Talhar, Advocate for the Respondent No. 4

WITH
WRIT PETITION NO. 6271 OF 2006

The Ahmednagar District Central
Cooperative Bank Ltd.,
Station Road, Ahmednagar
Through its Information Officer /
General Manager .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary for Cooperation,
Maharashtra State, Mantralaya,
Mumbai

2. The Chief Information Commissioner,
Maharashtra State, 13th floor,
New Administrative Building,
Madam Cama Road, Opposite Mantralaya,
Mumbai 400 032
[Respondent No. 2 is dismissed as per Registrars
Court order dated 13/07/20009]

3. The Divisional Joint Registrar,
Cooperative Societies, Nashik Division,
Nashik

4. Shri BabanraoDadaba Dhakane,
Age : Major, Occu. : Agriculture,
R/o. : Pathardi, Tq. : Patahardi,
Dist. : Ahmednagar .. Respondents

Shri N. D. Sonawane, Advocate for the Petitioner
Smt. M. A. Deshpande, A. G. P. for the Respondent Nos. 1 and 3
Shri S. V. Kurundkar, Advocate for the Respondent No. 4

WITH

WRIT PETITION NO. 7601 OF 2005

Vikas Sahakari Sakhar Karkhana Ltd.,
Vaishali Nagar, Nivali, Tq. and Dist. : Latur,
Through its Managing Director,
S. D. Boknare, Age : Major, Occu. : Service,
Resident of Latur, Dist. : Latur .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Cooperation, Mantralaya, Mumbai

2. The Regional Joint Director of Sugar,
Nanded

3. Babu Hanumantrao Khandade,
Age : Major, Occu. : Agriculture,
Resident of Gangapur,
Tq. and Dist. : Latur .. Respondents

Shri V. D. Hon, Senior Advocate for the Petitioner
Smt. M. A. Deshpande, A. G. P. for the Respondent / State
Shri N. D. Kendre, Advocate for the Respondent No. 3

CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.
DATE : 24TH MARCH, 2015.

ORAL ORDER *(Per S. V. Gangapurwala, J.)* **:**

1) All these matters challenge the order passed by the authorities under the Right to Information Act, 2005. According to Mr. Hon learned Senior Counsel, the petitioners are the Co-operative Banks registered under the provisions of Maharashtra Co-operative Societies Act. According to the learned counsel the provisions of Right to Information Act, 2005 would not be applicable to the petitioner Co-operative Societies. The Registrar of Co-operative Societies exercises only supervisory, regulatory and indirect control and the real control is exercised by the Management or the governing body of the society. The Managing Body is elected from the members of the General Body. There is no substantial control nor the petitioners are substantially financed by the State. As such the Co-operative societies do not come within the ambit and purview of the public authority as defined under section 2 (h) of the Right to Information Act, 2005. The learned Senior Counsel relies on the judgment of the Apex Court in a case of **Thalappalam Ser. Coop. Bank Ltd. and Others V/s State of Kerala and Others** reported in **2013 AIR (SCW) 5683**so also the judgment of the Division Bench of this

Court in a case of **Agriculture Produce Market Committee V/s Meghraj Pundlikrao Dongre and Others** reproted in **2011 (5) Bom. C. R. 128**.

2) Mrs. Deshpande the learned A. G. P. submits that, the petitioner Banks come within the ambit and purview of the definition of public authority as defined under the Right to Information Act, 2005. Even proviso to section 8 (j) of the Right to Information Act, 2005 would be relevant. The said aspect has been considered by the authority while delivering impugned judgment in writ petition No. 6271 of 2006. According to the learned A. G. P. there is a direct control of the Registrar Co-operative Societies over the working of the Co-operative Societies. Even many times State gives counter guarantee to the Sugar Factories.

3) Mr. Kurundkar the learned counsel for the respondent No. 4 in writ petition No. 6271 of 2006 also adopts the arguments of learned A. G. P.

4) We have considered the submissions. The Apex Court in a case of **Thalappalam Ser. Coop. Bank Ltd. and Others V/s State of Kerala and Others** referred supra

observed that the Co-operative Society in the said case was not substantially financed by the State. It further held that the degree of finance must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable etc. The control should also be of a substantive nature and not mere supervision or regulation.

5) The petitioner Co-operative societies are not creature of statute but are registered under the Maharashtra Co-operative Societies Act. In the present case also the contention of petitioners is that they are not substantially financed by the State. The said statement is not controverted by the State or any of the respondents. In view of the same the petitioner societies would not come within the purview of the definition of public authority as enshrined under section 2 (h) of the Right to Information Act, 2005. The Division Bench of this Court in a case of **Agriculture Produce Market Committee V/s Meghraj Pundlikrao Dongre and Others** referred supra in para 14 had observed as under -

> *"We, thus, hold that the appellant/ Market Committee is established and constituted as an institution of self-Government and is a local Authority and by law made by the State Legislature. Consequently, the provisions of the RTI Act do apply to the appellant / APMC.*

> *Before parting with the judgment, looking to the increase in number of scams in the Co-operative Credit Societies, Urban and Other Co-operative banks due to frauds played by the persons within the Society or the bank causing severe losses to the poor depositors and since the money of the depositors is involved in such societies / banks, it would be far better to cover all the Co-operative Credit Societies / banks etc. under the RTI Act. We recommend accordingly to the Central Government. In the result, we find no merit in the present appeal. Hence, the L. P. A. is dismissed."*

This also shows that, the Division Bench of this Court had held that, the Co-operative Societies/Banks do not come within the ambit of Right to Information Act, 2005 and recommendation was made to the Central Government to take steps to bring it within the ambit of Right to Information Act, 2005.

6) Considering the aforesaid aspects of the matter the impugned orders are quashed and set aside. Rule is accordingly made absolute. No costs.

[A. I. S. CHEEMA, J.] **[S. V. GANGAPURWALA, J.]**

sam/March. 15