



SHRI GAJANAN SHIKSHAN SANSTHA'S
SHRI SANT GAJANAN MAHARAJ COLLEGE OF ENGINEERING,
SHEGAON – 444203, DIST. BULDHANA (MAHARASHTRA STATE), INDIA

* Recognized by A.I.C.T.E., New Delhi,* Affiliated to Sant Gadge Baba Amravati University, Amravati &
*Approved by the D.T.E., M.S. Mumbai

Ph.Nos : 8669638081 / 8669638082
Website : www.ssgmce.ac.in


Email- principal@ssgmce.ac.in
registrar@ssgmce.ac.in

Date : 23/01/2024

CERTIFICATE

As per the enclosed judgment of the Court, the provision of Right to Information Act 2005 is not applicable to the Charitable Public Institute and this institute is a private, unaided and self-financing and registered with Assistant Charitable Commissioner, Buldhana District (Maharashtra) under provision of Bombay Public Trust Act 1950. The Institute or the Trust is not established or constituted by the provision of the act of State of Maharashtra or Government of India. The management of the Trust and Institute are not financed directly or indirectly by any of the Government.

Enclosed : A copy of judgment


Principal
PRINCIPAL
Shri Sant Gajanan Maharaj
College of Engineering, Shegaon.


19. In the circumstances, there is no defence to the claim in the suit.

20. The Summons for Judgment is therefore made absolute and the suit is decreed as prayed.

Refund, if any, as per rules.

Order accordingly.

**RIGHT TO INFORMATION ACT NOT APPLICABLE TO PUBLIC TRUST
WHICH IS NOT A PUBLIC AUTHORITY**

(A. B. Chaudhari, J.)

**NAGAR YUWAK SHIKSHAN SANSTHA,
NAGPUR and another**

Petitioners.

vs.

**MAHARASHTRA STATE INFORMATION COMMISSION,
VIDARBHA REGION, NAGPUR and another**

Respondents.

Right to Information Act (22 of 2005), S. 2(h) — *Public authority — Petitioner-Sanstha which is a Public Trust and its College not established or constituted under any of the provisions of the Act made by State Legislature or Act of Parliament — They are also not controlled in its management or substantially financed by the appropriate Government directly or indirectly — Petitioners not covered by the definition of public authority — Provisions of Right to Information Act do not apply to petitioners. (Paras 6 to 8)*

For petitioners : *Shashank Manohar*

For respondents : *Rohit Sharma holding for Anand Parchure*

List of cases referred :

1. *Shri Ram Krishna Dalmia and ors. vs. Shri Justice S. R. Tendolkar and ors., AIR 1958 SC 538* (Para 7)

JUDGMENT :— Rule. Rule returnable forthwith. Heard finally by consent of learned counsel for rival parties.

2. By the present petition, the petitioners have put to challenge the order dated 1-9-2008 passed by the State Information Commissioner, Vidarbha Region, Nagpur, in Appeal No. 1772/07 holding that the Right to Information Act, 2005 is applicable to the petitioners.

3. In support of writ petition, Mr. Shashank Manohar, learned counsel for petitioners, vehemently argued that petitioner No. 1 which is a Public Trust registered under the provisions of Bombay Public Trusts Act and petitioner No. 2-an unaided Engineering College do not at all fall within the meaning of definition of 'Public Authority' as defined under Right to Information Act. He argued that none of these petitioners were created or established or constituted by any law made by the State Legislature, as assumed by the State Information Commissioner in his impugned order. Further, none of the petitioners have been financed either directly or indirectly by the funds provided by the appropriate Government. The reimbursement made by such Governments under their respective schemes is for the students and not for the petitioners towards the fees recoverable from backward class students or other instrumentation provided by

the appropriate Government. He then argued that grant of permission to start petitioner No. 2-college from the Director of Technical Education or from AICTE or from Nagpur University cannot mean that there is any control since these are the regulatory controls in the matter of admissions, affiliations etc. provided by their respective laws and there is no direct or indirect control as contemplated by the definition. He then argued that the impugned order is clearly illegal and deserves to be quashed and set aside.

4. *Per contra*, Mr. Rohit Sharma holding for Mr. Anand Parchure argued that petitioner No. 2 could not have been started without the permission of Director of Technical Education or AICTE and the affiliation by Nagpur University which clearly shows that these authorities have full control over the working of petitioner No. 2 including making of admissions, fees structure, grant of permission to open new courses and therefore there is material to show that there is control. He then argued that the land which was allotted to petitioner No. 1 for constructing building for petitioner No. 2-college was allotted by the State Government on a nominal lease amount. The land which belongs to Government has been leased out and therefore it can be said that the Government has given its property by leasing out its lands to petitioners No. 1 and 2. If that is so, the petitioners ought to be held to be public authority. The admissions of the students are made in the petitioner No. 2-college through Common Entrance Test and the petitioner No. 2 does not have any authority to admit the students on its own. To add to this, under various schemes the Central Government as well as the State Government provide for finance to the petitioner No. 2 for undertaking various schemes introduced by the Central Government or the State Government for upliftment of the education standard. Even the fees are reimbursed to the students belonging to backward classes and such amounts are paid to petitioner No. 2 by Central/State Government. In fact the petitioners appointed Public Information Officer in terms of the directions issued by the Director. He, therefore, urged this Court to uphold the order of State Information Commissioner.

5. I have heard learned counsel for rival parties and I have also gone through the impugned order. The definition of public authority as given under the Act reads thus :

“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.”

6. Upon perusal of the provisions of the Bombay Public Trusts Act it is clear that this Act does not on its own establish or constitute any public trust. It is nobody's case that petitioner No. 1 was constituted or established under the provisions of the Bombay Public Trusts Act. Similar is the case with petitioner

No. 2 since the same has also not been established or constituted under any of the provisions of the Act of Legislature or Act of Parliament. It is not in dispute that in respect of petitioners there is no notification as contemplated by clause (d). Reliance placed by learned counsel for respondent No. 2 about 'control' in the matter of admissions, fees, regulations etc. in my opinion is misplaced. In my opinion the word 'control' used in the definition is in a sense of control over the management of the petitioners. The control in making admissions, deciding fees structure or implementing reservation policy, if any, or asking the petitioners to implement a scheme of Central/State Government in respect of higher education or research and development is not the control in that sense. The term 'control' used in the definition is for control over the management and affairs and the running of the petitioners and its institutions. There is nothing on record to show that either of the two institutions, namely petitioners are being run insofar as its management and affairs are concerned either directly or indirectly by the Government. Therefore, the control over fees structure, admissions, new courses etc. will have to be distinguished from the term 'control' that is contemplated by the definition. I, therefore, hold that none of the petitioners are controlled by the appropriate Government.

7. Insofar as petitioner No. 1-public trust is concerned, the same is also not controlled in strict sense of the term, as I have discussed hereinbefore. Petitioner No. 1-public trust is not run by the Government either directly or indirectly and its management and affairs are controlled by the trustees. No doubt, public trusts are subject to regulatory measures to be found in the Bombay Public Trusts Act. But that does not mean that either the Charity Commissioner or the appropriate Government controls this public trust by virtue of the fact that such public trust is registered under the Bombay Public Trusts Act and regulatory provisions are made applicable. And that by itself cannot be said to be control over the management and its affairs either directly or indirectly. The regulation of fees structure or permission to start new courses or admissions to the college by the Government and its machinery is again not a control to run petitioner No. 2-college or the management and affairs of petitioner No. 1-Trust. Similarly, reimbursement of fees towards reserved category students or projects required to be undertaken by the Engineering College sponsored by the Central/State Government cannot be said to be financed for the benefit of petitioners 1 and 2. These benefits of reimbursement etc. are ultimately for the benefits of the students and people at large and not only for the benefit of the college or financing the affairs of the college. At any rate, the aspect regarding finance is qualified by the word 'substantially financed'. There is absolutely no material on record that both the petitioners have been substantially financed by the appropriate Government either directly or indirectly. On the contrary, the entire infrastructure and the salary of the staff etc. is substantially financed by petitioner No. 1 itself. This term 'substantially financed' has been repeatedly used by the Parliament with a view to exclude such institutions which are financed directly or indirectly with a small or a little contribution of funds by the appropriate Government. The Parliament has deliberately used the word 'substantially' and this Court finds that there is wisdom in doing so. In *Shri Ram Krishna Dalmia*

and ors. vs. Shri Justice S. R. Tendolkar and ors., AIR 1958 SC 538 the Supreme Court has had to say in para 11 —

- (a)
- (b)
- (c) that it must be presumed that the Legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;

8. For all the above reasons, I am of the opinion that none of the petitioners are covered by the definition of public authority within the meaning of section 2(h) of the Right to Information Act. Consequently, the impugned order will have to be quashed and set aside. In the result, I make the following order.

9. Writ petition is allowed. Impugned order made by the State Information Commissioner, Nagpur, on 1-9-2008 in Appeal No. 1772/07 is quashed and set aside. It is held that the provisions of Right to Information Act do not apply to any of the petitioners. Rule is made absolute in above terms. No order as to costs.
Petition allowed.

GRANT OF COMPENSATION TO A PAID EMPLOYEE

(Smt. Nishita Mhatre, J.)

NATIONAL INSURANCE CO. LTD.

Appellant.

vs.

MANISHA CHAGAN KARANDE and others

Respondents.

Workmen's Compensation Act (8 of 1923), SS. 3 and 4 — *Deceased was a paid driver-employee of the owner of the vehicle and had met with a fatal accident arising out of and during the course of his employment — Once it has been accepted that the driver was a paid employee of the owner of the vehicle and had met with a fatal accident arising out of and during the course of his employment, the Commissioner had no option but to grant compensation in accordance with the Act — Commissioner appreciated the evidence on record correctly and granted the compensation along with penalty and costs — No interference in the first appeal. (Paras 12 and 13)*

For appellant : *S. R. Singh*

For respondent Nos. 1 to 5 : *S. S. Shetye*

For respondent No. 6 : *S. S. Kulkarni*

List of cases referred :

1. *National Insurance Co. Ltd. vs. Mastan and anr., (2006) 2 SCC 541* (Para 9)

ORAL JUDGMENT :— This first appeal has been filed against the order of the Commissioner for Workmen's Compensation under which the claimants i.e. respondent Nos. 1 to 5 have been awarded compensation of Rs. 2,11,790/- along with the simple interest at the rate of 9% per annum from 16-5-2001 till actual payment. A penalty of Rs. 25,000/- and costs of Rs. 1000/- have also been awarded.

2. The deceased was the husband of the 1st respondent, the father of respondent Nos. 2 and 3 and the son of the 4th and 5th respondent. He was driving a jeep on 15-5-2001 when he met with an accident. As a result of the

F. A. No. 752 of 2003 decided on 31-7-2009. (Bombay)