

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 992 OF 2009

Ahmednagar Zilla Maratha Vidya
Prasarak Samaj Ahmednagar,
Laltaki Road, Ahmednagar, Dist.
Ahmednagar, Lal Taki Road,
Ahmednagar through its
President Genuji Dagduji Khandeshi,
Age : 62 Years, Occu. : Business,
R/o Agarkar Mala, Station Road,
Ahmednagar, Dist. Ahmednagar. .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Law and Judiciary Department,
Mantralaya, Mumbai.
2. The State Information Commission,
Mumbai, Bench at Aurangabad,
Through the State Information
Commissioner, Aurangabad.
3. Sham S/o Suram Shinde,
Age : Major, Occu. : Nil,
R/o C/o Nilesh Satyawam Mhase,
Irrigation Colony, Fakirwada,
Ahmednagar, Dist. Ahmednagar. .. Respondents

Shri Ashwin V. Hon, Advocate h/f Shri V. D. Hon, Senior
Advocate for the Petitioner.

Mrs. M. A. Deshpande, A.G.P. for Respondent Nos. 1 and 2.
The Respondent No. 3 served.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 14TH JANUARY, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. The petitioner assails the application filed by the respondent No. 3 dated 26.12.2008 under the Right to Information Act on the ground that said Act is not applicable to the petitioner.

2. Mr. Hon, the learned counsel submits that, the petitioner is a society registered under the Societies Registration Act inter alia the Bombay Public Trust Act (now the Maharashtra Public Trust Act).

3. According to the learned counsel, the petitioner did not receive any grant from the Government nor is financed by the Government or a public body. It is a self financed institution, as such the Right to Information Act is not applicable to it. The learned counsel relies on the judgment of the learned Single Judge of this Court in a case of ***Nagar Yuwak Shikshan Sanstha and another Vs. Maharashtra State Information Commission and another*** reported in **2010 (5) Bom.C.R. 227**, so also the judgments of the Apex Court in a case of ***Thalappalam Ser. Coop. Bank Ltd. and others Vs. State of Kerala and others*** reported in **2013 AIR**

(SCW) 5683 and in a case of ***Agriculture Produce Market Committee Vs. Meghraj Pundlikrao Dongre and others*** reported in 2011(5) Bom.C.R. 128.

4. The respondent No. 3 though served is absent.

5. Mrs. Deshpande, the learned A. G. P. submits that, the petitioner is performing activity in which public at large are interested. The substantial finance may not be sole criteria for bringing the petitioner society within the realm of the Right to Information Act.

6. There is nothing on record put forth by respondents to show that the Right to Information Act would be applicable to the petitioner. The petitioner is not financed by the State. It is also not pointed out that, there is a substantial control of Government. The Apex Court in the case of ***Thalappalam Ser. Coop. Bank Ltd. & ors. Vs. State of Kerala & ors.*** reported to supra has observed that, the degree of finance must be actual, existing, positive and real to a substantial extent and not moderate, ordinary, tolerable, etc. The control should also be of a substantive nature and not mere supervision or regulatory. In the present case, nothing is pointed out by the respondent No. 3 or the State to show that it has control on substantive nature over the petitioner. Considering the facts of the present case and

the judgment in the case of ***Nagar Yuwak Shikshan Sanstha and another Vs. Maharashtra State Information Commission and another*** referred to supra, we allow the present petition in terms of prayer clause "B". Rule is made absolute in above terms.

Sd/-

[A. M. BADAR, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Jan. 16