

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P.No.9418 OF 2008

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ORDER:

The petitioner, a Cooperative Housing Building Society, questions the legality and validity of an Order passed on 08-04-2008, by the 1<sup>st</sup> respondent - Information Commission, constituted under the Right to Information Act, 2005 (for short 'the RTI Act'), allowing the Appeal preferred by the 2<sup>nd</sup> respondent herein.

The petitioner is a Cooperative Housing Building Society, registered under the provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (henceforth referred to as 'the Co-operative Societies Act'). It is formed essentially for the purpose of providing house sites to its members. The area of operation is confined to the erstwhile Medchal Taluq in Ranga Reddy District. The 2<sup>nd</sup> respondent is a member of the petitioner Society. He filed an application invoking the provisions of the RTI Act for supply of the following information:

- “1) Upto date list of total members of the Society with addresses.
- 2) List of members who were allotted plots and registered along with their addresses.
- 3) List of members who paid Rs.200/- or Rs.230/- per square yard and waiting for allotment by way of lottery.”

Since, the same was not supplied, he preferred an Appeal to the 1<sup>st</sup> respondent, which passed the impugned Order on 08-04-2008, negating the objection raised on behalf of the petitioner Society that it is not a Public Authority and hence, the provisions of the RTI Act, are not attracted to it. The 1<sup>st</sup> respondent has also proposed to impose a penalty of Rs.25,000/- on the petitioner and directed it to show cause in that regard.

I have heard Sri N. Sridhar Reddy - learned counsel for the petitioner and Sri V. Hari Haran - learned counsel for the 2<sup>nd</sup> respondent and when the debate was thrown open for the members of the Bar to participate, Sri K. Pavan Kumar, Advocate, has also made his submissions.

The learned counsel for the petitioner Sri Sridhar Reddy would contend that the RTI Act does not enable the information available with a private body, like the petitioner, to be furnished or made public and that the RTI Act was intended only for securing check on the activities of the Public Authorities and that it has no role to play in the matter of information either gathered or available with private bodies. The learned counsel would further submit that until and unless the body falls within the definition of "public authority" in terms of Section 2(h) of the RTI Act, the right to information couldn't be enforced against it at all. The learned counsel would further submit that so long as the affairs of the Co-operative society are run in strict conformity of the bye-laws framed by it, all decisions taken by the society and records connected therewith are purely matters of private information *inter se* amongst the members and hence, such information is incapable of access to by any public agency.

On the other hand the learned counsel for the 2<sup>nd</sup> respondent Sri Hari Haran submits that the information sought for by any applicant, under Section 4 of the RTI Act, shall be the 'information' as defined under Section 2(f) of the RTI Act. The information, though may pertain to a private body or society and if it becomes accessible to any public agency, then, there is no escape from being furnished under the provisions of the RTI Act, unless one or the other of the exemptions contained in Section 8 of the RTI Act are attracted. Sri Hari Haran would further submit that the provisions of the Societies Act would unmistakably disclose the quantum of control exercised by the Public Authority, namely, the Registrar of Cooperative Societies, appointed under Section 3 of the Societies Act. The moment a Public Authority has a right of access to the information relating to a society, such information, in turn becomes liable to be furnished, unless the society is able to satisfy the authority under the RTI Act about the intrinsic value of not making available the information sought for.

Sri Pavan Kumar would submit that the RTI Act, having been given an overriding effect, must necessarily receive wider construction and so long as the information sought for is not the one, which is exempted from being furnished, in terms of the RTI Act, the same shall be furnished undoubtedly.

The important question that falls for consideration is whether the information relating to the affairs of a Society, which is a private body, is liable to be furnished to an applicant, who invokes the provisions of the RTI Act.

It will be important to notice the provisions contained in the RTI Act as well as the Societies Act, first.

Section 2 of the RTI Act defined various expressions found and contained in the said Act. The expression "information" has been defined in the following words, under Section 2

(f):

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;"

The expression "public authority" has been defined under Section 2(h), as under:

2(h) "*public authority*" means any authority or body or institution of self government established or constituted, -

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government; and includes any,
  - (i) body owned, controlled or substantially financed;
  - (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

The expression "right to information" has been defined under Section 2(j), in the following words:

"*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, electronic mode or through printouts where such information is stored in a computer or in any other device;"

Section 3 of the RTI Act is the fountainhead, which provides all citizens to have the right to information, in accordance with the provisions of the RTI Act. Section 4 has thrust certain obligations on every public authority. In terms of Section 5, every such public authority was required to designate such number of officers as may be necessary to provide information to persons requesting for the information under the said Act. Section 6 requires every person, who desires to obtain any information under the Act, to make a request in writing or through electronic means, accompanied by such fee as may be prescribed to the Central Public Information Officer or State Public Information Officer, as the case may be, specifying the particulars of the information sought for by him. Subsection (2) of Section 6 made it clear that such applicant was under no obligation to furnish any reason for requesting the information. Section 7, required any application made under Section 6 to be disposed of, as expeditiously as possible, in any case, within 30 days of the receipt of the request. If no such information as sought for is furnished within the period specified under subsection (1), it shall be deemed that the request has been rejected; thus a legal fiction has been carved out in subsection (2) of Section 7. Subsection (7) of Section 7, is of certain significance for our inquiry and it reads as under:

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under Section 11."

Therefore, sub-section (7) had contemplated the necessity of taking into account and consideration the representation made by a third-party in terms of Section 11 of the RTI Act, before the information sought for by the applicant, is furnished. To put it differently, information relating to a third-party can be successfully sought for, under the RTI Act. Who that third-party can be examined a little later on. Sub-section (8), made it clear that if the

applicant's request is rejected, the reasons for such rejection shall be furnished to the applicant.

Section 8 is of considerable importance. The Parliament ensured that, notwithstanding anything contained in this Act, no obligation has been cast to give any citizen certain information, which will have serious consequences or repercussions on larger body of the State or public interest. Thus, paramount consideration has been bestowed to balance the right of every citizen to have information vis-à-vis the larger interests of the State or public authorities or of third-parties. Significant for our inquiry will be clause(d) of sub-section (1) of Section 8 of the RTI Act, and it reads as under:

“(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;”

From the above clause also it becomes imminently clear that if the disclosure of the information sought for is likely to cause harm to the competitive position of a third-party, and so long as the overwhelming larger public interest does not outweigh, it shall not be furnished. If, on the other hand, there is no such risk perceived, the information relating to a 3<sup>rd</sup> party can as well be furnished. Thus, information even relating to third parties, which need not necessarily be public authorities, is contemplated to be furnished under the RTI Act. Therefore, the clue to understand the true import or obligations in furnishing the information relating to third-parties, would lie in trying to give the appropriate meaning to the expression “information”. While trying to couch the expression “information” in as broad a scheme as is possible, the statute maker has advisedly left the key to its understanding in the latter part of the definition itself by the choicest usage of the following words:

“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;”

Therefore, the information concerning a private body, also undoubtedly forms part of 'information' for the purpose of this enactment, provided such information is liable or

capable of being accessed by a public authority under any other law in force, for the time being. In other words, a clear distinction has been wedged between the right of access of information by a private authority in contrast to right to access of information by a public authority under the provisions of any other law. Further, it is not mere access of a public authority to the information of a private body, which would fall within the expression "information", as defined under Section 2(f), but such information must be the one, which is accessible by a public authority in accordance with and in terms of any other provision of any other law, which is in force for the time being. Therefore, the public authority must necessarily trace its power to access the information relating to a private body, sought for by any applicant, strictly in accordance with some provision of law or the other, which is in force. If that information is the one, which becomes accessible or capable of being accessed by a public authority in terms of any law, then, it shall be the one, which is correspondingly capable of being furnished to the applicant, provided, again it does not fall within the exempted categories spelt out under Section 8 of the RTI Act. The statute maker, thus, recognized that all such information, which can be lawfully accessed by a Public Authority, in terms of any existing law, is such that, it can be furnished to an applicant under RTI Act, subject of course, to the other stipulations concerning non-disclosure of such information under that Act.

The learned counsel for the petitioner Sri Sridhar Reddy has strenuously contended that the expressions "public authority" and "right to information", have got to be understood strictly in accordance with the definitions of these expressions under the RTI Act and what has been conceded in terms of Section 3 by the Legislature is the right to information, but not every information. He sought to draw a distinction between the expressions 'information' and 'right to information'.

The learned counsel for the petitioner is right in contending that all cooperative societies, registered in accordance with the provisions of the Co-operative Societies Act, will not fall within the expression 'public authority' as defined under Section 2(h) of the RTI Act, so long as they are not substantially financed or funded, either directly or indirectly by the

Government. It can hardly be in doubt that a cooperative society, like that of the petitioner herein, which does not enjoy any patronage or funding from the State, does not amount to "public authority".

But, while defining the expression "right to information", the Parliament, as was noticed supra, has used the device of an inclusive definition. Therefore, the right to information is the one, which is capable and accessible under the RTI Act, provided the information is held by or under the control of any public authority. So, therefore, every information, which becomes accessible under the provisions of any other statute, for the time being in force, by a public authority, is the one, which a citizen has got a right of access to himself under Section 3. Hence, it should be understood that the expression "right to information", as defined under Section 2(j) of the RTI Act, is not dealing with any information, which the public authority cannot have right of access under any other provision of law, for the time being in force. As pointed out in Craies on Statute Law. Seventh Edition, page 213, where an interpretation clause defines a word to mean a particular thing, the definition is explanatory and prima facie restrictive; and whenever an interpretation clause defines a term to include something, the definition is extensive. While an explanatory and restrictive definition confines the meaning of the word defined to what is stated in the interpretation clause, so that wherever the word defined is used in the particular statute in which that interpretation clause occurs, it will bear only that meaning unless where, as is usually provided, the subject or context otherwise requires, an extensive definition expands or extends the meaning of the word defined to include within it what would otherwise not have been comprehended in it when the word defined is used in its ordinary sense.

Therefore, the entire issue centers around deciphering the question as to whether the public authority has the necessary right of access to information concerning a particular third-party society in terms of any other law or not. That takes us to have a closer look at the provisions contained under the Co-operative Societies Act.

Section 2 of the Societies Act also defined the various expressions found therein.

Section 2(p) defined the expression "society" as meaning, a Co-operative society registered or deemed to be registered under the said Act. Section 3 enjoins the State Government to appoint a Registrar of Cooperative Societies for the State, to exercise various powers conferred by the Act. Section 4, dealt with as to which kind and type of societies can be registered. It was specifically set out in sub-section (1) thereof that a society, which has, as its main object, the promotion of the economic interests of its members in accordance with the Co-operative principles or a society established with the object of facilitating the operation of such a society, may be registered under the said Act. Sub-section (2) of Section 4 made it abundantly clear that every such society was required to function, subject to the directions issued by the Registrar, who is appointed as such under Section 3 of the said Act. Section 6 dealt with the process of registration, while Section 8 dealt with issuance of certificate of registration, which shall be conclusive evidence that it is a society duly registered under the said Act. Section 9 conferred, upon registration, on every society, the status of a body corporate with entitlement to acquire, hold and dispose of property, to enter into contracts on its behalf and to sue and be sued in its name. Section 19 prescribed the eligibility criteria for membership of every society. Under sub-section (2-B), which was inserted by amending Act No.19 of 1976, *suo motu* power was conferred on the Registrar to declare any particular person as not eligible for membership of a society. Thus, to a certain extent, the power to regulate the membership of a society is duly vested in the Registrar as well. Similarly, Section 34 of the Co-operative Societies Act, conferred power on the Registrar, if in his opinion, the managing committee of any society is not functioning properly or it willfully disobeys or fails to comply with any direction issued by the Registrar, to supercede the said committee. Section 50 of the Societies Act called for a separate wing for audit in the co-operative department to be established, which was required to be headed by the Chief Auditor, who will work under the general superintendence and control of the Registrar. It has been made the duty of the Chief Auditor to cause the accounts of every society to be audited, at least, once in every year. Section 51 conferred on the Registrar, on his own motion or upon a requisition of an appropriate strength of the members of the



Committee or the general body of the society, to hold an inquiry into the constitution, working and financial condition of a society. Similarly, Section 52 conferred power on the Registrar, either on his own motion or on an application made to him by a creditor of a society, to inspect the books of the society. Section 55 has conferred wide powers on the Registrar, Chief Auditor or any other Officer authorized by them, to have free access to the books, accounts, documents, records, securities, cash and other properties belonging to, or in the custody of the society and they have the power to summon any person in possession of, or responsible for the custody of any such books, accounts, documents, records, securities, cash or other properties, to produce all or any of them at any time at the headquarters of the society or any branch of it. Sub-section (2) of Section 55, has empowered the Registrar to seize the books, accounts or documents belonging to or in the custody of a society, if he considers such seizure as necessary. Section 60 has also conferred power on the Registrar, if it appears to him that any particular member or person has been guilty of breach of trust in relation to the society, to be surcharged appropriately.

An analysis of the above provisions makes the issue beyond doubt that the Registrar of the Co-operative Societies, constituted and appointed as such under Section 3 of the Co-operative Societies Act, has been conferred wide powers in the matter of regulating the functioning of Co-operative Societies. He is not merely a registering agency of a society, but has got tremendous powers of reach and access and has regulatory control as well, in the matter of conduct of business and affairs of every society. It is hardly in doubt that the Registrar of Co-operative Societies, constituted as such by the Government of Andhra Pradesh, is a public authority in terms of Section 2(h) of RTI Act. When once this public authority has a legitimate right of access to the information of a private body, like the writ petitioner Co-operative Society herein, it becomes crystal clear that it is that information, which every citizen shall also have the 'right to access and be informed' in terms of Section 3. To my mind, therefore, the contention canvassed by Sri Hari Haran should prevail and liable to be accepted, rather than the one canvassed by Sri Sridhar Reddy, learned counsel for the writ petitioner.

Further, there is hardly any dispute about the status of the petitioner-cooperative society. It is not the creature of any statute, but is the result of a pursuit of a common idea by a set of individuals who have come together to form a body and the Cooperative Societies Act only helped them to secure a corporate entity to it. It will be apt to recall with profit, the principles enunciated by the Supreme Court in the following two cases:

S.S.Dhanoa v. Municipal Corporation of Delhi - AIR 1981 SC 1395

( 8 ) A corporation is an artificial being created by law having a legal entity entirely separate and distinct from the individuals who compose it with the capacity of continuous existence and succession, notwithstanding changes in its membership. In addition, it possesses the capacity as such legal entity of taking, holding and conveying property. entering into contracts, suing and being sued, and exercising such other powers and privileges as may be conferred on it by the law of its creation just as natural person may. The following definition of corporation was given by Chief Justice Marshall in the celebrated Dartmouth College case (1816-19) 4 Wheat 518, 636. 4 L Ed 629 :

A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence. These are such as are supposed best calculated to effect the object for which it was created. Among the most important are immortality, and, if the expression may be allowed, individuality; properties, by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property, without the perplexing intricacies, the hazardous and endless necessity, of perpetual conveyances for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with those qualities and capacities, that corporations were invented, and are in use. By these means, a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being. The term 'corporation' is, therefore, wide enough to include private corporations. But, in the context of Cl. Twelfth of S. 21 of the Indian Penal Code, the expression 'corporation' must be given a narrow legal connotation.

( 9 ) CORPORATION, in its widest sense, may mean any association of individuals entitled to act as an individual. But that certainly is not the sense in which it is used here. Corporation established by or under an Act of Legislature can only mean a body corporate which owes its existence, and not merely its corporate status, to the Act. For example, a Municipality, a Zilla Parishad or a Gram Panchayat owes its existence and status to an Act of Legislature. On the other hand an association of persons constituting themselves into a Company under the Companies Act or a Society under the Societies Registration Act owes its existence not to the act of Legislature but to acts of parties though. it may owe its status as a body corporate to an Act of Legislature.

( 10 ) THERE is a distinction between a corporation established by or under an Act and a body incorporated under an Act. The distinction was brought out by this Court in Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi (1975) 3 SCR 619 : (AIR 1975 SC 1331 ). It

was observed :

A company incorporated under the Companies Act is not created by the Companies Act but comes into existence in accordance with the provisions of the Act. There is thus a well-marked distinction between a body created by a statute and a body which after coming into existence, is governed in accordance with the provisions of a statute.

Daman Singh v. State of Punjab - AIR 1985 SC 973

( 5 ) WHAT is a corporation ? In Halsbury's Laws of England, Fourth Edition, Volume 9, Paragraph 1201, it is said,

A corporation may be defined as a body of persons (in the case of a corporation aggregate) or an office (in the case of a corporation sole) which is recognised by the law as having a personality which is distinct from the separate personalities of the members of the body or the personality of the individual holder for the time being of the office in question.

A corporation aggregate has been defined in paragraph 1204 as, A collection of individuals united into one body under a special denomination, having perpetual succession under an artificial form, and vested by the policy of the law with the capacity of acting in several respects as an individual, particularly of taking and granting property, of contracting obligations and of suing and being sued, of enjoying privileges and immunities in common and of exercising a variety of political rights, more or less extensive, according to the design of its institution, or the powers conferred upon it, either at the time of its creation or at any subsequent period of its existence.

This court in the Board of Trustees, Ayurvedic and Unani Tibbia College, Delhi v. State of Delhi was required to answer the question whether the Board of trustees which was originally registered under the Societies Registration Act, 1860 and a new Board of trustees which was incorporated by an Act of the legislature called the Tibbia College Act, 1952 by which the old Board was dissolved and a new Board constituted were corporations. The court held that the old Board was not but the new Board was. Posing the question what is a corporation, the court answered it with the statements contained in Halsbury's Laws of England already extracted by us and added, A corporation aggregate has therefore only one capacity, namely, its corporate capacity. A corporation aggregate may be a trading corporation or a non-trading corporation. The usual examples of a trading corporation are (1) charter companies, (2) companies incorporated by special Acts of Parliament, (3) companies registered under the Companies Act, etc. Non-trading corporations are illustrated by (1) municipal corporations, (2) district boards, (3) benevolent institutions, (4) universities etc. An essential element in the legal conception of a corporation is that its identity is continuous, that is, that the original member or members and his or their successors are one. In law the individual corporators, or members, of which it is composed are something wholly different from the corporation itself ; for a corporation is a legal persona just as much as an individual. Thus, it has been held that a name is essential to a corporation ; that a corporation aggregate can, as a general rule, only act or express its will by deed under its common seal; that at the present day in England a corporation is created by one or other of two methods, namely, by Royal Charter of incorporation from the Crown or by the authority of Parliament that is to say, by or by virtue of statute. There is authority of long standing for saying that the essence of a corporation consists in (1) lawful authority

of incorporation, (2) the persons to be incorporated, (3) a name by which the persons are incorporated, (4) a place, and (5) words sufficient in law to show incorporation. No particular words are necessary for the creation of a corporation; any expression showing an intention to incorporate will be sufficient.”

A close look at the definition of `right to information' contained in Section 2(j) of the RTI Act would clearly indicate that the `right to information' means the right to information - - - - which is held by or under the control of any public authority - - - - - . Therefore, the information which is held by or under the control of any public authority is the one which can be accessed by any citizen under the RTI Act. What is meant by the expression `control'. The word `control' as defined in Black's Law Dictionary (6<sup>th</sup> Edition) at page 329, as a verb means: “to exercise restraining or directing influence over; to regulate; restrain; dominate; curb; to hold from action; overpower; counteract; govern; power of authority to manage, direct superintend, restrict, regulate, govern. Administer or oversee. The ability to exercise a restraining or directing influence over something.” The word `control' as defined in STROUD's Judicial Dictionary of Words and Phrases - Volume 1 at page 551 means, “to give or refuse assent to a certain proposed course.” The word `control' as defined in The New International Webster's Comprehensive Dictionary of the English Language - 2003 Edition at page 285 means as verb: “To exercise a directing, restraining or governing influence over; to regulate or verify, as an experiment, by comparison with a parallel experiment or other relevant standard; to check, as an account, by means of a duplicate register; verify or rectify; noun - The act of controlling; restraining or directing influence; regulation; check; government; One who or that which controls.” The word `control' as defined in Concise Oxford English Dictionary (Indian Edition 2009) at page 311 means: “the power to influence people's behaviour or the course of events; the restriction of an activity, tendency, or phenomenon.”

Thus, one can decipher that information must be the kind of information, which a public authority by virtue of exercise of his restraining power or influence over the affairs of any other body, can gain access to. We have already noticed various provisions of the Cooperative Societies Act which clearly disclosed the controlling power and reach of access

of the Registrar of Cooperative Societies appointed and constituted as such under Section 3 of the Cooperative Societies Act. Therefore, even from the perspective of the expression "right to information," as defined by the RTI Act, the Registrar of Cooperative Societies who answers the definition of 'public authority' (in terms of Section 2(h)(c) of the RTI Act), all such information held by him under his control, can be accessed by any citizen in terms of Section 3 of the RTI Act. To my mind, therefore, there is no conflict created by the definition of the expressions 'information' and 'right to information' as contained in Section 2(f) and 2(j) of the RTI Act. When they are read together, they intend to sub-serve the purpose for which the statute has been ushered in. Every effort, therefore, has to be made while understanding the expressions contained in any statute so as to ultimately attain the objective for which the statute has been brought forth. When we look at the provisions of Section 2(f) and 2(j) together with Section 3, it becomes imminently clear that the information which can be accessed to by the citizens is the one, which is liable to be accessed by any public authority or which is held by any public authority or the information which is under the control of any public authority. In that respect, the information sought for by the 2<sup>nd</sup> respondent, though concerns the writ petitioner-cooperative society, but still is the one which can be accessed to by any citizen in terms of Section 3.

Learned counsel for the writ petitioner Sri Sridhar Reddy would submit that the Act is essentially intended to provide access to all citizens, for the purpose of maintaining transparency of information relating to the functioning of the public authorities and for the purposes of reigning any corruption and to hold the governments and other instrumentalities accountable for their actions or inactions. But, however, information relating to third parties, when sought for by any citizen cannot be furnished until and unless the procedure prescribed under Section 11 is totally complied with. At this stage, it will be relevant to notice the expression 'third party' as defined under Section 2(n) of the RTI Act which is in the following words:

"2(n) - third party" means a person other than the citizen making a request for information and includes a public authority."

The RTI Act meant a 'third party' to be a person other than the citizen making a request for information. Does that mean that a third party should be a person but not a private institution or corporation in contrast to a public authority? The expression 'person' has not been defined, in the RTI Act. But, however, the General Clauses Act, 1897, has defined the expression 'person' in Section 3(42) as under:

'person' - shall include any company or association or body of individuals, whether incorporated or not. Therefore, the word 'person' has been defined in a very wide sense. It will include any body of individuals and also juristic persons. We have already noticed that Section 9 of the Cooperative Societies Act confers on a cooperative society, upon its registration the status of a 'body corporate'. Thus, the writ petitioner - cooperative society being a 'body corporate' answers the expression 'third party' as contained in Section 2(n) of the RTI Act. When we look at provisions like Section 8(1)(d) and (j), it becomes crystal clear that information relating to 'third parties' are contemplated as liable to be furnished under the RTI Act. They are not completely prohibited. In fact, Section 8(1)(j) even enables personal information relating to 3<sup>rd</sup> parties to be disclosed, provided the larger public interest justifies such a disclosure. Therefore, the sweep of the RTI Act is spread over a very wide canvass. The information relating to third parties is liable to be furnished to any applicant subject to the exemptions contained under Section 8. A look at the proviso to sub-section (1) of Section 11 also clearly indicates that the information sought for by a citizen relating to a third party can be disclosed provided such disclosures outweighs in importance to any possible harm or injury to the interests of such a third party. Therefore, to my mind, the information sought for by the 2<sup>nd</sup> respondent relating to the writ petitioner society is liable to be furnished and it is not one, which is falling in any of the exceptions contained under Section 8. In this view of the matter, I uphold the contentions canvassed on behalf of the 2<sup>nd</sup> respondent and reject the contentions canvassed by the writ petitioner.

It was brought to my notice that the Delhi High Court in Writ Petition (Civil) No. 7265 of 2007, dated 25<sup>th</sup> September, 2009 between Poorna Prajna Public School v. Central Information Commission and others and the Calcutta High Court in Greenhood

Cooperative Housing Society Ltd. V. State of West Bengal<sup>[1]</sup>, have subscribed to the same views. It was also brought to my notice that the Karnataka High Court in Dattaprasad Cooperative Housing Society Ltd., Bangalore v. Karnataka State Chief Information Commissioner and another<sup>[2]</sup> and the Nagpur Bench of the Bombay High Court in Dr.Panjabrao Deshmukh Urban Cooperative Bank Ltd. V. The State Information Commissioner, Vidarbha Region, Nagpur and others<sup>[3]</sup> have taken a different view. The Karnataka High Court in Dattaprasad Cooperative Housing Society Ltd., case (supra 2), has examined the issue as to whether a cooperative housing society would fall within the definition of the term `public authority' under the RTI Act or not. With respect, the Karnataka High Court has not examined the provision contained in Section 2(f) in detail.

Similarly, the Nagpur Bench of the Bombay High Court in Dr.Panjabrao Deshmukh Urban Cooperative Bank Ltd. Case (supra 3) has also not examined the said issue from the perspective of Sections 2(f) and (j) of the RTI Act and hence I am unable to subscribe to the reasoning canvassed in the aforementioned two judgments.

I find no merit in this writ petition. The writ petition is therefore dismissed. But, however, without costs.

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Nooty Ramamohana Rao, J

mrk/knk  
05<sup>th</sup> February 2010

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<sup>[1]</sup> AIR 2009 Calcutta 129

<sup>[2]</sup> AIR 2009 Karnataka 1

<sup>[3]</sup> AIR 2009 Bombay 75