

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6778 OF 2007

- 1] Mahatma Gandhi Mission,
through its Secretary,
N-6, Cidco, Aurangabad.
- 2] Mahatma Gandhi Mission's
College of Education,
through its Principal,
N-6, Cidco, Aurangabad. ... **Petitioners**

Versus

Nagraj s/o Chandba Gaikwad,
Age : 35 years, Occu : Social Service,
R/o New Pahadsing Pura,
Aurangabad Caves Road,
Aurangabad. ... **Respondent**

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Advocate for Petitioners : Mr. V. D. Salunke.
Advocate for Respondent Sole : Mr. S. S. Thombre.

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

DATE : 1st March, 2016.

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

1] The judgment and order passed by the State Information Commission is assailed in the present writ petition. The respondent sought certain information from the petitioner institution. The application, it appears, is made to the petitioner No.2. The said information is not supplied. An appeal is filed before the State Information Commissioner by the respondent. Same is allowed.

2] Mr. Thombre, learned counsel for the respondent submits that the State Information Commissioner has rightly passed order as the petitioners have failed to provide the necessary information. The State Information Commissioner has directed the petitioners to provide the necessary information. Petitioners are required to provide the same as per Section 2(h) of the Right to Information Act, 2005.

3] According to petitioners, the petitioner No.2 is not substantially financed or supervised by the State. As such, Section 2(h) of the Act, would not apply. It has been held by the Apex Court in the case of ***“Thalappalam Ser. Coop. Bank Ltd. and Ors. Vs. State of Kerala and Ors.”*** reported in ***2014(1) ALL M.R. 451***, 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.

4] 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.

5] Nothing is brought on record that the petitioner No.2 is financed by the Government or is substantially controlled by the State Government. In view of that, the impugned order is quashed and set aside. Rule made absolute in above terms. No costs.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-