

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No.1675 of 2012**

Bholaram Sahu S/o Late Dhanwa Sahu, Aged 70 years, Vill. And Post Bhilai Via Arang, Tahsil Arang, District Raipur (CG)

----Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Department of General Administration, Mantralaya DKS Bhawan, Raipur (CG)
2. Chief Information Commissioner Chhattisgarh State Information Commission, Mira Datar Road Shankar Nagar, Raipur (CG)
3. General Manager, Zila Kendriya Sahkari Bank, Raipur, District Raipur (CG)
4. Branch Manager, Zila Sahkari Kendriya Bank Maryadit Branch Arang, District Raipur (CG)
5. Manager, Gramin Sahkari Sakh Samiti Village Bhilai PO Bhilai Via Arang, Tahsil Arang, District Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Salim Kazi, Advocate
For Respondent No.1	:	Mr.Avinash Singh, P.L.
For Respondent No.2	:	Mr.Shyam Takchandani, Advocate
For Respondent No.3	:	Mr.S.C.Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****24/07/2018**

1. The petitioner's application seeking right to information has been rejected by the Public Information Officer and First Appellate Authority and finally Second Appellate Authority / State Information Commission holding that respondent No.5-Gramin Sahkari Sakh Samiti is not "public authority" within the meaning of Section 2(h) of the Right to Information Act, 2005 (hereinafter called as 'RTI Act'), against which, this writ petition has been filed by the petitioner herein.

2. Learned counsel for the petitioner would submit that respondent No.5 is “public authority” within the meaning of Section 2(h) of the RTI Act, therefore, the order passed by the State Information Commission deserves to be dismissed.
3. Learned State Counsel and counsel for the private respondents would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.
5. This Court in **Zila Sahakari Kendriya Bank Maryadit, Jagdalpur v. State Information Commission and Another**¹ has clearly held that Zila Sahakari Kendriya Bank Maryadit, Jagdalpur does not come within the purview of “public authority” as defined under Section 2(h) of the RTI Act and therefore, the provisions of the RTI Act are not applicable to the said Bank by holding as under:-

“20. The aforesaid statutory scheme of control by State and its functionaries in the matter of registration, framing and enactment of bye-laws and function of Co-operative Societies including a Co-operative Bank goes to show that the nature of control exercisable by the State and its functionaries in respect of the Co-operative Societies is regulatory in nature. Therefore, such regulatory nature of control in the absence of there being any other attributes, of deep and pervasive control in administration, financial and functional spheres, leads to the conclusion that the Co-operative Societies in general and Co-operative Bank like the petitioner one do not come within the control of such degree as it intended under (i) of Clause 2(h) of the Act of 2005 defining “public authority”

21. In the case of Dr.Panjabrao Deshmukh Urban Co-operative Bank Ltd. (supra), similar issue arose for determination as to whether the bank registered under the Co-operative Societies Act fall within the meaning of “public authority” u/s 2(h) of the Act of 2005. Applying the test laid down by the Supreme

¹ (2011) 4 MPHT 20

Court in the case of S.S. Rana Vs. Registrar, Co-operative Societies and Another, and Ajay Hasia and others Vs. Khalid Mujib Sehravardi and Others, and the statutory scheme of control over a Cooperative Bank under Maharashtra Co-operative Societies Act, 1961, it has been held that Co-operative Bank does not come within the purview of “public authority” as defined u/s 2(h) of the Act of 2005. I am in respectful agreement with the view taken by the learned Single Judge in the aforesaid decision. In the final analysis, I have to hold that the petitioner-Co-operative Bank in the present case, on the basis of the material adduced before this Court in the light of the statutory scheme of Act of 2005 and Chhattisgarh Co-operative Societies Act, 1961, does not come within the purview of “public authority” as defined u/s 2(h) of the Act. Consequently, the provisions of the Act are not applicable to the petitioner-Co-operative Bank and the order passed by the Chief Information Commission is in excess of authority under the law. In view of what has been held, it is not necessary for this Court to examine other issues raised by the petitioner. The order of the Chief Information Commission dated 26-9-2008 (Annexure P-1) is hereby set aside. The petition is accordingly allowed. There shall be no order as to cost(s).”

6. Likewise, the Supreme Court in the matter of **Thalappalam Ser. Coop.Bank Ltd. And Others v. State of Kerala and others**²

while dealing with Kerala Co-operative Societies Act, 1969 held as under:-

“54. We, therefore, hold that the Cooperative Societies registered under the Kerala Co-operative Societies Act will not fall within the definition of “public authority” as defined under Section 2(h) of the RTI Act and the State Government letter dated 5.5.2006 and the circular dated 01.06.2006 issued by the Registrar of Co-operative Societies Kerala, to the extent, made applicable to societies registered under the Kerala Co-operative Societies Act would stand quashed in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. Appeals are, therefore, allowed as above, however, with no order as to costs.”

7. Reverting to the facts of the present case, it is quite vivid that both the authorities have concurrently held that respondent-

² AIR 2013 SC (Supp) 437

Gramin Sahkari Sakh Samiti does not come within the purview of “public authority” as defined under Section 2(h) of the RTI Act, which is based on material available on record. I do not find any merit in this writ petition.

8. Accordingly, the writ petition deserves to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-