
(2019) 11 UK CK 0015

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2460, 2461 Of 2017

IMS University & Others

APPELLANT

Vs

State Information Commissioner, Dehradun

RESPONDENT

Date of Decision : 02-11-2019

Acts Referred:

Right To Information Act, 2005 — Section 2(f), 2(h), 2(h)(c), 4, 5, 19

Citation : (2019) 11 UK CK 0015

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Ramji Srivastava

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. In these two writ petitions, the petitioner before this Court is a private University known as "IMS University". Admittedly, the University is the creature of an Act known as "The IMS Unison University Act, 2012" - an Act passed by the State Legislature of Uttarakhand being Uttarakhand Act No. 13 of 2013.

2. Under the Right to Information Act, 2005 (from hereinafter referred to as the "Act"), the "Public Authority" is defined under Section 2 (h) of the Act. Section 2 (h) of the Act reads as under:-

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 organization substantially financed, directly or indirectly by funds provided by the appropriate Government;"

(Emphasis supplied)

3. Petitioner admittedly comes under the definition of the "Public Authority" under Section 2 (h) (c) of the Act as it has been created by a law made by the State Legislature. On this aspect, there could not have been any dispute that the petitioner is indeed a "Public Authority", and therefore, comes within the purview of the Act, being a "Public Authority", and therefore was liable to furnish information as defined under Section 2 (f) of the Act. Moreover, a mandatory duty has also been cast upon the "Public Authority" for designating a Public Information Officer under Section 5 of the Act. There are other obligations of the Public Authority under Section 4 of the Act as to how to distribute the information, etc. All this, admittedly, the petitioner has not done.

4. Consequently when the private respondent sought certain information against the petitioner in Writ Petition (M/S) No. 2460 of 2017, such as, as to how many students of BBA for academic session 2015-16 were informed through notice regarding non-fulfillment of documents in respect of educational qualification, as to how many students of BBA of academic year 2015-16 have made available to the office, the documents regarding educational qualification, etc., then such an information ought to have been furnished by the petitioner.

5. The petitioner, however, failed to furnish the information. The private respondent ultimately had to go before the State Information Commission under Section 19 of the Act. The State Information Commission vide its order dated 14.06.2017 directed the petitioner to furnish the information within a stipulated period of time. The petitioner instead of complying the order passed by the State Information Commission has approached this Court by means of the present writ petitions.

6. The only contention of the petitioner before this Court is that it is not a "Public Authority". This argument of the petitioner is totally misconceived as it has already been stated by this Court in its preceding paragraphs that the petitioner is a "Public Authority" under the Act being a creature of the Statute.

7. Writ petitions, therefore, have no merit and the same are hereby dismissed.

8. Considering the fact that being a "public authority" under the Act, since the petitioner has not furnished the information as yet, the petitioner is directed to supply the information to the private respondent within a period of one month from the date of production of a certified copy of this order. The petitioner shall also liable for a penalty of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the State Information Commission within three weeks from the date of receipt of a copy of this order as admittedly there is a delay in any case on part of the petitioner in furnishing the information.