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

**(201) CWP-14097-2018
Date of Decision : July 04, 2025**

Fazilka Cooperative Sugar Mills Ltd. .. Petitioner

Versus

Punjab State Information Commission and another .. Respondents

(2) CWP-14004-2018

Fazilka Cooperative Sugar Mills Ltd. .. Petitioner

Versus

Punjab State Information Commission and another .. Respondents

(3) CWP-14507-2018

Fazilka Cooperative Sugar Mills Ltd. .. Petitioner

Versus

Punjab State Information Commission and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Aggarwal, Advocate, for
Mr. Rahul Sharma-I, Advocate, for the petitioner(s)
in all petitions.

Mr. Rahul Rampal, Addl. Advocate General, Punjab.

<u>HARSIMRAN SINGH SETHI J. (ORAL)</u>

1. By this common order, three writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. In the present writ petitions, the challenge is to the order dated 08.05.2018 (Annexure P-3) passed by the Punjab State Information Commission wherein, finding has been recorded that the petitioner being financed and controlled by Government is amenable to the Right to Information Act, 2005.

3. Learned counsel for the petitioner argues that as the petitioner is a Cooperative Organization and since the Cooperative Organizations are not amenable to the writ jurisdiction of this Court and therefore, they have to be excluded from the jurisdiction of the Right to Information Act, 2005 as well.

4. The reliance is being placed upon the judgment of this Court in ***CWP No.13580 of 2015 titled as the Punjab State Federation of Cooperative House Building Societies Limited vs. The State Information Commission, Punjab and another, decided on 09.01.2025.***

5. Learned counsel for the respondent-State submits that in the present case, the State has a financial interest to the tune of 56% in the said co-operative organization and also have personnel from Government body and working in the petitioner(s)-organization who are holding the position as ex-officio.

6. Learned counsel for the respondents further submits that the judgment in ***Punjab State Federation of Cooperative House Building Societies Limited's case (supra)*** will not be applicable in the facts and circumstances of present case as in the Punjab State Federation of Cooperative House Building Societies, the share of the Government was not more than 1% so as to treat the said Society as public authority and

therefore, the order passed by the Commission bringing the petitioner-organization, in which organization, the Government has deeply invested and has control over it, within the jurisdiction of the Right to Information Act, 2005 is perfectly valid.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. The Right to Information Act, 2005 has been enacted so as to bring transparency in the working of the institutions which are Government institutions or are running under the support of the Government and are so being managed by the Government or over which Government has deep and and pervasive control.

9. In the present case, the financial investment of the Government within the petitioner-organization is 56% and the administrative control of the Government is also present as three Government officials have been nominated as Directors in the Board. Keeping in view the totality of the circumstances, the Government interest is involved in the organization not only financially but also for running the petitioner-sugar mill.

10. The law on the issue has also been settled recently by the Hon'ble Supreme Court of India in ***Civil Appeal No.9828 of 2013 titled as D.A.V College Trust and Management Society and others vs. Director of Public Instructions and others, decided on 17.09.2019***. The Hon'ble Supreme Court of India while interpreting the Right to Information Act, 2005 has even gone to the extent that where the State has provided land on concessional rate or certain benefits to an institution, such institutions will be covered by the Right to Information Act, 2005. The relevant paragraphs

of the said judgment are as under:-

"26. In our view, 'substantial' means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard and fast rule can be laid down in this regard. Substantial financing can be both direct or indirect. To give an example, if a land in a city is given free of cost or on heavy discount to hospitals, educational institutions or such other body, this in itself could also be substantial financing. The very establishment of such an institution, if it is dependent on the largesse of the State in getting the land at a cheap price, would mean that it is substantially financed. Merely because financial contribution of the State comes down during the actual funding, will not by itself mean that the indirect finance given is not to be taken into consideration. The value of the land will have to be evaluated not only on the date of allotment but even on the date when the question arises as to whether the said body or NGO is substantially financed.

27. Whether an NGO or body is substantially financed by the government is a question of fact which has to be determined on the facts of each case. There may be cases where the finance is more than 50% but still may not be called substantially financed. Supposing a small NGO which has a total capital of Rs.10,000/ gets a grant of Rs.5,000/ from the Government, though this grant may be 50%, it cannot be termed to be substantial contribution. On the other hand, if a body or an NGO gets hundreds of crores of rupees as grant but that amount is less than 50%, the same can still be termed to be substantially financed.

28. xxxx xxxx xxxx xxxx

29. While interpreting the provisions of the Act and while deciding what is substantial finance one has to keep in mind the provisions of the Act. This Act was enacted with the purpose of bringing transparency in public dealings and *probity in public life. If NGOs or other bodies get substantial finance from the Government, we find no reason why any citizen cannot ask for information to find out whether his/her money which has been given to an NGO or any other body is being used for the requisite purpose or not.”*

11. In the present case, 56% finances funded to the petitioner-organization are by the Government and the Government officials in the said organization discharge the duties as Director hence, having administrative control over the petitioner. By applying the parameters laid down by the Hon’ble Supreme Court of India for deciding whether the authority will be covered under the Right to Information Act 2005 or not as reproduced hereinbefore, the petitioner will be covered under 2005 Act by the said decision.

12. Further, learned counsel counsel for the respondent-State has mentioned that the State Government has given a loan of Rs.159 crores to the petitioner-organization which also shows that the petitioner(s) are working on the basis of the financial investment of the State without which, they could not have functioned.

13. Further, the judgment in ***Punjab State Federation of Cooperative House Building Societies Limited’s case (supra),*** will not be applicable as the Government share in those societies was less than 1% and did not had any financial control or even the administrative control over them hence, will not be applicable in the present case.

14. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the present case.

15. Accordingly, the writ petitions are dismissed.

16. A photocopy of this order be placed on the file of other connected cases.

July 04, 2025 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No