214 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No. 5789 of 2014
Date of decision:10.05.2016

Ramgarhia Polytechnic College
.........Petitioner

versus

State Information Commission, Punjab and another
..........Respondent

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Rahul Sharma, Advocate
for the petitioner.

Mr. Suresh Singla, Addl.AG, Punjab.

Mr. O.P.Sharma, Advocate
for respondent No. 2.

Rakesh Kumar Jain, J.(Oral)

This petition is filed to challenge the order dated 13.03.2014 (Annexure P-4) passed by respondent No. 1.

In short, the petitioner college has been set up by the Ramgarhia Educational Council. On 31.08.2013, respondent No. 2 filed an application under the Right to Information Act, 2005 (for short, 'the Act') seeking certain information from the Public Information Officer, Office of Secretary Department Technical Education and Industrial Training. The said application was forwarded on 23.09.2013 to the petitioner college by the Public Information Officer. The petitioner college declined to provide information on the ground that it is not a public authority within the meaning of Section 2 (h) of the Act and that the information sought by respondent No. 2 was a personal information and it has no concern with the public activity or interest.

Aggrieved against the decision on the part of the petitioner to supply the information, respondent No. 2 preferred an appeal registered as CC No. 4259 of 2013. The said appeal has been decided by the Chief Information Officer vide impugned order dated 13.03.2014 and the hence, the present petition has been filed.

The first and foremost issue raised by counsel for the petitioner is "*as to whether the petitioner falls within the definition of 'Public Authority' under Section 2(h) of the Ac*t".

It is contended by counsel for the petitioner college that though the appropriate Government includes, body owned, controlled or substantially financed but in so far as the petitioner is concerned, it is not substantially financed by the Government as it is receiving 95% grant in aid i.e. amounting to ₹ 52,40,000/- i.e. 14.2% of the total towards expenditure. In support of his submission, he has relied upon a single bench judgment of the Bombay High Court(Nagpur Bench) rendered in the case of *Nagar Yuwak Shikshn Sanstha, Wanadongir, Nagpur vs. Maharashtra State Information Commission, Vidarbha Region, Nagpur 2010(5) BCR 227*.

On the other hand, counsel for the respondent has submitted that '*Substantially Financed'* is not defined in the Act and according to him, the amount of ₹ 52,40,000/- given to the petitioner towards 95% grant in aid is a substantive amount. He has also submitted that the petitioner is a '*Public Authority*' and in this regard relied upon a division bench judgment of this Court, rendered in the case of *Principal, M.D.Sanatan Dharam G.C. vs. State Information Commissioner, Haryana and others 2008(1) R.C.R. (Civil) 495* in which it has been held that if a institute or private college is receiving 95% aid from State to meet expenses then it would come within the expression of 'Public Authority' under Section 2(h)(d)(ii) of the Act.

I have heard learned counsel for the parties and perused the available record.

In order to appreciate the rival contentions, it would be relevant to refer to 2(h) of the Act which reads as under:-

> (h)"public authority" means any authority or body or institution of self-government established or constituted,—
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> (a)by or under the Constitution;
>
> (b) by any other law made by Parliament;
>
> (c) by any other law made by State Legislature;
>
> (d) by notification issued or order made by the appropriate Government, and includes any—
>
> (i) body owned, controlled or substantially financed;
>
> (ii)non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;
>
> (i)"record" includes—
>
> (i) anydocument,

manuscript and file;
(ii)anymicrofilm,
microfiche and facsimile
copy of a document;
(iii) any reproduction of image
or images embodied in
such microfilm (whether
enlarged or not); and
(iv) any other material produced
by a computer or any other
device;

There is no dispute that the petitioner is getting 95% grant in aid from the Government to the tune of ₹ 52,40,000/- per year.

However, the stand taken by counsel for the petitioner is that the said grant in aid is not sufficient to meet all the expenses and thus, it is not substantial to come within the purview of Section 2(h)(d)(i) of the Act. In so far as, the decision in the case of *Nagar Yuwak Shikshan Sanstha(supra)* the Nagpur Bench has held that in order to hold that if the institution is substantially financed, there must be material on record. In the present case, the material has been brought on record by the petitioner itself, saying that ₹54,20,000/- is being received by the petitioner towards grant in aid. As regards the decision in the case of Principal, M.D.Sanatan Dharam Girls College(supra) the division bench has come to the conclusion that in case there is 95% aid received from the State by the privately aided college, it would fall within the definition of Section 2(h) (d) (i) of the Act. I agree with the view taken by the division bench of this Court because the question as to whether the college is substantially financed or not is subjective but admittedly the petitioner college is being paid ₹52,40,000/- by the respondent State as 95% grants in aid.

In view of the aforesaid discussion, I do not find any merit in the present petition and the same is hereby dismissed. The petitioner is directed to provide information to respondent No. 2 within a period of 30 days from the date of presentation of certified copy of this order.

[Rakesh Kumar Jain]
Judge

10^{th} May, 2016

Shivani Kaushik