

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.162 OF 2011**

M/s. Goa State Co-operative
Milk Producer's Union Ltd.,
A Co-operative Society,
Curti Ponda-Goa 403 401,
Represented by its
Managing Director,
Shri Sadanand K. Kulkarni

... Petitioners

versus

1. Goa State Information Commission
at Panaji, Through its State
Chief Information Commissioner,
Having office at Shram
Shakti Bhawan, Panaji-Goa.
2. Shri Kashinath Shetye,
R/o. Bambino Building,
Alto Fondvem, Ribander,
Tiswadi-Goa.
3. Public Information Officer,
Deputy Registrar of Co-operative
Societies, Panaji-Goa.
4. Deemed Public Information
Officer, Asst. Registrar of
Co-operative Societies,
Dairy, Ponda-Goa.
5. First Appellate Authority,
Registrar of Co-operative Societies,
"Shakar Sankul", Patto Plaza,
Panaji – Goa.
6. State of Goa,
Represented by,
The Chief Secretary,
Secretariat, Alto Porvorim, Goa.

... Respondents

Shri A.D. Bhobe, Advocate for the Petitioners.
Shri Nigel Da Costa Frias, Advocate for the Respondent No.2.
Shri Amogh Prabhudessai, Additional Government Advocate
for the Respondents No.1, 3 to 6.

Coram:- NUTAN D. SARDESSAI, J.

Reserved on :- 1st AUGUST, 2018

Pronounced on :-14th AUGUST, 2018

JUDGMENT :

This petition under Article 227 of the Constitution of India takes exception to the judgment and order dated 11/02/2011 passed by the respondent no.1 in Appeal No.308/2008 pursuant to which the respondent no.1 directed the respondent no.3 therein i.e. the petitioners herein to furnish the information sought by the respondent no.2 vide his application dated 13/10/2008 within the defined time limit. The respondent no.1 had held the petitioners as a Public Authority within the meaning of Section 2(h) of the Right to Information Act, 2005, 'the Act' for short hereinafter, and secondly directed the respondent no.3 before him to furnish information to the respondent no.2.

2. It was the petitioners' case that it was an Union registered under the Maharashtra Societies Co-operative Act,

1960 with various objectives and the source of its funds was specified in its bye-laws. There was no control of the Government over the financial management or the funds of the petitioners Society which were handled exclusively by the petitioners Society and there was no interference by the State Government. The State Government also did not have any role either in the policy decision or for raising funds for the petitioners Society or for its expenditure. The respondent no.2 had sought for information from the petitioners under the Right to Information Act pertaining to the Society from the Public Information Officer, Department of Co-operation, Panaji which was received in the office of the Registrar of Co-operative Societies.

3. The respondent no.3 who is the Public Information Officer, PIO attached to the office of the Deputy Registrar forwarded the request letter of the respondent no.2 to the petitioners requesting it to furnish the information to the respondent no.2 and to permit the respondent no.2 to inspect the file containing the said information. The respondent no.2 filed an appeal under Section 19 of the Act before the First Appellate Authority on the ground that the information sought

for by him was not furnished to him within a period of 30 days. The petitioners filed its reply in the First Appeal No.10/2008 spelling out that it was not a Public Authority as defined under Section 2(h) of the Act and to drop the petitioners from the proceedings. The First Appellate Authority i.e. the respondent no.5 dismissed the appeal vide the judgment dated 09/01/2009 and thereupon the respondent no.2 filed the Second Appeal No.308/2008 before the respondent no.1 on 09/03/2009. The petitioners filed its reply in the said appeal again spelling out that the information sought for by the respondent no.2 was not pertaining to the petitioners, that the respondent no.3 had acted mechanically in forwarding the letter to the petitioners without verification, that the petitioners were registered under the provisions of the Maharashtra Co-operative Societies Act, 1960, 'the Societies Act' for short hereinafter and did not fall within the purview of Section 2(h) of the Act and therefore the provisions thereof were not applicable to the petitioners. Besides, there was no Notification issued by the Government of Goa extending the applicability of the Act to the petitioners and pressed for the dismissal of the appeal.

4. The respondent no.1 allowed the appeal vide the judgment and order dated 23/04/2010 directing the respondents no.3 and 4 to furnish information to the respondent no.2 as sought for by him by his application dated 13/10/2008. The petitioners however challenged the said order in the Writ Petition No.398/2010 whereupon this Hon'ble Court was pleased to allow the Writ Petition, set aside the order dated 23/04/2010 and remanded the matter to the respondent no.1 to give a finding as to whether the provisions of the Act were applicable to the petitioners Society.

5. The respondent no.1 vide the judgment and order dated 11/02/2011 was pleased to allow the appeal holding the petitioners as a Public Authority within the meaning of the Act, that the Act was applicable to the petitioners and directed the petitioners to furnish the information sought for by the respondent no.2 vide his application dated 13/10/2008. The petitioners are a Society registered under the Co-operative Societies Act and there is no Notification issued by the Government making the Act applicable to the petitioners. The petitioners Society is neither owned nor controlled nor substantially financed by the Government of Goa and

therefore not a Public Authority as defined under the Act or provisions thereof are not applicable.

6. The impugned order was passed by the respondent no.1 without jurisdiction and is liable to be quashed and set aside. The respondent no.1 had committed a jurisdictional error in law by placing reliance on the letter dated 27/07/2005 received from the Government of India, Ministry of Agriculture, Department of Animal Husbandry, Dairying and Fisheries, Krishi Bhawan, New Delhi signed by the Under Secretary, Government of India to infer that the petitioners were a Public Authority as defined under the Act. The said letter could not in any manner assist the case of the respondent no.2 and the question of finance from the Central Government did not arise more so when the documents itself showed that it was the State Government which had to issue Utilization Certificate for the grants received. The respondent no.1 committed a jurisdictional error in placing reliance on the Deed of Lease dated 01/10/1994 to infer that the Petitioners were a Public Authority. The Lease neither amounts to substantial finance nor can the same be read to mean that the same would amount to substantial finance. It rather is an

arrangement to promote operation flood programme. Merely because the petitioner is a lessee of the Government, it would not imply that it is a Public Authority under the Act. The respondent no.1 had committed a jurisdictional error in failing to appreciate that the rules governing the petitioners clearly indicated that the State Government had no role to play either in the policy decision for raising the funds for the petitioners or its expenditure or there was no financial control of the State Government. The respondent no.1 committed a jurisdictional error in failing to appreciate that the bye-laws of the Society would indicate that the petitioners neither performed any Governmental functions nor did the State Government have any effective control over the financial management or over the funds of the petitioners. The impugned order was therefore liable to be interfered with as being perverse, arbitrary and unsustainable in law.

7. Heard Shri A.D. Bhole, learned Advocate for the petitioners who submitted at the outset that the respondent no.1 had not given any findings in the judgment that the Act was applicable to the petitioners or on the control of the Government. He placed reliance in **Thalappalam Service**

Cooperative Bank Limited & Ors. V/s. State of Kerala & Ors. [(2013) 16 SCC 82] to substantiate his case that by no stretch of imagination could the petitioners be treated as a Public Authority under the provisions of the Act and then adverted to the bye-laws thereof. There was no funding or control of the Government and it was a sole authority generating its funds by adverting to its various provisions. There was no material to show that there was Government control or material funding by the Government and therefore it could not be a Public Authority within the meaning of Section 2(h) of the Act nor could it be bound to furnish the information thereunder. The petitioners were not at all a Public Authority and therefore the impugned order had to be quashed and set aside.

8. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 adverted to the Act, its various definitions relating to Information under Section 2(f), Public Authority under Section 2(h), Record under Section 2(i) and the various correspondence on record pursuant to which the respondent no.2 had sought the information from the petitioners. There was non-compliance by the petitioners giving rise to an appeal

which however came to be dismissed by the First Appellate Court. A Second Appeal was filed before the respondent no.1 who directed the respondents no.1 & 2 before it to furnish information within thirty days. The petitioners had challenged the same in the Writ Petition no.398/2010 and by judgment dated 24/11/2010, the judgment of the respondent no.1 was quashed and set aside giving rise to the impugned judgment pursuant to which a direction was issued to the petitioners to furnish the information as sought for by the respondent no.2.

9. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 contended that the information which could be furnished by the petitioners in terms of the Goa Co-operative Societies Act, 2001, the Act of 2001 for short, was that contemplated under Section 73,74,75,76A and therefore the Registrar had powers and access to the financial dealings of the petitioners. It was not a case of the respondents no.3 & 4 that the information sought by the respondent no.2 was not information to which they had no access to or not entitled to have access to. There was no perversity in the finding rendered by the respondent no.1 nor was it shown from the material on record that the information was not exempted

within Section 8 of the Act. He next contended that the petitioners were substantially financed by the Government and were therefore amenable to furnish the information under the Act. He referred to the bye-laws, the affidavit in reply filed by the respondent no.2 in the Writ Petition No.398/2010 and adverted to the citizens charter to show the Government control and substantial finance to the petitioners thereby making the petitioner a public authority within the meaning of Section 2(h)(d)(i).

10. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 adverted to the letters of the Ministry dated 27/07/2005 to buttress his contention that there was substantial control of the Union of India and the State Government on the petitioners apart from the letters written by the Assistant Registrar to the petitioners and the Lease Deed. He adverted to the judgment in **Thalappalam** (supra), and distinguished it on facts. There were sketchy pleadings that there was no Government funding. Besides, although the petitioners had filed their affidavit in rejoinder, there was no statement therein to show that the funds released were not implemented. It was further his contention without prejudice

to his rights that in case it was held by this Court that the petitioners were not a Public Authority, still however directions could be issued to the respondents no.1 & 3 to furnish the information asked for by the respondent no.2 on the basis of the material available with them. He placed reliance in **Rajeshwar Kamgari Sahakari Sanstha Limited V/s. State Information Commissioner & Ors. [2011 (5) ALLMR 69]**, **The Kamal Co-operative Sugar Mills Ltd. & Ors. V/s. State Information Commissioner, Haryana & Anr. [2011 (2) RCR (Civil) 905]** and **Bishop Cotton High School V/s. The Presiding Officer & Ors. [2011 (3) ALLMR 721]**. It was therefore a fit case to dismiss the petition and order the petitioners to comply with the directions issued by the respondent no.1

11. Shri A.D. Bhole, learned Counsel for the petitioners referred to paragraph 22 of the petition and submitted that there were substantial pleadings on the lack of Government funding to the petitioners. The letters of the Ministry referred to on behalf of the respondent no.2 did not at all establish substantial control of the Government and even otherwise no compliance was shown with the said

letters. He adverted to the judgment in **Thalappalam** (supra), to buttress his case on the aspect of want of Government control and otherwise adverted to the rejoinder. The petitioners were not a Public Authority and therefore not bound by the directions issued by the respondent no.1. Last but not the least, the citizens charter did not have any statutory effect and therefore the petition had to be allowed and the order passed by the respondent no.1 had to be quashed and set aside.

12. Shri A. Prabhudessai, learned Additional Government Advocate submitted on the basis of instructions that the Government had no share holding in the petitioners Society. I would consider their submissions, peruse the records, the judgments relied upon and in that light decide the petition. Admittedly, the information in respect of the petitioners was sought by the respondent no.2 by his application dated 13/10/2008 and on the failure of the petitioners to furnish the information was an appeal filed by him before the First Appellate Authority. Admittedly, the First Appellate Authority found favour with the contention on behalf of the petitioners that the petitioners were not a Public

Authority under the Act and dismissed the appeal against which the respondent no.2 filed the Second Appeal. Since directions were given to the respondents no.1 & 2 before the Second Appellate Authority to furnish the information, the petitioners challenged the same in a Writ Petition No.398/2010 and a learned Single Judge of this Court (N.A. Britto, J.) by the order dated 24/11/2010 set aside the judgment of the respondent no.1 and directed him to decide the appeal afresh including giving a finding whether the petitioners were a Public Authority within the meaning of Section 2(h) of the Act as to furnish the information thereunder and thereafter giving rise to the subsequent judgment of the respondent no.1 dated 11/02/2011 culminating in the present petition.

13. Section 2(h) defines a Public Authority and means any authority or body or institution of self-government established or constituted-

(a)

(b)

(c)

(d) by notification issued or order made by the

appropriate Government.

Section 2(f) defines "information" while (i) defines "record" which is inclusive in nature.

Therefore it would be incumbent on a perusal of the definition of a Public Authority contained in Section 2(h)(d)(ii) as to whether the petitioners body falls within the definition of a Public Authority and/or that as a consequence thereof it is covered under the purview of the Act and amenable to give the information claimed thereunder.

14. It was also nobody's case that the information which is sought from the petitioners was exempted from disclosure within the meaning of Section 8 of the Act and therefore the question would not arise whether the information sought for from the petitioners is exempted from disclosure accepting for a moment that it is a Public Authority within the meaning of Section 2(h)(d)(ii). It is otherwise not in dispute or an admitted position that the petitioners have not been notified to be a Public Authority within the meaning of Section 2(h)(d) of the Act and therefore what really remains to be seen is whether on the basis of the material adverted to by Shri Nigel Da Costa Frias, learned Advocate for the

respondent no.2 whether there is substantial financing or control by the Government as to bring the petitioners within the pale of a Public Authority and within the meaning of Section 2(h) of the Act.

15. A cursory perusal of the bye-laws of the petitioners to which attention was invited by Shri A.D. Bhole, learned Advocate for the petitioners would show that the petitioners were a self sufficient body with certain objectives and that it mobilized its funds in the manner provided by bye-law 4 and that it did not avail of any financial obligation or intervention of the Government. Therefore on its plain reading and interpretation, it would be apparent that the petitioners Union was a self sufficient body and that it had no funding or control of the Government with sole authority to generate funds and its functioning being governed through the general body. No doubt there was a Lease Deed dated 01/10/1994 executed in favour of the petitioners in respect of the land in question for the purpose of carrying on its business, nonetheless, it cannot be construed that there was Government control or funding of the petitioners Union as to bring it within the purview of a Public Authority within the predicates of the Act.

16. No doubt Section 73 of the Societies Act requires every Society to maintain its accounts and records, that in terms of Section 74 the accounts maintained by Society are subject to audit and empowering the Registrar if he finds it necessary or expedient to re-audit any or all accounts of the Society, he may, by order, direct such re-audit and the provisions of this Act, applicable to audit of accounts of Society, shall apply to such re-audit in terms of sub-section 8 thereof apart from the powers of the auditors contemplated under Section 75 and all this information being within the public domain under the Act and going a step forward that the Registrar of the Societies has the power and access to the financial dealings of the petitioners. However, unless and until it is shown that the petitioners are a Public Authority, no such information can be called upon to be furnished to the respondent no.2 as asked for by him. Therefore, even accepting the contention of Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 that these provisions of the Societies Act did apply to the petitioners and that they were accessible to the Registrar and it was information in the public domain, no direction could be issued to the petitioners to

furnish the information to the respondent no.2 unless and until it was shown that the petitioners were a Public Authority within the meaning of Section 2(h) of the Act.

17. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 invited attention to the citizens charter to canvass a plea that the petitioners were under the Government control and they were substantially financed so as to make the petitioners a Public Authority within the meaning of Section 2(h)(d)(i) of the Act. In that context, he pointed out to Articles 1, 2 & 6 to make out a case that there was investment by the Government and therefore the petitioners were a Public Authority within the meaning of the Act. However, a bare reference to such statement would not substantiate the case that there was investment by the Government in the absence of any contemporaneous record. For that matter too a reference to the letter of the Ministry dated 27/07/2005 in respect of the administrative approval of the Government of India for the implementation of the Scheme at a total approved costs of ₹2,46,36,000/- for the two districts with ₹1,93,16,000/- as Central Government share cannot buttress the plea of Shri Nigel Da Costa Frias

that there was substantial control of the Union of India and the State Government in the petitioner in the absence of any material to show that such funds were made available to the petitioners and/or that the schemes were implemented at the stated costs by the petitioners.

18. The letter of the Assistant Registrar to the petitioners dated 02/05/2008 too does not substantiate the contention of Shri Nigel Da Costa Frias, that there was substantial control of the Government in the petitioners and to make it a Public Authority within the meaning of Section 2(h) of the Act. Moreover, the petitioners had clearly shown that there was no compliance with these letters from the Ministry of Agriculture to show the control of the Government over the petitioners. Moreover, the petitioners had clearly affirmed at paragraphs 4(a) and 4(b) of their affidavit in rejoinder that the Citizen's Charter was merely an enabling provision and No Share Capital had been provided to the petitioners thereunder. Besides, the Scheme referred to in the impugned judgment was operational only for the year 2005-06 meant for the benefit of the farmers, milk producers, dairy Societies in Goa and not for the benefit of the petitioners who

had merely implemented the Scheme to promote operation flood programme. Last but not the least, there was a clear submission on behalf of the the learned Additional Government Advocate appearing for the respondents no.1,3 to 6 that the Government had no share holding in the petitioners and hence on a consideration of all the material on record, the petitioners could not be said to be a Public Authority within the meaning of Section 2(h) of the Act.

19. In **Thalappalam** (supra), the Hon'ble Apex Court while construing the expression "control" held that the control must be of a substantive nature and not mere "supervision" or "regulation". As regards "substantially financed", the degree of finance must be actual, existing, positive and real to a substantial extent and not moderate, ordinary or tolerable, etc. The words "substantial" is not synonymous with "dominant" or "majority". "Substantially" is closer to "essentially". Mere providing of subsidies, funds, grants, exemption, privileges need not be "substantial" unless the funding is so substantial that the body practically runs by that funding or else it would struggle to exist. Furthermore, the State may also float many schemes generally for the

betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD, etc. but those facilities or assistance cannot be termed as "substantially financed" by the State Government to bring the body within the fold of "Public Authority" under Section 2(h) (d)(i) of the Act. It also spelt out the rationale why cooperative societies and their autonomy are necessary being to encourage economic activities of cooperative societies which in turn would help the progress of rural India.

20. In **Thalappalam** (supra), the question at large before the Apex Court was whether a cooperative society registered under the Kerala Cooperative Societies Act, 1969 would fall within the definition of "Public Authority" under Section 2(h) of the Act and be bound by the obligations to provide information sought for by a citizen under the Act. A full Bench of the Kerala High Court in its judgment in **Mulloor Rural Cooperative Society Ltd. V/s. State of Kerala [AIR 2012 Ker 124]** answered the question in the affirmative upholding the Circular No.23 of 2006 dated 01/06/2006 issued by the Registrar of the Cooperative Societies, Kerala stating that all the cooperative institutions coming under the

administrative control of the Registrar are "Public Authorities" within the meaning of Section 2(h) of the Act and obliged to provide information as sought for. The question was answered by the Full Bench in view of the conflicting views expressed by a Division Bench of the Kerala High Court in Writ Petition No.1688 of 2009 with an earlier judgment of the Division Bench in **Thalappalam** (supra), wherein the Bench took the view that the question as to whether a cooperative society would fall under Section 2(h) of the Act was a question of fact, which would depend upon the question whether it was substantially financed, directly or indirectly, by the funds provided by the State Government which the Court held had to be decided depending upon the fact situation of each case.

21. In **Thalappalam** (supra), it was submitted on behalf of the Society that the view expressed by the Division Bench in **Thalappalam** (supra), was the correct view which called for their approval while the learned Counsel appearing for the State supported the reasoning of the impugned judgment and submitted that such a circular was issued by the Registrar taking into consideration the larger public interest so as to promote transparency and accountability in

the working of every cooperative society in the State of Kerala. A reference was also made to the various provisions of the Societies Act and submitted that those provisions would indicate that the Registrar had got all pervading control over the Societies, including audit, enquiry and inspection and the power to initiate surcharge proceedings including the power to supersede the management of the Society and to appoint an administrator.

22. In **Thalappalam** (supra), the Apex Court considered the function of Public Authority as defined in Section 2(h) of the Act, observed that the Societies admittedly did not fall in such categories because none of them was either a body or institution of self-government, established or constituted under the Constitution, by law made by Parliament, by law made by the State Legislature or by way of a notification issued or made by the appropriate Government, considered the scope of the expression "control", the expression "substantially financed" and observed that the burden to show that a body is owned, controlled or substantially financed or that a non-government organisation was on the applicant who seeks information. The Apex Court

considered the scope and intent of the Act also within the constraints of right to privacy and ultimately held that cooperative societies registered under the said Act would not fall within the definition of a Public Authority under the Act. This judgment substantially supports the case of the petitioners apart from the other contemporaneous material on record.

23. Shri Nigel Costa Frias, learned Advocate for the respondent no.2 has placed reliance in **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra) and **Bishop Cotton High School** (supra) on conclusion of the hearing. In **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra), a Society registered under the Maharashtra Co-operative Societies Act, 1960 with its principal object to provide work to its members was entitled to get Government work on contract basis upto a limit of ₹15,00,000/- in terms of the Government Policy. It was their case that no financial assistance was given by the State Government and the petitioner sustained itself from the funds, which were self generated. The respondent no.3, a Press Reporter of Malkapur town, filed an application seeking various documents

mentioned therein and declined by the petitioner on the ground that the Act was not applicable to it. The respondent no.3 filed an appeal before the First Information Officer of the Co-operative Societies being the Assistant Registrar who allowed the appeal vide the order dated 27/08/2009. The respondent no.3 thereafter filed an appeal before the State Information Commissioner on the ground that the said order had not been complied with by the Assistant Registrar. The petitioner filed a reply contending that the First Information Officer had passed an order without hearing the petitioner and that the petitioner was not a "Public Authority". The State Information Commissioner by the order dated 23/06/2010 disposed off the appeal inter alia holding that though the petitioner was not a "Public Authority" within the meaning of the Act, the information was directed to be provided by the Assistant Registrar in terms of Section 2(f) of the Act giving rise to a review at the instance of the petitioner seeking clarification of the said order. The review application was disposed off by the State Information Commissioner directing the original applicant i.e. the respondent no.3 to approach the Assistant Registrar of Co-operative Societies by making an application and in case such an application was received, the

Assistant Registrar was directed to furnish the information by resorting to his powers under the Maharashtra Co-operative Societies Act, 1960 and impugned in the petition.

24. In **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra), it was contended on their behalf that the Authority under the Act erred in exercising jurisdiction in view of the fact that the Act was not applicable to the petitioner and the petitioner was not a "Public Authority" within the meaning of Section 2(h) of the Act. It was contended on behalf of the State Information Commissioner that the State Information Commissioner had in fact accepted the contention of the petitioner why it was not a "Public Authority" however while relying on Section 2(f) had issued a direction to the Assistant Registrar to provide the information to the applicant by having recourse to the power conferred upon him under the Maharashtra Co-operative Societies Act, 1960 and therefore the petitioner was proceeding on a misconception that the Authority under the Act had issued directions on the ground that the petitioner was a "Public Authority". The learned Single Judge held that there could not be any dispute that the petitioner Society was

not a "Public Authority" within the meaning of the Act which had been accepted by the State Information Commissioner in the order dated 23/06/2010. Nonetheless, the State Information Commissioner after accepting the position that the petitioner was not a "Public Authority" had taken into consideration the definition of "information" as provided for in Section 2(f) and that it included any information relating to any private body, which can be accessed by the Public Authority under any other law for the time being would come within the ambit of "information" as provided for in the said Act.

25. In **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra), the learned Judge observed that the information was sought from the Assistant Registrar of the Co-operative Societies, who is admittedly a Public Authority within the meaning of the Act and that the information being sought in respect of the petitioner Society, can be accessed by the Assistant Registrar under the powers conferred upon him by the Maharashtra Cooperative Societies Act and therefore the State Information Commissioner considering the definition of "information" was within his rights to direct the Assistant

Registrar who is a Public Authority to provide the said information. The fact that the information was in respect of a private body would make no difference as the direction was to a Public Authority and it was precisely to cover a situation that the Legislature thought it fit to provide for a wider definition of the term "information" and accordingly dismissed the petition.

26. Karnal Co-operative Sugar Mills Ltd. & Ors.

(supra), challenged in appeal the judgment of the learned Single Judge dismissing the appellant's Writ Petition against the order of the State Information Commissioner wherein it had held that the appellant was a "Public Authority" under the Act. The appellant had refused to give certain information under the Act which the State Information Commissioner held that the appellant was bound to give such information holding it to be a "Public Authority". The learned Judge considered the definition of "Public Authority" within the meaning of Section 2(h), considered the contention on behalf of the appellant that it was neither a body owned, controlled or substantially financed by the Government, observed that the appellant had not divulged any details about the share holding

of the Government or any other finances which may have been provided by the Government but nonetheless the appellant admitted that it was a Public Authority having itself appointed a Public Information Officer and dismissed the appeal. This judgment has no bearing on the present case and accordingly is distinguishable.

27. The judgment in **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra), was mainly relied upon by Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 to buttress his plea that in the event it was held by this Court that the petitioner was not a "Public Authority" within the meaning of Section 2(h)(d)(i) of the Act, nonetheless the Registrar could be directed to furnish the information which was within its domain.

28. In **Bishop Cotton High School** (supra), it was not in dispute that the petitioner school was not a "Public Authority" as defined under Section 2(h) of the Act. However, it was contended on behalf of the respondent no.3 that the provisions of Section 2(f) were very clear and information in relation to the functioning of the private body which could be

accessed by a Public Authority like the respondent no.2 was needed to be supplied to the respondent no.3. It was pointed out that the respondents no.3 had initially moved the petitioner and thereafter the respondent no.2 Education Officer as an Appellate Authority. He and the learned Counsel on behalf of the respondent no.1 both stated that as the respondent no.2 fit in the definition of a "Public Authority", had therefore owed an obligation to procure such information and furnish it to the respondent no.3. There was no question of the respondent no.2 directing the respondent no.3 to go to the petitioner to procure that information or then directing the petitioner to supply the information to the respondent no.3 and in those terms the order directing the petitioner to supply the information directly to the respondent no.3 was quashed and set aside.

29. It has been earlier observed on a discussion of all the material on record that the petitioners were not a "Public Authority" within the meaning of Section 2(h) of the Act. Nevertheless, the petitioners records being within the domain of the Registrar under the Goa Co-operative Societies Act, 2001, the information sought for by the respondent no.2

could very well be supplied by the Registrar of the Co-operative Societies to the respondent no.2. In view thereof, the finding rendered by the respondent no.1 that the petitioners were a "Public Authority" and consequently amenable to the Act cannot be sustained nor can the petitioners be directed to furnish the information sought for by the respondent no.2 vide his application dated 13/10/2008. In view thereof, i pass the following

O R D E R

- (i) The Writ Petition is allowed.
- (ii) Rule is made absolute and the impugned judgment and order is quashed and set aside. Nonetheless, considering the judgment in **Rajeshwar Majoor Kamgari Sahakari Sanstha Limited** (supra), the Registrar of the Co-operative Societies is directed to furnish the information within its domain pertaining to the petitioners Union to the respondent no.2.
- (iii) In these terms, the petition stands disposed off.

NUTAN D. SARDESSAI, J.

NH