



**STATE INFORMATION COMMISSION, HARYANA
SCO 70-71 and 114-115, SECTOR 8-C,
Chandigarh.**

Website: cicharyana.gov.in

**SCN No. 852 of 2012 in
Appeal Case No. 2266 of 2012
SCN No. 652 of 2012 in
Appeal Case No. 3358 of 2012
SCN no. 897 of 2012 in
Appeal Case No. 4035 of 2012
Appeal Case No. 4548 of 2012**

**Shri Rakesh Kumar s/o Shri Kala Singh, r/o V.P.O. Kheri
Bura, Tehsil Charkhi Dadri, District Bhiwani-127306**

.....Applicant

Versus

- 1. The Principal, D.G.M. College of Education, Mankawas
District Bhiwani.**
- 2. State Public Information Officer O/o State Council of
Education Research and Training, Gurgaon.**
- 3. State Public Information Officer O/o Director, Secondary
Education Department, Haryana, Shiksha Sadan, Sector-8,
Panchkula.**
- 4. State Public Information Officer O/o Maharishi Dayanand
University, Rohtak.**
- 5. State Public Information Officer O/o Haryana Board of
School Education, Bhiwani.**

.....Respondent(s)

This matter has arisen in pursuance of the earlier hearings (except in Appeal Cases No. 1602 of 2013 and 2089 of 2014) held by different benches of the Commission in these cases and the order of the Hon'ble Division Bench of the Punjab & Haryana High Court disposing of the pending LPAs with the direction to the Commission to evaluate each case individually in the light of the judgement passed by the Hon'ble Supreme Court in Thalappalam Ser. Corp Bank Limited's case. The matter whether, private schools involved in these cases are the public authorities in terms of Section 2 (h) of the RTI Act, 2005 (hereinafter called Act) and fall under the ambit of



the Act was under the consideration of the Hon'ble High Court. The Hon'ble Punjab & Haryana High Court while disposing of all such Civil Writ Petitions in LPA No. 1174 of 2011 (O&M) titled Punjab Cricket Association Vs State Information Commission, Punjab and another decided the matter on 12.12.2013 by passing the following order:

8. (i) *The orders passed by the State Information Commission (SIC) and the learned Single Judge in all these appeals are set aside. The matter is remanded to the SIC to decide the same afresh.*
- (ii) *The interim order shall continue till the disposal of the appeals by the SIC.*
- (iii) *All the pleas available to the appellants herein shall be allowed to be raised before the SIC. The SIC shall decide the matter afresh keeping in view the judgement of the Apex Court in **Thalappalam Ser. Coop Bank Limited's case (supra)** within six months from the date of receipt of a certified copy of this order.*
- (iv) *Each case shall be decided separately by referring to the facts involved therein.*
- (v) *The SIC shall not be influenced by anything which has been observed herein while deciding the matter afresh.*

2. The facts of the case are that Shri Rakesh Kumar filed four RTI applications dated 24.1.2012, 18.1.2012, , 16.5.2012 and 11.7.2012 with the SPIO-cum-Registrar, MDU, Rohtak and SPIO of the office of Director SCERT, Gurgaon seeking information relating to DGM College for Education, Mankawas, Bhiwani (hereafter referred as respondent-College). The larger bench of the Commission started the proceedings on 13.8.2014 in pursuance of

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the directions of the Hon'ble High Court. The Bench during hearing noted that the burden to show that a body is owned, controlled or substantially financed or that a non-government organization is substantially financed directly or indirectly by the funds provided by the appropriate Government is on the applicant who seeks information or the appropriate Government. The appellant was not present, however, his rejoinder dated 25.7.2014 was taken on record. He has mentioned in his rejoinder that the respondent-College is recognized by National Council for Teacher Education, Jaipur and is also approved by SCERT, Gurgaon. The respondent-College was represented by Shri Shokeen Verma, Advocate who sought adjournment to submit an affidavit stating that the College is a private body and that it has never received any granted either directly or indirectly from the Government or any of its instrumentalities. A copy of the rejoinder of the appellant was furnished to the Ld. Counsel. The Haryana Board of School Education, Bhiwani was represented by Shri Mohinder Singh, Deputy Superintendent. He submitted that Board has been conducting examination for the Teacher Education Courses and the information as available in the record has been provided to the appellant. The case was adjourned to 10.9.2014.

3. The hearing was resumed on 10.9.2014. The appellant was not present. Ld. counsel for the respondent-College submitted an affidavit dated 1.9.2014 stating that the respondent-College has its own land and building. The land was purchased by Babu Kabul Nath Education Society, Mankawas District Bhiwani. It is a self financed college. The college has employed staff as approved by SCERT, Gurgaon. The affidavit was taken on record. He argued that the respondent college was a private body and under no obligation to furnish information under the RTI Act, 2005. The Bench noted that the notice had not been issued to the SPIO of the office of SCERT, Gurgaon. The Bench decided to adjourn the matter to 30.10.2014

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and directed the Commission's Secretariat to serve notice to the parties, asking the parties to appear in person alongwith relevant record. On 30th October, 2014, neither the appellant nor the representative of the respondent-College was present. Shri Sunil Bajaj, SPIO-cum-Senior Specialist, SCERT, Gurgaon was present in case nos. 4548 of 2012, SCN nos. 897/12 and 652/2012 in appeal case nos. 4035 of 2012 and 3358 of 2012. The SPIO of the SCERT submitted that RTI applications dated 18.1.2012, 16.5.2012 and 11.7.2012 of the appellant were transferred under Section 6(3) to the NCTE, Jaipur vide letters dated 23.1.2012, 22.5.2012 and 16.7.2012 respectively as it grants recognition to the Educational Institutions for D.Ed, B.Ed. and M.Ed. courses. He submitted copy of letter dated 4.6.2012 of the SPIO of the NCTE vide which information was furnished to the appellant in response to RTI application dated 18.1.2012. The SPIO of the SCERT further submitted that Head of Teacher Education Department is the custodian of record and he has reported that the sought information was not available in their records. While explaining the relationship between the SCERT and Teacher Training Institutes, the SPIO submitted that the Council conducts inspection of the Teacher Training Colleges, develops training modules and is represented on various Committees supervising the functioning of the Teacher Training Colleges. Inspection report of college in question is available in the records of the public authority. The department of Secondary Education Government of Haryana supervises the functioning of these colleges with regard to faculty selection and fee fixation. It was decided to adjourn the hearing of the case to 11.11.2014 at 2.30 PM with the direction to the SPIO of the SCERT to place on record notification/statutory guidelines or Government orders defining SCERT's supervisory role and responsibilities in relation to Teacher Training Institutes.

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4. The Bench heard the matter on 11.11.2014. Neither the appellant nor the respondent College or any representative on their behalf was present. Shri Sunil Bajaj, SPIO-cum-Senior Specialist, SCERT, Gurgaon and Smt. Om Pati, Assistant of the office of Secondary Education Department were present. The representative of the Secondary Education department submitted that as per Government of India guidelines SCERT works as State level agency in the area of school education, particularly quality related issues (pre-service and in-service etc.). The Council has been designated academic authority under Right to Education Rules. The Director General Secondary Education vide order dated 8.11.2012 transferred the work related to Teacher Education to SCERT. She also placed on record a copy of the Government notification dated 6.7.2009 vide which it was stated that as a temporary measure the entrance examination for D.Ed. for the academic session of 2009-2010 has been conducted by Haryana Board of School Education on behalf of SCERT, Gurgaon. During this transition year, the counseling for D.Ed. shall be done jointly by the SCERT, MGU, Rohtak and Kurukshetra University, Kurukshetra for the academic session 2010-2011, the entrance examination as well as counseling for the admission shall be done by the two Universities in their respective territorial jurisdictions. In compliance with the decision of the Hon'ble Punjab and Haryana High Court delivered in CWP No. 9272 of 2010 titled as Naresh Kumar and others Vs. State of Haryana and others on 7.9.2011, committees for inspection of all the self financed colleges conducting D.Ed. course were constituted. A committee comprising DEEO, Bhiwani, Head of the Department of Commerce/Art/GWC, Bhiwani and BEO, Dadri inspected the respondent College and its report is part of the record with the SCERT. She further submitted that the Director, SCERT has been designated as the Nodal Officer to supervise the implementation of the Justice Verma Commission recommendations. The Director,

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SCERT has also been authorized to approve the migration of D.Ed. students as per policy of the department. A committee was constituted by the Principal Secretary to Government in School Education Department to fix fee to be charged by private/self financing institutions for D.Ed. Courses in terms of NCTE notification dated 25 August, 2010. She further submitted that NOC is provided by the Government in Secondary Education. The affiliation and recognition is given by NCTE, Jaipur. Shri Sunil Bajaj, SPIO-cum-Senior Specialist, SCERT further added that inspections are carried out by the SCERT but the administrative decisions based on inspection reports are taken by the Government. The exams are conducted by the Haryana Board of School Education, Bhiwani. He further submitted that the inspection report of the respondent college has already been furnished to the appellant in response to another RTI application filed by the appellant.

Decision:-

5. The Bench heard the arguments of the learned counsel for the respondent college and carefully considered the grounds and contents alongwith ground of appeal and the rejoinder submitted by the appellant placed on record. The Commission perused the judgement of the Apex Court dated 7.10.2013 passed in Thalappalam Ser. Coop. Bank Limited and others Vs. State of Kerala and others. The submissions of the respondent college and SPIOs of the SCERT and Director Secondary Education were considered. The Commission noted that the RTI applications dated 18.1.2012, 16.5.2012 and 11.7.2012 were addressed to the SPIO of the Director, SCERT and the respondent-SPIO transferred the RTI applications to the SPIO of the NCTE, Jaipur and the respondent college. The point under consideration is whether the college in question is legally obliged to furnish information under the RTI Act, 2005. There are two major issues

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to be decided; (a) whether the college under consideration is the public authority within the meaning of Section 2(h) of the RTI Act, 2005 and hence, legally obliged to furnish any information sought by a citizen under the RTI Act and (b) whether the public authority can access information relating to the statutory requirements and obligations of a recognized college from a private body under any prevailing law, Rules and Regulations. A perusal of the material facts which have been placed on record shows that the respondent college has never received any grant or financial assistance, direct or indirect, from the appropriate Government or its instrumentalities. The college has constructed building on the land owned by the Society. The control of the appropriate Government over the respondent college is not of such a nature that the respondent college can be defined a public authority under Section 2(h) of the RTI Act, 2005. Hence, the respondent college is neither owned, substantially financed, managed or controlled by the appropriate Government in a manner that the respondent college can be declared a public authority under the RTI Act, 2005.

6. The second issue is whether the public authority can access information relating to the statutory requirements and obligations of a recognized college from a private body under any prevailing law, Rules and Regulations. The Commission has already noted that the college is affiliated to NCTE, Jaipur and is regulated by NCTE Act, 1993 as amended from time to time. The exams are conducted by the Haryana Board of School Education. NOC for establishing the Teacher Training college is granted by the Government. A perusal of the notifications issued by the appropriate Government does establish that the appropriate Government has the requisite powers under the prevailing law, Rules and Regulations under which affiliation/ recognition is granted, to access related information from

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the recognized body or institute. It would be pertinent to refer to Section 2(j) of the Act:

"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-

- 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;"*

'Information' means any material in any form relating to any ~~private~~ body which can be access by a public authority under any other law for the time being in force. An applicant is entitled to get only such information which can be accessed by the public authority under any other law for the time being in force. A private body need not be a public authority in such a case. Thus, information which a public authority is entitled to access under any law, from private body, is information a defined under Section 2(f) of the RTI Act and has to be furnished.

7. After detailed deliberation and examination of the material facts, the Bench concludes that the respondent college in question is not a public authority within the meaning of Section 2(h) of the Act, hence, it is not liable to discharge obligations of a public authority as stipulated under the provisions of the RTI Act. However, the college shall be liable to furnish information which the appropriate Government or its instrumentalities or any public authority can access under any law prevalent in the State. The Commission also

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observes that the SPIO of the office of the Director SCERT is under obligation to furnish information as it holds and controls. The Commission observes that the National Council for Teacher Education Act, 1993 was enacted to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith. The Commission further noted that the respondent college is affiliated with the Nation Council for Teacher Education, Jaipur which is a central body and falls within the jurisdiction of Central Information Commission, New Delhi. The Commission observed that the respondent-SPIO has already transferred the RTI applications to the NCTE, Jaipur which is a public body authorized to grant affiliation to institutions offering Teacher Education courses. The Commission further noted the submissions of the respondent-SPIO that the inspection reports as available in the records of the SCERT have been furnished to the appellant. The case is decided in terms of the Commission's order in appeal Case No.2566 of 2010 and others.

The appeal is decided accordingly.

Order reserved and pronounced on the 11th day of November, 2014.

To be communicated.

Place: Chandigarh

Date: 26.11.2014


(Yoginder Paul Gupta)

**State Information Commissioner
Haryana**



(Samir Mathur)

**State Information Commissioner
Haryana**


(Urvashi Gulati)

**State Information Commissioner
Haryana**