

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3758 OF 2009

Kopergaon Sahkari Sakhar Karkhana
Ltd., At Gautam Nagar, Post
Kolpewadi, Tq. Kopergaon,
Dist. Ahmednagar, through its
Managing Director
Girish S/o Jagannath Jagtap
Age : 52 years, Occ : Service,
R/o Gautamnagar, Kolpewadi,
Tq. Kopargaon, Dist. Ahmednagar.

.. **Petitioner**

Versus

1. The Regional Joint Director of Sugar
Trilok Chamber, Laltaki Road,
Ahmednagar.
2. Deeliprao Naiku Thorat,
Age : 45 Years, Occu. : Nil,
R/o Kolpewadi, Tq. Kopergaon,
Dist. Ahmednagar.
3. Avinash S/o Jaganath Mohite,
Age : Major, Occ : Agri.,
R/o Rethare (Bk), Tq. Karhad,
Dist. Satara.

.. **Respondents**

...
*Mr. R. N. Dhorde, Senior Counsel, i/b Mr. P. S. Dighe : Advocate for
Petitioner.*

*Mr. S. N. Morampalle : AGP for Respondent No.1.
Mr. Patil Vinod Prakash: Advocate for Respondent No.3.
Respondent No.2 is Served - Absent.*

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

DATE : 9th FEBRUARY, 2016.

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

1] We have heard Mr. R. N. Dhorde, the learned senior counsel for petitioner and the learned Assistant Government Pleader for the respondent No. 1. The respondent No. 2 though served is absent.

2] Mr. Dhorde, the learned senior counsel relies on the judgment of the Apex Court in the case of ***Thalappalam Ser. Coop. Bank Ltd. and others Vs. State of Kerala and others*** reported in **2014(1) All MR 451(S.C.)** and contends that the petitioner No. 1 Karkhana which is a co-operative society is not substantially financed by the State and it also does not have substantial control over the same, as such, the Right to Information Act is not applicable.

3] The learned Assistant Government Pleader submits that, the Right to Information Act is very much applicable to the petitioner.

4] The aforesaid issue is no longer res-integra. We have considered the submissions canvassed by the learned for respective parties. 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 Cooperative 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 Cooperative societies are not creature of statute but are registered under the Maharashtra Cooperative Societies Act. In the present case also the contention of Petitioner 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*** reported in **2011 (5) Bom. C. R. 128**, 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 Cooperative Credit Societies, Urban and Other Cooperative 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 Cooperative 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 Cooperative 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] In the result writ petition is allowed. The impugned communication is quashed and set aside. Rule is accordingly made absolute. No costs.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-