

(2018) 08 BOM CK 0169
In the Bombay High Court
Case No : Writ Petition No.162 Of 2011

M/s. Goa State Co-operative Milk Producer's Union Ltd	APPELLANT
Vs	
Goa State Information Commission at Panaji, Through its State Chief Information Commissioner, Having office at Shram Shakti Bhawan, Panaji-Goa	RESPONDENT

Date of Decision : 14-08-2018

Acts Referred:

Right to Information Act, 2005 — Section 2(f), 2(h), 2(h)(d)(i), 2(h)(d)(ii), 2(i), 8, 19
Goa Cooperative Societies Act, 2001 — Section 73,74,75,76A

Citation : (2018) 08 BOM CK 0169

Hon'ble Judges : Nutan D. Sardesai, J

Bench : Single Bench

Advocate : A.D. Bhole, Nigel Da Costa Frias, Amogh Prabhudessai,

Final Decision : Allowed

Judgement

1. This petition under Article 227 of the Constitution of India takes exception to the judgment and order dated 11/02/2011 passed by the respondent

no.1 in Appeal No.308/2008 pursuant to which the respondent no.1 directed the respondent no.3 therein i.e. the petitioners herein to furnish the

information sought by the respondent no.2 vide his application dated 13/10/2008 within the defined time limit.Â The respondent no.1 had held the

petitioners as a Public Authority within the meaning of Section 2(h) of the Right to Information Act, 2005, 'the Act' for short hereinafter, and secondly

directed the respondent no.3 before him to furnish information to the respondent no.2.

2. It was the petitioners' case that it was an Union registered under the Maharashtra Societies Co-operative Act, 1960 with various objectives and the

source of its funds was specified in its bye-laws.Â There was no control of the

Government over the financial management or the funds of the petitioners Society which were handled exclusively by the petitioners Society and there was no interference by the State Government.Â The State

Government also did not have any role either in the policy decision or for raising funds for the petitioners Society or for its expenditure.Â The

respondent no.2 had sought for information from the petitioners under the Right to Information Act pertaining to the Society from the Public

Information Officer, Department of Co-operation, Panaji which was received in the office of the Registrar of Cooperative Societies.

3. The respondent no.3 who is the Public Information Officer, PIO attached to the office of the Deputy Registrar forwarded the request letter of the

respondent no.2 to the petitioners requesting it to furnish the information to the respondent no.2 and to permit the respondent no.2 to inspect the file

containing the said information. The respondent no.2 filed an appeal under Section 19 of the Act before the First Appellate Authority on the ground

that the information sought for by him was not furnished to him within a period of 30 days.Â The petitioners filed its reply in the First Appeal

No.10/2008 spelling out that it was not a Public Authority as defined under Section 2(h) of the Act and to drop the petitioners from the proceedings.Â

The First Appellate Authority i.e. the respondent no.5 dismissed the appeal vide the judgment dated 09/01/2009 and thereupon the respondent no.2

filed the Second Appeal No.308/2008 before the respondent no.1 on 09/03/2009.Â The petitioners filed its reply in the said appeal again spelling out

that the information sought for by the respondent no.2 was not pertaining to the petitioners, that the respondent no.3 had acted mechanically in

forwarding the letter to the petitioners without verification, that the petitioners were registered under the provisions of the Maharashtra Co-operative

Societies Act, 1960, 'the Societies Act' for short hereinafter and did not fall within the purview of Section 2(h) of the Act and therefore the provisions

thereof were not applicable to the petitioners. Besides, there was no Notification issued by the Government of Goa extending the applicability of the

Act to the petitioners and pressed for the dismissal of the appeal.

4. The respondent no.1 allowed the appeal vide the judgment and order dated 23/04/2010 directing the respondents no.3 and 4 to furnish information to

the respondent no.2 as sought for by him by his application dated 13/10/2008.Â

The petitioners however challenged the said order in the Writ Petition

No.398/2010 whereupon this Hon'ble Court was pleased to allow the Writ Petition, set aside the order dated 23/04/2010 and remanded the matter to

the respondent no.1 to give a finding as to whether the provisions of the Act were applicable to the petitioners Society.

5. The respondent no.1 vide the judgment and order dated 11/02/2011 was pleased to allow the appeal holding the petitioners as a Public Authority

within the meaning of the Act, that the Act was applicable to the petitioners and directed the petitioners to furnish the information sought for by the

respondent no.2 vide his application dated 13/10/2008.Â The petitioners are a Society registered under the Co-operative Societies Act and there is no

Notification issued by the Government making the Act applicable to the petitioners.Â The petitioners Society is neither owned nor controlled nor

substantially financed by the Government of Goa and therefore not a Public Authority as defined under the Act or provisions thereof are not

applicable.

6. The impugned order was passed by the respondent no.1 without jurisdiction and is liable to be quashed and set aside.Â The respondent no.1 had

committed a jurisdictional error in law by placing reliance on the letter dated 27/07/2005 received from the Government of India, Ministry of

Agriculture, Department of Animal Husbandry, Dairying and Fisheries, Krishi Bhawan, New Delhi signed by the Under Secretary, Government of

India to infer that the petitioners were a Public Authority as defined under the Act.Â The said letter could not in any manner assist the case of the

respondent no.2 and the question of finance from the Central Government did not arise more so when the documents itself showed that it was the

State Government which had to issue Utilization Certificate for the grants received.Â Â The respondent no.1 committed a jurisdictional error in

placing reliance on the Deed of Lease dated 01/10/1994 to infer that the Petitioners were a Public Authority.Â The Lease neither amounts to

substantial finance nor can the same be read to mean that the same would amount to substantial finance.Â It rather is an arrangement to promote

operation flood programme.Â Merely because the petitioner is a lessee of the Government, it would not imply that it is a Public Authority under the

Act.Â The respondentÂ no.1 had committed a jurisdictional error in failing to

appreciate that the rules governing the petitioners clearly indicated that the State Government had no role to play either in the policy decision for raising the funds for the petitioners or its expenditure or there was no financial control of the State Government.Â The respondent no.1 committed a jurisdictional error in failing to appreciate that the bye-laws of the Society would indicate that the petitioners neither performed any Governmental functions nor did the State Government have any effective control over the financial management or over the funds of the petitioners. The impugned order was therefore liable to be interfered with as being perverse, arbitrary and unsustainable in law.

7. Heard Shri A.D. Bhobe, learned Advocate for the petitioners who submitted at the outset that the respondent no.1 had not given any findings in the judgment that the Act was applicable to the petitioners or on the control of the Government.Â He placed reliance in *Thalappalam Service Cooperative Bank Limited & Ors. V/s. State of Kerala & Ors.* [(2013) 16 SCC 82] to substantiate his case that by no stretch of imagination could the petitioners be treated as a Public Authority under the provisions of the Act and then adverted to the bye-laws thereof.Â There was no funding or control of the Government and it was a sole authority generating its funds by adverting to its various provisions. There was no material to show that there was Government control or material funding by the Government and therefore it could not be a Public Authority within the meaning of Section 2(h) of the Act nor could it be bound to furnish the information thereunder.Â The petitioners were not at all a Public Authority and therefore the impugned order had to be quashed and set aside.

8. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 adverted to the Act, its various definitions relating to Information under Section 2(f), Public Authority under Section 2(h), Record under Section 2(i) and the various correspondence on record pursuant to which the respondent no.2 had sought the information from the petitioners.Â There was non-compliance by the petitioners giving rise to an appeal which however came to be dismissed by the First Appellate Court.Â A Second Appeal was filed before the respondent no.1 who directed the respondents no.1 & 2 before it to furnish information within thirty days.Â The petitioners had challenged the same in the Writ Petition no.398/2010 and by

judgment dated 24/11/2010, the judgment of the respondent no.1 was quashed and set aside giving rise to the impugned judgment pursuant to which a direction was issued to the petitioners to furnish the information as sought for by the respondent no.2.

9. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 contended that the information which could be furnished by the petitioners in terms of the Goa Cooperative Societies Act, 2001, the Act of 2001 for short, was that contemplated under Section 73,74,75,76A and therefore the Registrar had powers and access to the financial dealings of the petitioners. It was not a case of the respondents no.3 & 4 that the information sought by the respondent no.2 was not information to which they had no access to or not entitled to have access to. There was no perversity in the finding rendered by the respondent no.1 nor was it shown from the material on record that the information was not exempted within Section 8 of the Act. He next contended that the petitioners were substantially financed by the Government and were therefore amenable to furnish the information under the Act. He referred to the bye-laws, the affidavit in reply filed by the respondent no.2 in the Writ Petition No.398/2010 and adverted to the citizens charter to show the Government control and substantial finance to the petitioners thereby making the petitioner a public authority within the meaning of Section 2(h)(d)(i).

10. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 adverted to the letters of the Ministry dated 27/07/2005 to buttress his contention that there was substantial control of the Union of India and the State Government on the petitioners apart from the letters written by the Assistant Registrar to the petitioners and the Lease Deed. He adverted to the judgment in Thalappalam (supra), and distinguished it on facts. There were sketchy pleadings that there was no Government funding. Besides, although the petitioners had filed their affidavit in rejoinder, there was no statement therein to show that the funds released were not implemented. It was further his contention without prejudice to his rights that in case it was held by this Court that the petitioners were not a Public Authority, still however directions could be issued to the respondents no.1 & 3 to furnish the information asked for by the respondent no.2 on the basis of the material available with them. He placed reliance in Rajeshwar Kamgari

Sahakari Sanstha Limited V/s. State Information Commissioner & Ors. [2011 (5) ALLMR 69], The Kamal Co-operative Sugar Mills Ltd. & Ors. V/s.

State Information Commissioner, Haryana & Anr. [2011 (2) RCR (Civil) 905] and Bishop Cotton High School V/s. The Presiding Officer & Ors.

[2011 (3) ALLMR 721]. It was therefore a fit case to dismiss the petition and order the petitioners to comply with the directions issued by the

respondent no.1

11. Shri A.D. Bhole, learned Counsel for the petitioners referred to paragraph 22 of the petition and submitted that there were substantial pleadings

on the lack of Government funding to the petitioners. The letters of the Ministry referred to on behalf of the respondent no.2 did not at all establish

substantial control of the Government and even otherwise no compliance was shown with the said letters. He adverted to the judgment in

Thalappalam (supra), to buttress his case on the aspect of want of Government control and otherwise adverted to the rejoinder. The petitioners were

not a Public Authority and therefore not bound by the directions issued by the respondent no.1. Last but not the least, the citizens charter did not

have any statutory effect and therefore the petition had to be allowed and the order passed by the respondent no.1 had to be quashed and set aside.

12. Shri A. Prabhudessai, learned Additional Government Advocate submitted on the basis of instructions that the Government had no share holding in

the petitioners Society. I would consider their submissions, peruse the records, the judgments relied upon and in that light decide the petition.

Admittedly, the information in respect of the petitioners was sought by the respondent no.2 by his application dated 13/10/2008 and on the failure of

the petitioners to furnish the information was an appeal filed by him before the First Appellate Authority. Admittedly, the First Appellate Authority

found favour with the contention on behalf of the petitioners that the petitioners were not a Public Authority under the Act and dismissed the appeal

against which the respondent no.2 filed the Second Appeal. Since directions were given to the respondents no.1 & 2 before the Second Appellate

Authority to furnish the information, the petitioners challenged the same in a Writ Petition No.398/2010 and a learned Single Judge of this Court (N.A.

Britto, J.) by the order dated 24/11/2010 set aside the judgment of the respondent no.1 and directed him to decide the appeal afresh including giving a

finding whether the petitioners were a Public Authority within the meaning of Section 2(h) of the Act as to furnish the information thereunder and

thereafter giving rise to the subsequent judgment of the respondent no.1Â dated 11/02/2011 culminating in the present petition.

13. Section 2(h) defines a Public Authority and means any authority or body or institution of self-government established or constituted-

(a) â?¡.

(b) â?¡.

(c) â?¡.

(d) by notification issued or order made by the appropriate Government.

Section 2(f) defines â??informationâ?? while (i) defines â??recordâ?? which is inclusive in nature.

Â Therefore it would be incumbent on a perusal of the definition of a Public Authority contained in Section 2(h)(d)(ii) as to whether the petitioners

body falls within the definition of a Public Authority and/or that as a consequence thereof it is covered under the purview of the Act and amenable to

give the information claimed thereunder.

14. It was also nobody's case that the information which is sought from the petitioners was exempted from disclosure within the meaning of Section 8

of the Act and therefore the question would not arise whether the information sought for from the petitioners is exempted from disclosure accepting

for a moment that it is a Public Authority within the meaning of Section 2(h)(d)(ii).Â It is otherwise not in dispute or an admitted position that the

petitioners have not been notified to be a Public Authority within the meaning of Section 2(h)(d) of the Act and therefore what really remains to be

seen is whether on the basis of the material adverted to by Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2Â whether there is

substantial financing or control by the Government as to bring the petitioners within the pale of a Public Authority and within the meaning of Section

2(h) of the Act.

15. A cursory perusal of the bye-laws of the petitioners to which attention was invited by Shri A.D. Bhole, learned Advocate for the petitioners would

show that the petitioners were a self sufficient body with certain objectives and that it mobilized its funds in the manner provided by bye-law 4 and that

it did not avail of any financial obligation or intervention of the Government.Â Therefore on its plain reading and interpretation, it would be apparent

that the petitioners Union was a self sufficient body and that it had no funding or control of the Government with sole authority to generate funds and

its functioning being governed through the general body.Â No doubt there was a Lease Deed dated 01/10/1994 executed in favour of the petitioners

in respect of the land in question for the purpose of carrying on its business, nonetheless, it cannot be construed that there was Government control or

funding of the petitioners Union as to bring it within the purview of a Public Authority within the predicates of the Act.

16. No doubt Section 73 of the Societies Act requires every Society to maintain its accounts and records, that in terms of Section 74 the accounts

maintained by Society are subject to audit and empowering the Registrar if he finds it necessary or expedient to re-audit any or all accounts of the

Society, he may, by orde, direct such re-audit and the provisions of this Act, applicable to audit of accounts of Society, shall apply to such re-audit in

terms of sub-section 8 thereof apart from the powers of the auditors contemplated under Section 75 and all this information being within the public

domain under the Act and going a step forward that the Registrar of the Societies has the power and access to the financial dealings of the

petitioners.Â However, unless and until it is shown that the petitioners are a Public Authority, no such information can be called upon to be furnished

to the respondent no.2 as asked for by him.Â Therefore, even accepting the contention of Shri Nigel Da Costa Frias, learned Advocate for the

respondent no.2 that these provisions of the Societies Act did apply to the petitioners and that they were accessible to the Registrar and it was

information in the public domain, no direction could be issued to the petitioners to furnish the information to the respondent no.2 unless and until it was

shown that the petitioners were a Public Authority within the meaning of Section 2(h) of the Act.

17. Shri Nigel Da Costa Frias, learned Advocate for the respondent no.2 invited attention to the citizens charter to canvass a plea that the petitioners

were under the Government control and they were substantially financed so as to make the petitioners a Public Authority within the meaning of

Section 2(h)(d)(i) of the Act.Â In that context, he pointed out to Articles 1, 2 & 6 to make out a case that there was investment by the Government

and therefore the petitioners were a Public Authority within the meaning of the Act.Â However, a bare reference to such statement would not

substantiate the case that there was investment by the Government in the absence of any contemporaneous record. For that matter too a reference to

the letter of the Ministry dated 27/07/2005 in respect of the administrative approval of the Government of India for the implementation of the Scheme

at a total approved costs of ₹ 2,46,36,000/- for the two districts with ₹ 1,93,16,000/- as Central Government share cannot buttress the plea of Shri Nigel

Da Costa Frias that there was substantial control of the Union of India and the State Government in the petitioner in the absence of any material to

show that such funds were made available to the petitioners and/or that the schemes were implemented at the stated costs by the petitioners.

18. The letter of the Assistant Registrar to the petitioners dated 02/05/2008 too does not substantiate the contention of Shri Nigel Da Costa Frias, that

there was substantial control of the Government in the petitioners and to make it a Public Authority within the meaning of Section 2(h) of the Act.

Moreover, the petitioners had clearly shown that there was no compliance with these letters from the Ministry of Agriculture to show the control of the

Government over the petitioners. Moreover, the petitioners had clearly affirmed at paragraphs 4(a) and 4(b) of their affidavit in rejoinder that the

Citizen's Charter was merely an enabling provision and No Share Capital had been provided to the petitioners thereunder. Besides, the Scheme

referred to in the impugned judgment was operational only for the year 200506 meant for the benefit of the farmers, milk producers, dairy Societies in

Goa and not for the benefit of the petitioners who had merely implemented the Scheme to promote operation flood programme.Â Last but not the

least, there was a clear submission on behalf of the learned Additional Government Advocate appearing for the respondents no.1,3 to 6 that the

Government had no share holding in the petitioners and hence on a consideration of all the material on record, the petitioners could not be said to be a

Public Authority within the meaning of Section 2(h) of the Act.

19. In Thalappalam (supra), the Hon'ble Apex Court while construing the expression ""control"" held that the control must be of a substantive nature and

not mere ""supervision"" or ""regulation"".Â As regards ""substantially financed"" the degree of finance must be actual, existing, positive and

real to a substantial extent and not moderate, ordinary or tolerable, etc. The words "substantial" is not synonymous with "dominant" or

"majority". "Substantially" is closer to "essentially". Mere providing of subsidies, funds, grants, exemption, privileges need not be

"substantial" unless the funding is so substantial that the body practically runs by that funding or else it would struggle to exist. Furthermore, the State

may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of

assistance from NABARD, etc. but those facilities or assistance cannot be termed as "substantially financed" by the State Government to bring the

body within the fold of "Public Authority" under Section 2(h) (d)(i) of the Act. It also spelt out the rationale why cooperative societies and their

autonomy are necessary being to encourage economic activities of cooperative societies which in turn would help the progress of rural India.

20. In Thalappalam (supra), the question at large before the Apex Court was whether a cooperative society registered under the Kerala Cooperative

Societies Act, 1969 would fall within the definition of "Public Authority" under Section 2(h) of the Act and be bound by the obligations to provide

information sought for by a citizen under the Act. A full Bench of the Kerala High Court in its judgment in Mulloor Rural Cooperative Society Ltd.

V/s. State of Kerala [AIR 2012 Ker 124] answered the question in the affirmative upholding the Circular No.23 of 2006 dated 01/06/2006 issued by

the Registrar of the Cooperative Societies, Kerala stating that all the cooperative institutions coming under the administrative control of the Registrar

are "Public Authorities" within the meaning of Section 2(h) of the Act and obliged to provide information as sought for. The question was

answered by the Full Bench in view of the conflicting views expressed by a Division Bench of the Kerala High Court in Writ Petition No.1688 of 2009

with an earlier judgment of the Division Bench in Thalappalam (supra), wherein the Bench took the view that the question as to whether a cooperative

society would fall under Section 2(h) of the Act was a question of fact, which would depend upon the question whether it was substantially financed,

directly or indirectly, by the funds provided by the State Government which the Court held had to be decided depending upon the fact situation of each

case.

21. In *Thalappalam (supra)*, it was submitted on behalf of the Society that the view expressed by the Division Bench in *Thalappalam (supra)*,¹ was

the correct view which called for their approval while the learned Counsel appearing for the State supported the reasoning of the impugned judgment

and submitted that such a circular was issued by the Registrar taking into consideration the larger public interest so as to promote transparency and

accountability in the working of every cooperative society in the State of Kerala.² A reference was also made to the various³ provisions of the

Societies Act and submitted that those provisions would indicate that the Registrar had got all pervading control over the Societies,⁴ including audit,

enquiry and inspection and the power to initiate surcharge proceedings including the power to supersede the management of the Society and to appoint

an administrator.

22. In *Thalappalam (supra)*, the Apex Court considered the function of Public Authority as defined in Section 2(h) of the Act, observed that the

Societies admittedly did not fall in such categories because none of them was either a body or institution of self-government, established or constituted

under the Constitution, by law made by Parliament, by law made by the State Legislature or by way of a notification issued or made by the appropriate

Government, considered the scope of the expression ""control"", the expression ""substantially financed"" and observed that the burden to show that a

body is owned, controlled or substantially financed or that a non-government organisation was on the applicant who seeks information.⁵ The Apex

Court considered the scope and intent of the Act also within the constraints of right to privacy and ultimately held that cooperative societies registered

under the said Act would not fall within the definition of a Public Authority under the Act. This judgment substantially supports the case of the

petitioners apart from the other contemporaneous material on record.

23. Shri Nigel Costa Frias, learned Advocate for the respondent no.2 has placed reliance in *Rajeshwar Majoor Kamgari Sahakari Sanstha Limited*

(*supra*) and *Bishop Cotton High School (supra)* on conclusion of the hearing.⁶ In *Rajeshwar Majoor Kamgari Sahakari Sanstha Limited (supra)*, a

Society registered under the Maharashtra Cooperative Societies Act, 1960 with its principal object to provide work to its members was entitled to get

Government work on contract basis upto a limit of ₹ 15,00,000/- in terms of the

Government Policy.Â It was their case that no financial assistance was given by the State Government and the petitioner sustained itself from the funds, which were self generated.Â The respondent no.3, a Press Reporter of Malkapur town, filed an application seeking various documents mentioned therein and declined by the petitioner on the ground that the Act was not applicable to it.Â The respondent no.3 filed an appeal before the First Information Officer of the Co-operative Societies being the Assistant Registrar who allowed the appeal vide the order dated 27/08/2009.Â The respondent no.3 thereafter filed an appeal before the State Information Commissioner on the ground that the said order had not been complied with by the Assistant Registrar.Â The petitioner filed a reply contending that the First Information Officer had passed an order without hearing the petitioner and that the petitioner was not a "Public Authority".Â The State Information Commissioner by the order dated 23/06/2010 disposed off the appeal inter alia holding that though the petitioner was not a "Public Authority" within the meaning of the Act, the information was directed to be provided by the Assistant Registrar in terms of Section 2(f) of the Act giving rise to a review at the instance of the petitioner seeking clarification of the said order.Â The review application was disposed off by the State Information Commissioner directing the original applicant i.e. the respondent no.3 to approach the Assistant Registrar of Co-operative Societies by making an application and in case such an application was received, the Assistant Registrar was directed to furnish the information by resorting to his powers under the Maharashtra Co-operative Societies Act, 1960 and impugned in the petition.

24. InÂ Rajeshwar Majoor Kamgari Sahakari Sanstha Limited (supra), it was contended on their behalf that the Authority under the Act erred in exercising jurisdiction in view of the fact that the Act was not applicable to the petitioner and the petitioner was not a "Public Authority" within the meaning of Section 2(h) of the Act.Â It was contended on behalf of the State Information Commissioner that the State Information Commissioner had in fact accepted the contention of the petitioner why it was not a "Public Authority" however while relying on Section 2(f) had issued a direction to the Assistant Registrar to provide the information to the applicant by having recourse to the power conferred upon him under the

Maharashtra Co-operative Societies Act, 1960 and therefore the petitioner was proceeding on a misconception that the Authority under the Act had

issued directions on the ground that the petitioner was a "Public Authority". The learned Single Judge held that there could not be any dispute

that the petitioner Society was not a "Public Authority" within the meaning of the Act which had been accepted by the State Information

Commissioner in the order dated 23/06/2010. Nonetheless, the State Information Commissioner after accepting the position that the petitioner was not

a "Public Authority" had taken into consideration the definition of "information" as provided for in Section 2(f) and that it included any

information relating to any private body, which can be accessed by the Public Authority under any other law for the time being would come within the

ambit of "information" as provided for in the said Act.

25. In *Rajeshwar Majoor Kamgari Sahakari Sanstha Limited* (supra), the learned Judge observed that the information was sought from the

Assistant Registrar of the Co-operative Societies, who is admittedly a Public Authority within the meaning of the Act and that the information being

sought in respect of the petitioner Society, can be accessed by the Assistant Registrar under the powers conferred upon him by the Maharashtra

Cooperative Societies Act and therefore the State Information Commissioner considering the definition of "information" was within his rights to direct

the Assistant Registrar who is a Public Authority to provide the said information. The fact that the information was in respect of a private body

would make no difference as the direction was to a Public Authority and it was precisely to cover a situation that the Legislature thought it fit to

provide for a wider definition of the term "information" and accordingly dismissed the petition.

26. *Karnal Co-operative Sugar Mills Ltd. & Ors.* (supra), challenged in appeal the judgment of the learned Single Judge dismissing the appellant's Writ

Petition against the order of the State Information Commissioner wherein it had held that the appellant was a "Public Authority" under the Act.

The appellant had refused to give certain information under the Act which the State Information Commissioner held that the appellant was bound to

give such information holding it to be a "Public Authority". The learned Judge considered the definition of "Public Authority" within the

meaning of Section 2(h), considered the contention on behalf of the appellant that it was neither a body owned, controlled or substantially financed

by the Government, observed that the appellant had not divulged any details about the share holding of the Government or any other finances which

may have been provided by the Government but nonetheless the appellant admitted that it was a Public Authority having itself appointed a Public

Information Officer and dismissed the appeal. This judgment has no bearing on the present case and accordingly is distinguishable.

27. The judgment in *Rajeshwar Majoor Kamgari Sahakari Sanstha Limited* (supra), was mainly relied upon by Shri Nigel Da Costa Frias, learned

Advocate for the respondent no.2 to buttress his plea that in the event it was held by this Court that the petitioner was not a "Public Authority"

within the meaning of Section 2(h)(d)(i) of the Act, nonetheless the Registrar could be directed to furnish the information which was within its domain.

28. In *Bishop Cotton High School* (supra), it was not in dispute that the petitioner school was not a "Public Authority" as defined under Section

2(h) of the Act. However, it was contended on behalf of the respondent no.3 that the provisions of Section 2(f) were very clear and information in

relation to the functioning of the private body which could be accessed by a Public Authority like the respondent no.2 was needed to be supplied to the

respondent no.3. It was pointed out that the respondents no.3 had initially moved the petitioner and thereafter the respondent no.2 Education Officer

as an Appellate Authority. He and the learned Counsel on behalf of the respondent no.1 both stated that as the respondent no.2 fit in the definition

of a "Public Authority", had therefore owed an obligation to procure such information and furnish it to the respondent no.3. There was no

question of the respondent no.2 directing the respondent no.3 to go to the petitioner to procure that information or then directing the petitioner to supply

the information to the respondent no.3 and in those terms the order directing the petitioner to supply the information directly to the respondent no.3

was quashed and set aside.

29. It has been earlier observed on a discussion of all the material on record that the petitioners were not a "Public Authority" within the meaning

of Section 2(h) of the Act. Nevertheless, the petitioners records being within the domain of the Registrar under the Goa Co-operative Societies Act,

2001, the information sought for by the respondent no.2 could very well be supplied by the Registrar of the Cooperative Societies to the respondent

no.2.Â In view thereof, the finding rendered by the respondent no.1 that the petitioners were a â??Public Authorityâ? and consequently amenable to

the Act cannot be sustained nor can the petitioners be directed to furnish the information sought for by the respondent no.2 vide his application dated

13/10/2008.Â In view thereof, i pass the following

O R D E R

(i) The Writ Petition is allowed.

(ii) Rule is made absolute and the impugned judgment and order is quashed and set aside. Nonetheless, considering the judgment in Rajeshwar Majoor

Kamgari Sahakari Sanstha Limited (supra), the Registrar of the Co-operative Societies is directed to furnish the information within its domain

pertaining to the petitioners Union to the respondent no.2.

(iii) In these terms, the petition stands disposed off.