

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 358 of 2024

St. Joseph’s College, situated at Torpa, P.O. and P.S. Torpa, District Khunti, through its principal namely, through its principal namely, Emmanuel Bage, aged about 68 years, son of Late Daniel Bage, Resident of Torpa, P.O. & P.S. Torpa, District Khunti (Jharkhand).

... Appellant/Petitioner

Versus

1. Jharkhand State Information Commission, through Chief Information Commissioner, National Informatics Centre Jharkhand State Centre, 2nd Floor, Engg. Hostel-2, Dhurwa, P.O. & P.S. Dhurwa, District Ranchi PIN-834004, (Jharkhand).
2. Prof. Akshay Kumar Rai, Father’s name not known to the petitioner, resident of Village Shantinagar, P.O. and P.S. Torpa, District Khunti, PIN- 835227 (Jharkhand)
3. The State of Jharkhand

... Respondents/Respondents

CORAM : HON’BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant	: Mr. Prakhar Harit, Advocate
For the State	: Mr. Yogesh Modi, AC to AAG-IA
For the J.S.I.C.	: Mr. Sanjoy Piprawall, Advocate
For the Resp. No. 2	: Mr. Vishal Kr. Rai, Advocate

Order No.

CAV on 11th June, 2025

Pronounced on 20th June, 2025

Per Sujit Narayan Prasad, J.:

1. This appeal is under Clause 10 of the Letters Patent directed against the order dated 02.05.2024 passed by the learned Single Judge of this Court in writ petition being W.P.(C) No. 6689 of 2016 whereby and whereunder the writ petition has been dismissed by declining to interfere with the order dated 30.09.2016 passed in Appeal Case No. 334/16 contained in memo dated 07.10.2016 by the Jharkhand State Information Commission.
2. The brief facts of the case as per the pleading made in the petition needs to be refer herein which reads as under:

The appellant college has been established under the aegis and control of a society registered under the Societies Registration Act, 1860 and the respondent no.2 was a professor of the appellant college who sought certain information vide his application dated 14.09.2015 from the college (writ petitioner/appellant herein).

The Respondent No. 2, Professor Akshay Kumar Rai made an application before the Principal cum Public Information Officer under the Right to Information Act, 2005 seeking information regarding the appellant-college.

The Respondent No. 2 had sought some information under the RTI Act, 2005 which reads as under:

(a) Copy of the Audit Report for the periods 2011-12 to 2014-15;

(b) Copy of the Utility Certificate for the periods 2011-12 to 2014-15;

(c) Proceedings of the Minutes of the Governing Body of St. Joseph's College for the periods 2011-12 to 2014-15;

(d) The concerned Rules which have been relied upon by the St. Joseph's College, Khunti for not making payment of the grant-in-aid received from the State Government to the teachers working under the said Government for the periods 2012-13 to 2014-15.

3. But the aforesaid required information was not provided, by the college/writ petitioner. Thereafter, the Respondent No. 2 approached the Chief Information Commissioner stating inter alia that the information required by him with regard to the appellant-college has not been provided to him and thus filed Second Appeal before the Jharkhand State Information Commission on 01.02.2016 which was registered as Appeal Case No. 334 of 2016.
4. The appellant-college was in receipt of a letter issued by the office of the Respondent No. 1, Jharkhand State Information Commission, wherein notice of hearing of appeal case was issued to the appellant.
5. In reply to the above notice, the appellant inter alia stated that the appellant is neither a Public Authority as defined under Section 2(h) of the Right to Information Act, 2005 nor the information sought for by Resp. No. 2 is required to be furnished to him in view of the Section 8 of the Right to Information Act, 2005.
6. In continuation of the reply given to the Resp. No. 2, the appellant reiterated its stand that the appellant is a not a Public Authority as defined under Section 2(h) of the Right to Information Act, 2005 and the information sought for by the Respondent No. 2 from the

appellant falls under the category of Exempted Information as provided under Section 8 of the Right to Information Act, 2005 and hence the appellant college was not liable to furnish information to the Respondent No. 2.

7. The respondent no.1 Jharkhand State Information Commission vide order dated 30.09.2016 passed in Appeal Case No. 334 of 2016, issued vide Memo No. 23354 dated 07.10.2016, while giving due consideration to the provisions of RTI Act 2005 has held that since the appellant college receives aid from the Government of Jharkhand, the writ petitioner/appellant college is obligated to furnish the information asked for it under the Right to Information Act, 2005.
8. Aggrieved by the order dated 30.09.2016 passed in Appeal Case No. 334 of 2016, the writ petitioner preferred writ petition W.P.(C) No. 6689 of 2016.
9. Before the learned writ Court the ground has been taken by the petitioner that the college has been established under the aegis and control of Khunti Catholic Diocese which is a society registered under the Societies Registration Act, 1860 and is not a Public Authority as defined under right to Information Act, 2005 and hence the appellant does not fall under the provision of RTI Act, 2005 and is not obligated under the law to provide information which has been sought by Respondent No. 2.
10. Further ground has been taken that the appellant college is neither

controlled nor substantially financed by the funds provided by the appropriate Government and is thus not a Public Authority in terms of Section 2(h) of the RTI Act, 2005. The appellant college receives grant in aid from the State Government for payment of salary to its employees, but it is only a scanty fraction of the amount which is spent by the college by giving salaries to the teachers and meeting other expenses of the College.

- 11.** It has been submitted that the appellant is a Minority Institution duly recognized by the National Commission for Minority Educational Institution, Government of Jharkhand and Articles 29 and 30 of the Constitution of India recognizes the Right of the Minority to protect its right and interest and to establish and administer its educational institutions. The above Fundamental Right of the appellant college has been sought to be infringed and violated by the Respondent No. 2, by seeking information from the appellant college which pertains to day-to-day affairs of the appellant college/educational institution.
- 12.** Per contra the learned counsel for respondent has submitted before the writ Court that the writ petitioner college in question falls within Section 2 (h) (i) of Right to Information Act; hence, it is liable to furnish information sought by the respondent no.2 and further the counsel for the respondent has drawn the attention of the writ court about grant in aid as received by the petitioner college under Jharkhand State Unaided Educational Institution (Grant) Rule, 2004.

13. The writ petition of the writ petitioner/ appellant was taken up and vide order dated 02.05.2024 the learned Single Judge dismissed the writ petition on the ground that since the college is substantially financed both directly and indirectly by the fund provided by the appropriate government; hence, the writ petitioner college can be termed as a public authority within the meaning of Section 2 (h) (i) of Right to Information Act, 2005.
14. Being aggrieved with the aforesaid order dated 02.05.2024 the present appeal has been preferred by the writ petitioner college.
15. It is evident from the factual aspect that the information seeker, the respondent No. 2, has made an application for seeking information from the petitioner college providing therein the details of the expenditure incurred by the petitioner college which has been received from the State Government by grant-in-aid.
16. The information has not furnished as such finally the second appeal was preferred before the Jharkhand State Information Commissioner under the provision of second appeal as provided under Section 19 of the Right to Information Act, 2005.
17. The Jharkhand State Information Commission has passed an order directing to provide information to information seeker, the said direction has been challenged by the petitioner college by invoking the jurisdiction conferred to this Court under Article 226 of the Constitution of India.

18. The ground has been taken that the petitioner college is a institution having not come under the fold of Right to Information Act, 2005 and as such the Commission has no jurisdiction to direct the appellant-college to provide information to the information seeker.
19. The learned Single Judge has not agreed to the said ground on the pretext that the college is coming under the fold of public authority as defined under Section 2(h) of the Right to Information Act, 2005 particularly 2(h)(i) thereof. The said order is challenged by way of the present appeal.

Arguments advanced by the learned counsel appearing for the appellant:

20. Mr. Prakhar Harit, learned counsel appearing for the appellant has assailed the impugned order by taking the following grounds:
- i. The learned Single Judge has not appreciated that the college in question is not a public authority having no control of the State Government and hence is not coming under the fold of Right to Information Act, 2005. Hence there cannot be any direction by the Commission to provide information to the information seeker.
 - ii. The providing of information by the college to the information seeker will be continued to the statutory provision as contained under Right to Information Act, 2005 due to the reason that when the college is not government fold, there

cannot be any control for providing details and to substantiate his arguments, he has relied upon the judgment rendered in the case of ***Thalappalam Service Cooperative Bank Limited and others V. State of Kerala and others (2013) 16 SCC 82.***

21. The learned counsel, based upon the aforesaid ground, has submitted that there is no consideration of the aforesaid issue in right perspective and as such, the impugned order needs interference.

Arguments advanced by the learned counsel appearing for the respondents:

22. The learned counsel appearing for the Respondent No. 2, the information seeker, has taken the following grounds by defending the impugned judgment.
- i. It has been submitted that it is incorrect on the part of the college to take the ground that the college in question is not under the control of the State Government rather the college in question will not come under the fold of the private authority rather the college in question is a public authority, by virtue of the reason that substantial fund is released by the State Government by grant-in-aid.
 - ii. It has been contended that the moment, the aid is being given by the State Government, the college in question will come under the fold of Right to Information Act, 2005 in view of the provision of Section 2 (h)(d)(i).

23. The learned Single Judge, by taking into consideration the aforesaid statutory command has refused to interfere with the impugned order as well as it cannot be said that the order impugned suffers from an error.
24. Mr. Sanjay Piprawall, learned counsel appearing for the Jharkhand State Information Commission has adopted the argument advanced by the learned counsel appearing for information seeker.

Analysis

25. This Court has heard the learned counsel for the parties and gone through the pleading made in the memo of appeal and also the finding recorded by the learned Single Judge in the impugned order.
26. The core question which requires consideration as to whether the college in question, the appellant-petitioner herein will come under the fold of Right to Information Act, 2005 requiring to provide information to the information seeker?
27. This Court, before answering the aforesaid issue and appreciating the argument advanced on behalf of the petitioner, deems it fit and proper to refer the object and intent of the Act, 2005.
28. The said Act came into effect on 15th June, 2005, and is hereby published for general information. The Right to Information Act is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and

accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

29. In the case of ***Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi***, (2012) 13 SCC 61 the Hon'ble Apex Court while considering the object and intent of the Act 2005 has observed that the scheme of the Act contemplates for setting out the practical regime of the right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. For ready reference the relevant paragraph of the aforesaid order is being quoted as under:

10. The scheme of the Act contemplates for setting out the practical regime of the right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. It was aimed at providing free access to information with the object of making governance more transparent and accountable. Another right of a citizen protected under the Constitution is the right to privacy. This right is enshrined within the spirit of Article 21 of the Constitution. Thus, the right to information has to be balanced with the right to privacy within the framework of law.

- 30.** Further an applicant under RTI Act can seek information from bodies established under the Constitution, any statute, rules or notifications as provided by Section 2(h)(a) to Section 2 (h)(d), Act 2005. Information can also be sought from non-statutory bodies/NGOs if they are owned, controlled or substantially financed by appropriate Government as proved by Section 2(h)(d)(i) and Section 2(h)(d)(ii) though they need not qualify the test of “State” or “instrumentality of State” under Article 12 of Constitution. The definition of ‘public authority’ under Section 2(1)(h) RTI Act does not talk of ‘deep and pervasive’ control. It is enough if it is shown that the authority is ‘controlled’ by the central government.
- 31.** This Court, in order to answer the aforesaid issue, needs to refer herein the definition of public authority as defined in Section 2(h) in entirety which is being referred herein.

2(h) "public authority" means any authority or body or institution of selfgovernment 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;

- 32.** It is evident from the definition of public authority as contained in

Section 2 (h)(d)(i), any authority or body or institution of self-government established or constituted, and by notification issued or order made by state legislature, if owned, controlled or substantially financed, such institution will come under the fold of public authority and thereby it comes under the purview of Right to Information Act, 2005.

33. The issue of substantially financed has taken into consideration by the Hon'ble Apex Court in the case of ***D.A.V. College Trust and Management Society and Others v. Director of Public Instructions and others*** (supra) wherein it has been held that the substantial finance does not mean finance involved is more than 50 per cent of the institution, the material consideration which requires to be considered is that the amount is more if the finance is less than 50 per cent, such finance can be turned as substantial finance, the relevant para is being referred herein which reads as under:

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 5000 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.

- 34.** This Court has found from the material available on record and also from the order impugned that the grant in aid has been received by the college in question under the Jharkhand State Unaided Educational Institution (Grant) Rules 2004.
- 35.** The grant in aid which has been received by the college in question under the Jharkhand State Unaided Educational Institution (Grant) Rules 2004, the same is being reproduced by the tabular chart:

Sessions	Amount (in Rupees)
2009-10	3,15,685
2010-11	7,77,778
2011-12	10,80,000
2012-13	10,80,000
2013-14	14,40,000
2014-15	14,40,000
2015-2016	40,00,000

- 36.** The factum of release of grant in aid in pursuance to the statutory command as contained under Jharkhand State Unaided Educational Institution (Grant) Rules 2004 has not been disputed by the petitioner college.
- 37.** However, the dispute has been made by relying upon the judgment in

the case of *Thalappalam Service Cooperative Bank Limited and others V. State of Kerala and others*(supra).

38. For proper appreciation of the aforesaid contention, it would be apt to refer herein the factual aspect of the aforesaid case. In the said case the seminal question was put before the Hon'ble Apex Court that whether a cooperative society registered under the Kerala Cooperative Societies Act, 1969 (for short "the Societies Act") will fall within the definition of "public authority" under Section 2(h) of the Right to Information Act, 2005 (for short "the RTI Act") and be bound by the obligations to provide information sought for by a citizen under the RTI Act.
39. As per the fact of the aforesaid case a Full Bench of the Kerala High Court, in its judgment in **Mulloor Rural Coop. Society Ltd. v. State of Kerala [AIR 2012 Ker 124]** , answered the question in the affirmative and upheld Circular No. 23 of 2006 dated 1-6-2006, 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 RTI Act and obliged to provide information as sought for. The question was answered by the Full Bench in view of the conflicting views expressed [*Mulloor Rural Coop. Society Ltd. v. State of Kerala, Writ Appeal No. 1688 of 2009, order dated 24-3-2011 (Ker)*] by a Division Bench of the Kerala High Court in Writ Appeal No. 1688 of 2009, with an earlier judgment of the

Division Bench in *Thalapalam Service Coop. Bank Ltd. v. Union of India [AIR 2010 Ker 6]* , wherein the Bench took the view that the question as to whether a cooperative society will fall under Section 2(h) of the RTI Act is a question of fact, which will depend upon the question whether it is substantially financed, directly or indirectly, by the funds provided by the State Government which, the Court held, has to be decided depending upon the fact situation of each case.

40. The Hon'ble Apex Court while taking in to consideration the core of the Act 2005 particularly the term substantially financed has observed that the Cooperative Societies registered under the Kerala Cooperative Societies Act will not fall within the definition of "public authority" as defined under Section 2(h) of the RTI Act.
41. It is evident that the fact of the aforesaid case is quite different from the present one, since the said case is of co-operative society registered under the Kerala Co-operative Societies Act which is under the control of Registrar of Co-operative Society would be falling within the definition of public authority under Section 2(h) of the Right to Information Act, 2005 and while answering the same, the Hon'ble Apex Court has pleased to hold that the co-operative society registered under the Kerala Co-operative Societies Act will not fall within the definition of public authority as defined under Section 2(h) of the Right to Information Act, 2005. In absence of material to show that their own control on such consideration of such substantially finance by the appropriate Government, the relevant

para needs to refer herein:

69. We, therefore, hold that the Cooperative Societies registered under the Kerala Cooperative Societies Act will not fall within the definition of “public authority” as defined under Section 2(h) of the RTI Act and the State Government Letter dated 5-5-2006 and the Circular dated 1-6-2006 issued by the Registrar of Cooperative Societies, Kerala, to the extent, made applicable to societies registered under the Kerala Cooperative Societies Act would stand quashed in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. The appeals are, therefore, allowed as above, however, with no order as to costs.

42. The judgment rendered in the case of ***Thalappalam Service Cooperative Bank Limited and others V. State of Kerala and others (supra)*** although is not applicable, but even in the said judgment, it has been laid down by the Hon’ble Apex Court that the applicability of Section 2(h) will depend upon the facts and circumstances of each and every case to be assessed independently with the facts involved therein. It has also been observed in the said judgment that in a case if the materials to show that they are owned, controlled or substantially financed by the appropriate Government, then Section 2(h) of the RTI Act 2005, will be applicable.
43. Further, the consideration which is to be given by the Court that the financial aid is substantial or not. If the financial aid by the State is substantial, then certainly Section 2(h) of the Act, 2005 will be

applicable.

44. Substantial financed has also been interpreted by the Hon'ble Apex court in the case of ***Thalappalam Service Cooperative Bank Limited and others V. State of Kerala and others (supra)***. For ready reference, the relevant para of the said judgment is being referred herein which reads as under:

Substantially financed

46. *The words “substantially financed” have been used in Sections 2(h)(d)(i) and (ii), while defining the expression public authority as well as in Section 2(a) of the Act, while defining the expression “appropriate Government”. A body can be substantially financed, directly or indirectly by funds provided by the appropriate Government. The expression “substantially financed”, as such, has not been defined under the Act. “Substantial” means “in a substantial manner so as to be substantial”. In *Palser v. Grinling* [1948 AC 291 : (1948) 1 All ER 1 (HL)] , while interpreting the provisions of Section 10(1) of the Rent and Mortgage Interest Restrictions Act, 1923, the House of Lords held that “substantial” is not the same as “not unsubstantial” i.e. just enough to avoid the de minimis principle. The word “substantial” literally means solid, massive, etc. The legislature has used the expression “substantially financed” in Sections 2(h)(d)(i) and (ii) indicating that the degree of financing must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable, etc.*

45. The issue of substantial financial aid whether available or not is evident from the admitted fact as has been reproduced by way of

tabular chart as available in Para 19 hereinabove that the State is aiding under the Jharkhand State Unaided Educational Institution (Grant) Rules 2004, the amount to the tune of Rs. 3,15,000 in the year 2009-10, Rs. 7,77,778 in the year 2010-11, Rs. 10,80,000 in the 2011-12, Rs. 10,80,000 in the 2012-13, Rs. 14,40,000 in the year 2013-14, Rs. 14,40,000 in the year 2014-15 which has been enhanced later to Rs. 40,00,000 in the financial year 2015-16.

46. This Court, therefore is of the view that the aforesaid financial aid is substantial and hence applying the ratio in the case of ***Thalappalam Service Cooperative Bank Limited and others V. State of Kerala and others*** (supra) or the ***D.A.V. College Trust and Management Society and Others v. Director of Public Instructions and others*** (supra), the college in question will come under the fold of Section 2(h) of the Act 2005.

47. The issue accordingly is being answered.

48. This Court, after having answered the issue, has gone through the order passed by the learned Single Judge, has found therefrom that the learned Single Judge has taken into consideration the implication of Section 2(h) as also the receiving of grant in aid by the State Government under the provision of 2(h)(d)(i) and therefore has come to the conclusion of applicability of the judgment rendered in the case of ***D.A.V. College Trust and Management Society and Others v. Director of Public Instructions and others*** (supra) holding

further that since the writ petitioner college (appellant herein) is substantially financed both directly and indirectly by the fund provided by the appropriate government; hence, the writ petitioner college can be termed as a public authority within the meaning of Section 2 (h) (i) of Right to Information Act, 2005.

49. This Court based upon the discussion made hereinabove, is of the view that the judgment passed by the learned Single Judge, therefore, suffers from no error as requires no interference.

50. Accordingly, the instant appeal stands dismissed.

51. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

(Rajesh Kumar, J.)

Samarth/**A.F.R.**