

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

Writ Petition No. 6968 of 2009

District : Jalgaon

Saptashrungi Mahila Doodh Utpadak
Sahakari Sanstha Limited,
At Tapatkothara Road, Warangaon,
Taluka : Bhusawal, District : Jalgaon,
Through its Manager,
Atul s/o. Ravindra Zambre,
Age : 32 years,
Occupation : Service,
R/o. Warangaon, Taluka : Bhusawal,
District : Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
Through the Secretary for
Co-operation Department,
Mantralaya, Mumbai.
2. The Appellate Authority and the
Regional Dairy Development Officer,
Nashik Division,
Government Milk Scheme,
Tryambak Road, Nashik,
District : Nashik.
3. The Assistant Registrar (Milk),
Jalgaon, and the Information Officer,
Jalgaon, District : Jalgaon.
4. Uttam s/o. Kashiram Ingle,
Age : 45 years,
Occupation : Social Work,
R/o. at Susri,
Post : Warangaon,
Taluka : Bhusawal,
District : Jalgaon.

.. Respondents.

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*Mr. A.V. Hon, Advocate, holding for
Mr. V.D. Hon, Senior Advocate, for the petitioner.*

*Ms. S.S. Raut, Asst. Government Pleader, for
respondent nos.1 to 3.*

Mr. J.M. Murkute, Advocate, for respondent no.4 (Absent).

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

DATE : 5TH FEBRUARY 2016

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

1. The petitioner impugns the notices issued by respondent no.3 i.e. Assistant Registrar of Cooperative Societies (Dairy), Jalgaon, directing to give information as sought by respondent no.4.

2. Mr. Hon, the learned Counsel for the petitioner, submits that the petitioner is a Cooperative Society registered under the Maharashtra Cooperative Societies Act 1960. It does not receive any funds from the Government nor is under the control of the Government. The petitioner is not liable to give information even under the Right to Information Act. Even respondent no.4 is not member of the petitioner - Society and is a stranger.

3. The learned Asst. Government Pleader for respondent nos.1 to 3 submits that the information which the Assistant Registrar is seeking

from the petitioner - Society, the petitioner - Society is liable to give the said information. The petitioner - Society cannot claim any secrecy in the same and is duty bound to provide it. The Assistant Registrar is entitled to call for the information as asked by respondent no.4 from the Society.

4. None present for respondent no.4.

5. This Court had granted interim relief in terms of prayer clauses "D" and "E" at the time of admission of the Writ Petition.

6. Even the State in the affidavit has admitted that the petitioner does not receive any funds of financial assistance from the State.

7. In Writ Petition No. 4752 of 2008 and companion petitions, decided on 10th April 2015, we had observed as to how the Society registered under the Cooperative Societies Act would not come within the ambit of public authority. In paras 4 and 5 of the said judgment, we had observed thus :-

“4. We have considered the submissions canvassed by the learned Counsel for the respective parties. 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, 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 Vs. 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 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."

8. In view of the above, the Writ Petition is allowed.

The impugned notices dated 7-7-2009, 28-8-2009 and 5-10-2009, issued by respondent no.3 i.e. Assistant Registrar, Co-operative Societies (Milk), Jalgaon, are quashed and set aside.

9. Rule is made absolute in the above terms. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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