

Madras High Court

V.S.B.Engineering College vs The Central Information ... on 9 December, 2022

W.P.No.38872 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.38872 of 2015

and

MP.No.1 of 2015

V.S.B.Engineering College,
Rep. by its Manager,
Karudayampalayam,
Karur – 639 111.

... Petitioner

Vs

1.The Central Information Commission,
Rep. by its Registrar,
Room No.306, 2nd Floor, B-Wing,
August Kranti Bhawan,
Bhikaji Cama Place, New Delhi – 110 066.

2.The CPIO under the RTI Act,
Government of India,
All India Council for Technical Education,
Southern Regional office, Shastri Bhawan,
26, Haddows Road, Nungambakkam,
Chennai – 600 006.

3.Rajasekaran M

... Respondents

<https://www.mhc.tn.gov.in/judis>

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records respondent dated 06.11.2015 in CIC/CC/A/2014/001017-SA, CIC/CC/A/2014/002101-SA and CIC/CC/A/2014/000960-SA on his file and quash the same.

For Petitioner : Mrs.Hema Sampath, Senior Counsel
For Ms.R.Meenal

For Respondents : Mr.Vijayakumar
For Mr.J.Madhanagopal Rao (for R1)
Senior Panel Counsel

Mrs.A.L.Ganthimathi (for R2)

Mr.E.P.Senniyangiri (for R3)

Mr.B.Vijay, (Amicus Curiae)

ORDER

The petitioner is an unaided (self-financing private college) that claims to be approved by the All India Council for Technical Education (AICTE) and affiliation with the Anna University. The petitioner was set-up and commenced operations from academic year 2002-03 onwards.

2. The petitioner had received an application dated 07.08.2014 from the third respondent/R3, an individual, that proceeded upon the lines that the petitioner, though a private college, was a public authority under the provisions of the Right to Information Act, 2005 (in short 'RTI Act'). <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

3. In this context, third respondent refers to several decisions of both the Courts as well as Central Information Commission/R1 being, Poorna Prajna Public School v. Central Information Commission and Others [2009 SCC OnLine Del 3077], Mehjabin Kousar v. Public Information Officer/Assistant Director of Education – (East), Directorate of Education (Govt. of NCT of Delhi), RTI Section Public Information Officer/Deputy Director of Education – (Zone-1), Directorate of Education (Govt. of NCT of Delhi) Zone I Through: Ms.Neha Shankar, Mr.Rajesh Joshi and Mr.M.K.Sharma [2018 SCC OnLine CIC 1148]

4. Thus, invoking the provisions of the Act, third respondent sought the following information from the college:

'1. Certified copy of the Application filed by the PGP College of Engineering and Technology for the first time to seek approval from the AICTE, New Delhi, along with all enclosures appended therein with respect to the Handbook on approval Process of AICTE to conduct the Engineering Courses, as per section 2(j)(ii) of the RTI Act.

2.Certified copy of all the applications submitted year wise along with enclosures, for seeking Extension of approval from AICTE, New Delhi, w.e.f. second year onwards to till date.

3.Permission to inspect all the features certified to be available by the Expert Visit Committee, in your College, as per the Hand book on Approval Process prescribed by the AICTE, New Delhi, in accordance to section 2(j)(ii) of the RTI Act 2005, from First year to till date.’ <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

5.The information was sought for under threat that if the college does not supply the same, not only would R3 file an appeal before R1, but would also pray for the imposition of penalty upon the Principal and compensation under the provisions of the Act as well as de-recognition of the college by the AICTE, New Delhi and suitable action under the Prevention of Corruption Act, 1988.

6.Though this letter is addressed to the petitioner college, at paragraph 1, the name of the college is mentioned as ‘PGP College of Engineering and Technology’. The error was corrected by R3 in letter dated 20.08.2014. It appears clear to me that R3 has been making a similar request qua several other colleges as well, which perhaps accounts for the error in the name of the college.

7.The petitioner responded on 03.09.2014 stating that the details sought for are not required to be maintained under law and are therefore, unavailable. They also objected to the application itself contending that being a private unaided institution, they would not fall under the cover and ambit of the RTI Act. Objecting further to the intimidation by R3, an FIR is stated to have been registered though the fate of the same is unknown.

8.Upon receipt of the above letter, R3 approached the first respondent by way of an appeal reiterating the contents of his letter dated 07.08.2014 and his threats. Though the petitioner was favoured with a copy of the appeal, further <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 progress in the matter was not brought to its notice till such time it received the impugned order, dated 06.11.2015. This order has disposed three appeals and thus my initial view that R3 is a habitual information seeker under the RTI Act is further fortified. No notice was issued to the petitioner prior to disposal of the appeal.

9.Having heard the submissions of R3 and perused the records, which included the communication of the petitioner rejecting the request of R3, R1 found that the premises of the petitioner college, and in fact, any college for that matter, whether public or private, cannot be closed to the inspection of the public who have a public duty and right in the maintenance and upkeep of quality in such colleges.

10.Being of that view, he directed the Central Public Information Officer to facilitate inspection of the colleges on a suitable date and without any disturbance caused to the academic schedule and upon costs in that regard being paid by the appellant.

11. The petitioner is aggrieved with this order and raises three grounds challenging the same. The first two grounds are general in nature and touch upon the scope and ambit of the RTI Act to solicit information from private unaided institutions. The third is specific to the facts of this case, and the <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 petitioner would object specifically to the tone and tenor of the query from R3 as well as the lack of bona fides in the query itself.

12. The RTI Act sets out a practical regime of right to citizens to secure access to information which is under the control of public authorities. The object is to promote transparency and accountability in the working of every public authority. Thus, one needs to examine whether a private unaided educational institution would constitute a 'public authority' that would be subject to the dictates of the Act.

13. 'Public authority' has been defined under Section 2(h) as follows:

'2. Definitions. -

(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 organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;'

14. The interpretation of the phrase 'public authority' is no longer res integra in light of the judgement of the Hon'ble Supreme Court in the case of *Thalappalam Service Cooperative Bank Limited and Others vs. State of Kerala* <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 and Others [(2013) 16 SCC 82]. The Court considered therein, whether Co-

operative societies that had been set up under the Kerala Co-operative Societies Act, would comprise 'public authorities', amenable to the RTI Act.

15. The Court concluded that a Co-operative society would not fall under any of the relevant clauses, being (a) to (d) of Section 2(h) of the Act. It was also not a non-governmental organization and

hence stood dehors the ambit of Clause

(ii) to the second limb of Section 2(h). However the test as to whether it was a body owned, controlled or substantially financed by the appropriate Government, still remained.

16. Undoubtedly, the co-operative societies were constituted under the State Co-operatives enactments. However, they were neither owned nor substantially financed by the State. The question of whether the societies were controlled by the State was discussed extensively from paragraphs 36 onwards of the SCC report. The Court held that the meaning of the expression 'control' must be tested in the context of the RTI Act and not in any other context i.e., neither in the context of the expression 'State' under Article 12 of the Constitution of India nor in the context of maintainability of the writ petition against a body or authority under Article 226 of the Constitution of India. <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

17. Since the term 'control/controlled' has not been defined in the RTI Act, they proceed to understand the scope of the expression set in context of the prior and subsequent terms i.e. in the context of a 'body owned' and 'substantially financed'. Several cases were discussed, such as State of West Bengal vs. Nripendra Nath Bagchi (AIR 1966 SC 447); Chief Justice of Andhra Pradesh v. L.V.A.Dixitulu [(1979) 2 SCC 34]; Corporation of the City of Nagpur vs. Ramachandra [(1981) 2 SCC 714]; Shamrao Vithal Coop. Bank Ltd. vs. Kasargod Pandhuranga Mallya [(1972) 4 SCC 600]; State of Mysore vs. Allum Karibasappa [(1974) 2 SCC 498] and Madan Mohan Choudhary vs. State of Bihar [(1999) 3 SCC 396].

18. After considering the aforesaid judgments, the Court concluded that the control exercised by the appropriate Government must be of a very substantial nature and a mere supervision or regulation as provided for under a Statute would not render that body a 'public authority'.

19. At paragraphs 44 and 45, they state as follows:

'44. We are of the opinion that when we test the meaning of expression "controlled" which figures in between the words "body owned" and "substantially financed", the control by the appropriate Government must be a control of a substantial nature. The mere "supervision" or "regulation" as such by a statute or otherwise of a body would not make that body a "public authority" within the meaning of Section 2(h)(d)(i) of <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 the RTI Act. In other words just like a body owned or body substantially financed by the appropriate Government, the control of the body by the appropriate Government would also be substantial and not merely supervisory or regulatory. The powers exercised by the Registrar of Cooperative Societies and others under the Cooperative Societies Act are only regulatory or supervisory in nature, which will not amount to dominating or interfering with the management or affairs of the society so as to be controlled. The management and control are statutorily conferred on the Management Committee or the Board of Directors of the Society by the respective Cooperative Societies Act and not on the authorities under the Cooperative Societies Act.

45. We are, therefore, of the view that the word “controlled” used in Section 2(h)(d)(i) of the Act has to be understood in the context in which it has been used vis-à-vis a body owned or substantially financed by the appropriate Government, that is, the control of the body is of such a degree which amounts to substantial control over the management and affairs of the body.’

20. The Hon’ble Supreme Court in a subsequent judgment in the case of DAV College Trust and Management Society vs. Director of Public Instructions (2019 9 SCC 185) reiterated the conclusions as above, at paragraph 32, that reads as follows:

’32. Appellant 1 is the Society which runs various colleges/schools but each has an identity of its own and, in our view, each of the college/school is a public authority within the meaning of the Act. It has been urged that these colleges/schools are not being substantially financed by the Government inasmuch as that they do not receive more than 50% of the finance from the Government. Even the documents filed by the <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 appellants themselves show that M.C.M. D.A.V. College, Chandigarh, in the years 2004-2005, 2005-2006 and 2006- 2007, has received grants in excess of 1.5 crores each year which constituted about 44% of the expenditure of the College.

As far as D.A.V. College, Chandigarh is concerned the grant for these three years ranged from more than 3.6 crores to 4.5 crores and in percentage terms it is more than 40% of the total financial outlay for each year. Similar is the situation with D.A.V. Senior Secondary School, Chandigarh, where the contribution of the State is more than 44%.’

21. In the above case, the Society was found to be substantially financed by the State and hence amenable to the provisions of the RTI Act.

22. In Tyndale Biscoe School and Others vs. Union Territory of J&K and Others (AIR 2022 J&K 112) the entire gamut of the case-law on the subject has been reproduced and analysed and the Court has arrived at the following conclusions:

17. In view of the foregoing analysis, this Court has arrived at following conclusions:-

i) That a private unaided educational institution established and run by an independent society, trust or managing committee, which is not substantially financed directly or indirectly by the appropriate Government does not fall within the definition of ‘public authority’ contained in Section 2(h) of the Act of 2005.

ii) That a private educational Institution which may require recognition or is recognized by the appropriate Government under any law for the time being in force does not ipso facto become a public authority within the meaning of term <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 given in Section 2(h) of the Act of 2005 unless it is either owned, controlled or substantially financed by the appropriate Government.

iii) Private unaided institution is not an authority or body or institution of self government established or constituted by or under the Constitution; by any other law made by the Parliament; or by any law made by the State Legislature; or by any notification issued and order made by the appropriate Government.

iv) Private unaided school/institution may not be a body under the control and substantially financed by the appropriate government, but such institution will fall within the definition of term "non-government organization" and if it is found that such non-government organization is substantially financed directly or indirectly by funds provided by the appropriate Government, it will be "public authority" within the meaning of Section 2(h) of the Act of 2005 and, therefore, obliged to provide requisite information to the information seeker within the ambit and scope of the Act of 2005.

v) Even if a private unaided institution is not a public authority still all the information as can be accessed by the public authority (Public Information Officer of the Education Department) or some other department of the Government under any other law for the time being in force can be provided by the public authority. Such information could be the one in possession of the public authority or it could be the information legally accessible or obtainable from the private body. Needless to say that the educational institution other than the one, which is a public authority, shall be entitled to deny information sought for by the Public Information Officer in terms of Section 8 of the Act of 2005.' <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

23. The overarching conclusion that has been arrived at by the Courts is thus to the effect that private unaided schools do not constitute 'public authorities' that are amenable to the provisions of the RTI Act. There is however, a caveat.

24. It cannot be disputed that educational institutions, whether private or public, perform a critical public function, being the dissemination of education. Hence, there must be, and the Court agrees with R1 on this, scrutiny of the manner and mode of such dissemination, and the quality maintained by the institutions. For this purpose, though not a public authority, they would still come within the ambit of the RTI Act, although by strict application of the provisions of Section 11 of the Act.

25. 'Information' is defined under Section 2(f), and the 'right to information', in Section 2(j), to read as follows:

'2(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;' 2(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—
<https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

26. Section 8 exempts from disclosure, various genres of information, as follows:

‘8. Exemption from disclosure of information.— (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of https://www.mhc.tn.gov.in/judis W.P.No.38872 of 2015 information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i)cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j)information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2)Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub- section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3)Subject to the provisions of clauses (a), (c) and (i) of sub- section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.' <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

27. Sections 2(f) defines 'information' and is wide in scope and import.

There is no doubt that the information sought for by R3 would, generally, be covered under its ambit. Incidentally, and at this juncture the petitioner also clarifies that all its statutory approvals are currant and upto date. Section 2(I) defines 'right to information' and addresses access to such information that is in possession of a public authority.

28. Section 8 relates to those categories of information that stand exempted from disclosure, either absolutely or subject to some discretion provided to the authority under the Act. While a reading of the provisions thus far might lead to the conclusion that it is only information relating to a public

authority that may be accessed, the provisions of Section 11 bring to light yet another dimension.

29. Section 11 of the Act reads thus:

'11.Third party information.-(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

.....'

30. The term 'third party' is denied in Section 2(n) of the RTI Act as 'a person other than the citizen making a request for information and includes a public authority'. Thus the term 'third party' includes, apart from the public authority, also a private body or person other than the citizen making request for the information. The petitioner school, a private body, will be a third party under Section 2(n) of the RTI Act.

31. Section 11 provides for access to information relating to a private body that is held by a public authority and sets out the procedure to be followed under the Act for public access to such information. Thus, information relating to a private body can also be accessed by an information seeker, subject to the procedure set out under Section 11 and after examination of whether such information would be liable for exemption in terms of Section 8 of the Act.

32. Upon a combined understanding of the above provisions, the petitioner institution, though a private unaided school, would still be subject to <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 disclosure of information, in line with the procedure set out under Section 11 and other applicable provisions.

33. The procedure envisaged under Section 11 is that when an information officer receives a request for information, he has to first apply his mind as to whether he intends to disclose that information, if the information is part of public record that he is in possession of, qua the third party (in this case, the petitioner institution). If it is not part of the information available with him, he is to solicit such information from the third party.

34. In both cases, either whether if he is in the possession of the same or whether he solicits the same from the third party, he shall give notice to the third party of the request his intention to disclose the information on record or part thereof and thereafter invite the third party to make its

submission regarding whether the information may be disclosed.

35.Upon receipt of the response from the third party, the officer shall within an overall period of 40 days from date of receipt of the request, hear the third party and take a decision on the merits of whether or not to disclose the information/recorded/part thereof under Section 11(3) of the Act. The decision as aforesaid shall, under Section 11(4), include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 the decision. In the present case, the first respondent has, admittedly, not conformed to the procedure as set out under Section 11.

36. The Delhi High Court had, in the case of Poorna Prajna Public School v. Central Information Commission and Others [WP(Civil)No.7265 of 2007 dated 25.09.2009], considered an identical issue concluding likewise, that the procedure in terms of Section 11 of the Act would be applicable in the context of third party information. While the question as to whether that school was a public authority was left open, the discussion reads as follows:

....

13. Information available with the public authority falls within section 2(f) of the RTI Act. The last part of section 2 (f) broadens the scope of the term ?information' to include information which is not available, but can be accessed by the public authority from a private authority. Such information relating to a private body should be accessible to the public authority under any other law.

Therefore, section 2(f) of the RTI Act requires examination of the relevant statute or law, as broadly understood, under which a public authority can access information from a private body. If law or statute permits and allows the public authority to access the information relating to a private body, it will fall within the four corners of Section 2(f) of the RTI Act. If there are requirements in the nature of preconditions and restrictions to be satisfied by the public authority before information can be accessed and asked to be furnished from a private body, then such preconditions and restrictions have to be satisfied. A public authority cannot act contrary to the law/statute and direct a private body to furnish information. Accordingly, if there is a bar, prohibition, restriction or precondition under any statute for <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 directing a private body to furnish information, the said bar, prohibition, restriction or precondition will continue to apply and only when the conditions are satisfied, the public authority is obliged to get information. Entitlement of the public authority to ask for information from a private body is required to be satisfied.

14. Section 22 of the RTI Act, reads:-

22. Act to provisions of notwithstanding have overriding effect.--The this Act shall have effect anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

15. Section 22 of the RTI Act is an overriding clause but it does not modify any other statute or enactment, on the question of right and power of a public authority to call for information relating to a private body. A bar, prohibition or restriction in a statutory enactment, before information can be accessed by a public authority, continues to apply and is not obliterated by section 22 of the RTI Act. Section 2(f) of the RTI Act does not bring about any modification or amendment in any other enactment, which bars or prohibits or imposes pre-condition for accessing information from private bodies. Rather, it upholds and accepts the said position when it uses the expression -which can be accessed i.e. the public authority should be in a position and entitled to ask for the said information. Section 22 of the RTI Act, an overriding provision does not mitigate against the said interpretation for there is no contradiction or conflict between the provisions of Section 2(f) of the RTI Act and other statutory enactments/law. Section 22 will apply only when there is a conflict between the RTI Act and Official Secrets Act or any other enactment. As a private body, the Petitioner School is entitled to plead that they cannot be compelled to furnish information because the public authority is not entitled to <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 information/documents under the law. The petitioner school can also claim that information should not be furnished because it falls under any of the sub-clauses to Section 8 of the RTI Act. Any such claim, when made, has to be considered by the public information officer, first appellate authority and the CIC. In other words, a private body will be entitled to the same protection as is available to a public authority including protection against unwarranted invasion of privacy unless there is a finding that the disclosure is in larger public interest.

16. Section 8 of the RTI Act is a non-obstante provision which applies notwithstanding other sections of the RTI Act. In other words, Section 8 over-rides other provisions of the RTI Act. Section 8 stipulates the exceptions or rules when information is not required to be furnished. Section 8 of the RTI Act is a complete code in itself. Section 8 does not modify the term information as defined in Section 2(f) of the RTI Act. Whether or not Section 8 applies is required to be examined when information under Section 2(f) is asked for. To deny information as defined in section 2(f), the case must be brought under any of the clauses of Section 8 of the RTI Act. Right to information under the RTI Act is a norm and Section 8 adumbrates exceptions i.e. when information is not to be supplied. It is not possible to accept the contention of the petitioner School that information as defined in Section 2(f) need not be furnished under the RTI Act for reasons and grounds not covered in Section 8. This will be contrary to the scheme of the RTI Act. Information as defined in Section 2(f) of the RTI Act is to be furnished and supplied, unless a case falls under sub-clauses (a) to (j) of Section 8(1) of the RTI Act. Thus all information including information furnished and relating to private bodies available with public authority is covered by Section 2(f) of the RTI Act. Further, information which a public authority can access under any other law from a private body is also -information under section 2(f). The public authority should be entitled to ask for the said information under law from the private body. Details available with a public authority about a private body are -information and details which can be accessed <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 by the public authority from a private body are also -information but the law should permit and entitle the public authority to ask for the said details from a private body. Restrictions, conditions and prerequisites imposed and prescribed by law should be satisfied. The question whether information should be denied requires reference to Section 8 of the RTI Act.

17. Learned counsel for the petitioner School submitted that the Directorate of Education does not have an access to the minutes of the managing committee. Under Rule 180 (i) of the DSE Rules, the private unaided schools are required to submit return and documents in accordance with Appendix 2 thereto and minutes of the managing committee are not included in Appendix 2. Rule 180

(i) of the DSE Rules is not the only provision in the DSE Rules under which Directorate of Education are entitled to have access to the records of a private unaided school. Rule 50 of the DSE Rules, stipulates conditions for recognition of a private school and states that no private school shall be recognized or continue to be recognized unless the said school fulfills the conditions mentioned in the said Section. Clause (xviii) of Rule 50 of the DSE Rules reads as under:-

....

19. In view of the above findings, the question whether the petitioner school is a public authority is left open and not decided.

37. Thus the caveat is answered to state that where information sought for by a querist, relates to an authority that is not a 'public authority', but a private one rendering public functions or in respect of which a public information officer holds information, such a request may be considered at the discretion of the officer, strictly in line with the procedure set out under Section 11 of the Act. <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015

38. For the aforesaid reasons, the impugned order is set aside. It is made clear that nothing would preclude the third respondent for reiterating his request, which, if received by the Public Information Officer concerned, shall be considered in accordance with law and with the specific stipulations under the RTI Act.

39. This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

09.12.2022 vs Index : Yes Speaking Order To

1. The Central Information Commission, Rep. by its Registrar, Room No.306, 2nd Floor, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi – 110 066.

2. The CPIO under the RTI Act, Government of India, All India Council for Technical Education, Southern Regional office, Shastri Bhawan, 26, Haddows Road, Nungambakkam, <https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 Chennai – 600 006.

<https://www.mhc.tn.gov.in/judis> W.P.No.38872 of 2015 Dr. ANITA SUMANTH,J.

vs W.P.No.38872 of 2015 and MP.No.1 of 2015 09.12.2022 <https://www.mhc.tn.gov.in/judis>