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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**LETTERS PATENT APPEAL NO. 14 OF 2014  
IN  
WRIT PETITION NO. 10595 OF 2011**

Yateemkhana & Madarasa Anjuman Khairul  
Islam Trust & Anr. ...Appellants

Vs.

The State of Maharashtra & Ors. ...Respondents

Mr. Mohan Jayakar a/w. Mr. Karan Adik, Mr. Hussein Bengali  
i/b. Jaykar & Partners, Advocates for the Appellants  
Mr. Asif Patel, AGP for Respondent No.1  
Mr. Amit Gharte i/b. J.D. Khairnar, Advocate for Respondent No.3

**CORAM : SHANTANU S. KEMKAR &  
M.S. KARNIK, JJ.  
DATED : 19<sup>TH</sup> JULY, 2016**

P.C. :

Parties through their Counsel. This Letter Patent Appeal is filed by the Appellants challenging the order dated 31<sup>st</sup> January, 2012 passed by the learned Single Judge of this Court in Writ Petition No. 10595 of 2011. According to the learned Counsel appearing for the Appellants the learned Single Judge while deciding the controversy as to whether the Petitioner College is covered under the definition of public

authority as defined under Clause Section 2(h)(d)(ii) of the Right to Information Act, 2005 (for short the Act) has rejected the Petitioner's contention only on the ground that as the Petitioner College is getting grant-in-aid partially it is clear that the Petitioner College is a body which is substantially financed by funds provided by the Government and therefore, it is 'public authority'.

2. The contention of the learned Counsel for the Appellant is that in view of the judgment ***dated 7<sup>th</sup> October, 2013*** passed by the Supreme Court in the case of ***Thalappalam Ser. Coop. Bank Ltd. & Ors. Vs. State of Kerala & Ors in Civil Appeal No. 9017 of 2013*** the learned Single Judge was required to see as to whether the Petitioner is substantially financed as defined under Section 2 (h)(d)(i)(ii) of the Act. Relying on the said judgment of the Supreme Court it has been contended by the learned Counsel for the Appellants that the learned Single Judge has not dealt with the issue as to whether the grant-in-aid which has been received by the Petitioners would be covered under the term Substantially

financed as mentioned in Section 2(h)(d)(i)(ii) of the Act.

3. On the other hand learned Counsel appearing for the Respondent No.3 has supported the impugned order passed by the learned Single Judge and has contended that as the Petitioners College is getting grant-in-aid, which is more than Rs. 80 lakhs, it cannot be said that the Petitioners are not substantially financed by the Government.

4. Having considered the submissions made by the parties we find that the learned Single Judge has proceeded in the matter by assuming that since the Petitioners are getting grant-in-aid, the Petitioners are substantially financed. Merely because the Petitioners are getting grant-in-aid that itself cannot be said that Petitioners are substantially financed. All the relevant facts and figures ought to have been taken into consideration by the learned Single Judge before recording the said findings. Having not done so in our considered view the impugned order passed by the learned Single Judge deserves to be set aside. We accordingly set

aside the impugned order and remit the matter to the learned Single Judge for deciding the Writ Petition afresh.

**(M.S. KARNIK, J.)**

**(SHANTANU S. KEMKAR, J.)**