IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 947 OF 2024

Pune Vidyarthi Griha ...Petitioner

Versus

State Information Commissioner (Pune Division) Pune And Anr. ...Respondents

Mr. Saurabh Oka, *for the Petitioner.*

Mr. C.R. Sadasivan, *a/w Ameerul Hasan Sayyed, for Respondent No.2.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : NOVEMBER 14, 2025

Oral Judgement:

1. Rule is made returnable forthwith. By consent of the parties, taken up for final hearing and disposal.

2. This Writ Petition impugns the order dated August 7, 2023 ("***Impugned Order***") passed by Respondent No.1, State Information Commissioner directing that certain information sought by Respondent No. 2 under the Right to Information Act, 2005 ("***RTI Act***") be provided.

3. Mr. Saurabh Oka, Learned Advocate for the Petitioner would submit that it has been the consistent stance of the Petitioner that the Petitioner would not fall within the ambit of "public authority" within

the meaning of the term under the RTI Act. Admittedly, the Petitioner is a public charitable trust but it is the contention of the Petitioner that it has neither received any public funding nor is it under the control of the government, for it to fall within the ambit of the definition of the term "public authority" in terms of Section 2(h) of the RTI Act, which is extracted below:-

> *2(h) "**public authority**" means any authority or body or institution of self-government established or constituted—*
>
> > *(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**;*
>
> ***[Emphasis Supplied]***

4. The Petitioner is a non-governmental organisation. Therefore to rope it into the ambit of "public authority", it would have been vital to establish that it is "substantially financed" directly or directly by governmental funds. It is seen from the Impugned Order that the assertion of the Petitioner that it is not covered by the ambit of

the term "public authority" has not been dealt with. The stance of the Petitioner has been consistently that the Petitioner has not been financed at all from the public resources much less being substantially financed for the Petitioner to fall within the ambit of sub-clause (ii) in the inclusive portion of the definition of the "public authority".

5. This position is supported by a decision of a Full Bench of this Court in ***People Welfare Society v. Maharashtra State Information Commission***[1] – Paragraphs 15 to 22 would be instructive but are not being set out entirely – the following extracts are noteworthy:

> *15. **A public trust can be for any** public religious purposes, or it can also be for **charitable purposes as defined in Section 9 of the MPT Act, which includes**: (1) relief of poverty or distress; (2) **education**; and (3) medical relief; (3-A) provisions or facilities for recreation or other leisure time occupation (including assistance for such provision), **if the facilities are provided in the interest of social welfare and public benefit**; and (4) the advancement of any other object of general public utility.*
>
> *17. By its very definition, **generally speaking, a "public trust", would mean a trust, created by the instrument of trust, as defined in Section 2(7-A) of the MPT Act, to be managed by the "trustee/s", for the aims and objects, which amongst other things, would be those as indicated in Section 9 of the MPT Act**. As a matter of course, **most of the public trusts, have nothing to do with the State, and therefore***

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would not fall within the definition of "public authority", as contained in Sections 2(h)(a) to (d) of the RTI Act*. …… Of course, there may be exceptions, to this, where the trust, is formed with the Government as a constituent,* ***however, this can be easily ascertained from the trust deed, which would demonstrate, the extent of control, which the Government may exert in such cases****. This position, thus is easily ascertainable from a reading of the trust deed, which however,* ***will have to be determined by the Information Commissioner, in case such a question arises.***

18. ***All public trusts, are required to be registered with the office of the Charity Commissioner, who exercises regulatory control over such public trusts as is provided by the provisions of the public trusts Act, in this case the MPT Act****. The scope and ambit of such regulatory control would be apparent from the provisions of Sections…..A "public trust", unless the deed of trust otherwise indicates, cannot be held to be one falling within Sections 2(h)(a) to (d) of the RTI Act.* ***It now remains to be considered whether a "public trust", can be said to be covered by clauses (i) and (ii) of Section 2(h) of the RTI Act.***

19. It is axiomatic, by applying the analogy of the reasoning in Thalappalam Service Coop. Bank Ltd. case [Thalappalam Service Coop. Bank Ltd. v. State of Kerala, (2013) 16 SCC 82] and D.A.V. College Trust and Management Society case [D.A.V. College Trust and Management Society v. State (UT of Chandigarh), (2019) 9 SCC 185] , that ***on account of the regulatory supervision and control by the authorities under the Public Trust Act, the public trust, itself, cannot be held to fall within the scope and ambit of Section 2(h)(i) of the RTI Act as the control, as envisaged therein, cannot be the control or supervision by the authorities in view of the regulatory provisions under the MPT Act, but has to be a control of the management of the trust and its objects as is spelt out from the deed by which it is created,*** *or a scheme which is settled for such public trust, by the authorities under the MPT Act, in case of absence of a deed of trust. In this view of the matter it cannot be said that the management of the public trust, in any case would be under the control of the Government.*

20. Insofar as the question of a public trust being substantially financed by the Government is concerned, it would be material to note, what has been held in Thalappalam Service Coop. Bank Ltd. case in this regard, which holds that mere providing subsidies, grants, exemptions, privileges, etc. as such cannot be said to be providing funding of a substantial extent, unless the record shows that the funding was so substantial to the body, that it practically runs by such funding and but for such funding, it would struggle to exist.

21. What is also material to note is that the plea of financial assistance being provided by the State, to the educational institutions, run and managed by a "public trust", in the form of salary and non-salary grants, has to be considered, in the context as to whether such salary and non-salary grants are being provided by the State only to the educations institutions run by the "public trust", or such salary and non-salary grants are being received by the educational institutions on account a uniform policy framed by the State for providing assistance to all educational institutions in the State. ……It is therefore not possible to hold that merely because salary and non-salary grants are being provided by the Government to all educational institutions, as a matter of policy, irrespective of whether it is run and administered by a trust or a society, such a public trust, would be a "public authority", as defined in Section 2(h) of the RTI Act.

22. As indicated above, the position of a trust, is not dissimilar to that of a society, considering that both are established on account of a written document, the trust by the deed of trust, its affairs being managed by the trustees, and the society by its bye-laws, its affairs being managed by the duly elected Managing Committee, both being

> ***under the regulatory control of the authorities, under the respective Acts which govern them***. *The distinction, which has been carved out between a society on the one hand and the educational institutions run by it, on the other, as indicated in Thalappalam Service Coop. Bank Ltd. case and maintained in D.A.V. College Trust and Management Society case, on the same analogy, will equally apply to a public trust and the institutions administered and run by such public trust and therefore whereas* ***the educational institutions run and administered by a public trust, may fall within the definition of "public authority" as occurring in Section 2(h) of the RTI Act, depending upon the extent of funding by the State, the public trust itself would not fall within the scope and ambit of the expression "public authority", unless, the public trust, itself has been the beneficiary of government land or largesse, in any form****, for its aims and objects, in which case it would stand included in the definition of "public authority",* ***the question being one of fact, to be determined by the Information Commissioner, on a case to case basis.***
>
> *[Emphasis Supplied]*

6. Therefore, it was incumbent on the State Information Commissioner to have examined whether the management and control of the Petitioner could be said to be controlled by the State or substantially financed, directly or indirectly from governmental funds. Such analysis is entirely missing even while the Petitioner asserts in the Petition that it is not controlled or substantially financed by the State.

7. In these circumstances, in the absence of any reasoning as to why the Petitioner is being regarded as falling within the ambit of the

RTI Act, the Impugned Order cannot be sustained. The Petitioner cannot be expected to prove the negative. It would be open to Respondent No.1 to articulate and explain how Petitioner would fall within the ambit of sub-clause (ii) of the inclusive component of the definition of the "public authority" in Section 2(h).

8. Therefore, the Petition is ***allowed***, quashing and setting aside the Impugned Order. Rule is made absolute accordingly.

9. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]