

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

WRIT PETITION NO.4253 OF 2024

D.Y. Patil Education Society's Medical	}	
College	}	
Line Bazar, Kasaba Bavada, Kolhapur, Thr.	}	
Sanjay Pandurang Jadhav, Deputy Registrar	}	
Age-57	}	Petitioner

Versus

1. State Commissioner for Information	}	
Bench, Pune	}	
New Administrative Building, Opp.	}	
Vidhan Bhavan, Pune-411 001	}	

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2. Digambar Dhondiram Ghorpade	}	
Adult, Occ : Retired	}	
R/at No.192, Plot No.3, Laxmi Nagar,	}	
Sakhar Karkhana, Sangli.	}	Respondents

Mr.A.V. Anturkar, Senior Advocate i/b Mr.R.C. Barge, for the
Petitioner.

Mr.Digambar D. Ghorpade, Respondent No.2 present in person.

CORAM : R.M. JOSHI, J.

DATE : 02nd SEPTEMBER 2024

JUDGMENT :-

. This petition challenges order bearing
No.RAMAA/1897+3332/2022/Kolhapur and order bearing

No.RAMAA/2198/2021/Kolhapur dated 18th October 2013 passed under the provisions of Section 19(3) of the Right to Information Act, (for short 'RTI') by Maharashtra State Information Commission Bench at Pune.

2. The Petitioner is Education Society and Deemed University. It is a Trust duly registered under the Maharashtra Public Trust Act, 1950. This Trust had setup D.Y. Patil Medical College, Kolhapur, which is the Petitioner herein. The Respondent No.2 was working as a photographer cum assistant with effect from 6th June 1994 and that he superannuated on 31st October 2020. The Respondent No.2 was interested in getting certain information and therefore two Applications were filed on 18th January 2022 and 19th April 2022.

3. It is a case of the Petitioner that, RTI Act is not applicable to the Petitioner and therefore no Information Officer has been appointed by the Petitioner. As a result of this, the Applications were not replied by the Petitioners. The Respondent No.2 treated this as a rejection and preferred Appeal on 21st April 2022 and 30th June 2022 under RTI Act. It is claimed by the

Petitioner that the copies of the Appeal Memo were not served to the Petitioner. In spite of this, reply to the notice was filed. Both Appeals were allowed by passing impugned order. Hence, this Petition.

4. The learned Senior Counsel appearing on behalf of the Petitioner submits that, there is no dispute about the fact that the Petitioner is Educational Institution and not being financed or controlled directly or indirectly by State and therefore it is not covered under RTI Act. It is his submission that, he has placed reliance on the judgment of full Bench of this Court Nagpur Bench at Nagpur in the case of ***People Welfare Society V/s. State of Information Commissioner, Nagpur Bench, Nagpur*** in Letters Patent Appeal No.466 of 2011 in Writ Petition No.5168 of 2010 (D), Wherein it is held that, the Public Trust is under no obligation to supply information if it does not fall within Clause (i) of Section-2(h) of RTI Act, and has not received any government largesse or land on concession to implement the aim and objects of the said Public Trust. It is also held therein that in case the information solicited in respect of education or other

institutions run by the Public trust then, pending on the extent of financial support given by the State, in case of such finance is found to be substantial, which is a plea to be decided by the Information Commissioner, information relating to such educational and other institution can be directed to be supplied. It is his submission that, in absence of any such condition being fulfilled, the RTI Act has no Application to the Petitioner and resultantly the orders impugned deserves to be interfered with.

5. Respondent No.2 in person appeared and opposed the Petition by filing affidavit-in-reply he has raised issues with regard to his grievance as well as claims about non payment of gratuity difference in the salary and old pension etc. It is however, not contended therein that, the Petitioner is receiving any aid financial or otherwise from the state in order to bring the same within the preview of provisions of the RTI Act.

6. The Petitioner has specifically contended about the Deemed University and having not received any financial or other assistance from State. There is no rebuttal of this fact by Respondent No.2 nor any material to place on record in order to

hold otherwise. In the light of these facts, if the judgment of full Bench of this Court in case of People Welfare Society (Supra) is considered then it is no more *res-integra* that provisions of RTI Act are not applicable to the educational and other institutions run by public Trust, if they are not substantially financed by State. There is further nothing on record to indicate that the State exercised any control directly or indirectly over the Petitioner in order to bring within the purview of the RTI Act. Having regard to these facts and law settled by full Bench of this Court, this Court has no hesitation to hold that the provisions of RTI Act are not applicable to the Petitioner and as such the impugned orders cannot sustain.

7. In view of above discussion, Petition stands allowed in terms of prayer clause (a) which reads thus :-

(a) That his Hon'ble Court be please to issue a writ certiorari or writ in the nature of certiorari or any other appropriate writ direction and order under Article 227 of the Constitution of India, 1950, quashing and setting aside the order bearing No.RAMAA/1897+3332/2022/Kolhapur and order bearing No.RAMAA/2198/2021/Kolhapur dated 18th October 2013 passed under the provisions of Section 19(3) of the Right to Information Act, by the Maharashtra State Information Commission Bench, Pune as illegal and bad in law."

8. All pending Civil and Interim Applications are disposed of.

(R.M. JOSHI, J.)