

Punjab-Haryana High Court

Punjab-Haryana High Court

Chandigarh University, Village ... vs State Of Punjab & Others on 1 March, 2013

CIVIL WRIT PETITION NO.1509 of 2013 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CIVIL WRIT PETITION NO.1509 of 2013

DATE OF DECISION: MARCH 01, 2013

Chandigarh University, Village GharuanPetitioner Versus

State of Punjab & othersRespondents CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH
DHINDSA Present: Mr.Vikas Kuthiala, Advocate

for the petitioner.

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TEJINDER SINGH DHINDSA, J.

The question for consideration in the instant writ petition is whether the petitioner-Chandigarh University is a "public authority" within the meaning of Section 2(h) of the Right to Information Act, 2005 (hereinafter to be referred to as the "RTI Act"). The State Information Commission, Punjab has, by an order dated 14.12.2012, answered such question in the affirmative. It is this order dated 14.12.2012, passed by the State Information Commission, Punjab that has been impugned before this Court.

2. Learned counsel appearing for the petitioner would, at the very outset, concede that the petitioner-University is a creation by law made by the State Legislature i.e. the Punjab University Act, 2012 of the State of Punjab (Act No.7 of 2012). CIVIL WRIT PETITION NO.1509 of 2013 2 Learned counsel would, however, strenuously argue that the petitioner would not fall within the definition of public authority under Section 2 (h) of the RTI Act. In furtherance of such submission, it has been urged that the statements of objects and reasons of the Act have to be read with the provisions contained in the Act itself, while interpreting such provision. Reliance in this regard has been placed upon a judgment of the Apex Court in Rameshwar Parshad etc. v. State of U.P. and others, AIR 1983 SC 383. It has been argued that the objective of the RTI Act is not to victimize a private body, person or entity under the garb of eliciting information. The second limb of the argument raised by the learned counsel is that the petitioner-University is not an authority or body of a self-Government. Much emphasis has been laid upon the expression "self-Government" to contend that the same would mean the Office of the Government or State itself which by act of law creates the said "public authority" to carry out the acts and deeds of the State as defined in Article 12 of the Constitution of India. Learned counsel while impugning the order dated 14.12.2012, Annexure P4, passed by the State Information Commission, Punjab further argues that the petitioner-University is a privately owned and managed Institution which is not receiving financial assistance directly or indirectly from the State and, accordingly, on this count alone cannot be construed as "public authority" as defined under the RTI Act.

3. Learned counsel for the petitioner has been heard at length.

4. There would be no quarrel as regards the first CIVIL WRIT PETITION NO.1509 of 2013 3 submission raised by the learned counsel that while interpreting the provision of the statute, due emphasis would have to be given to the statement of objects and reasons of the RTI Act. The statement of objects and reasons of the RTI Act indicate that it has "provisions to ensure maximum disclosure and minimum exemptions, consistent

with the constitutional provisions and effective mechanism for access to information and disclosures by authorities". The pre-ambule to the RTI Act notes that "democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to be governed."

5. It is against such background that the provisions of the RTI Act as also definition of "public authority" under Section 2(h) would require to be interpreted. A wider definition would have to be assigned to the expression "public authority" rather than a restrictive one. The Hon'ble Supreme Court in Reserve Bank of India v. Peerless General Finance and Investment Co.Ltd.(1987) 1 SCC 424 noted the importance of the context in which every word is used in the matter of interpretation of statutes and held in the following terms:

"Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best CIVIL WRIT PETITION NO.1509 of 2013 4 interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place."

6. Turning to Section 2(h) of the RTI Act, the same reads as under:

2. Definitions.- In this Act, unless the context otherwise requires, -

(a) to (g) xxxxxxxxx

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

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(a) by or under the constitution;

(b) by any other law made by Parliament;

CIVIL WRIT PETITION NO.1509 of 2013 5 (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;"

7. On a plain reading of the provision, the expression "public authority" would include an authority or a body or an Institution of self-government established or constituted by a law made by the State Legislature under Section 2(h)(c) of the RTI Act. The legislature had made a conscious distinction between "by or under" which is used in relation to the Constitution and "by" in relation to a Central or State Legislation. As such, it would not be enough for the body to be established under "a Central or State legislation to become a "public authority". If this be so, then every Company registered under the Companies Act would be a "public authority". However, this is not the case here. Admittedly, the petitioner-University is a body established by

law made by the State Legislature. Clearly, the petitioner would be covered under the scope and ambit of the definition of "public authority" under Section 2(h)(c) of the RTI Act.

8. The requirement as regards a body being owned, controlled or substantially financed would only apply to the latter part of Section 2(h) of the RTI Act i.e. body falling within the meaning of Section 2(h)(d)(i) or (ii). Once it is shown that a body CIVIL WRIT PETITION NO.1509 of 2013 6 has been constituted by an enactment of the State Legislature, then nothing more need be shown to demonstrate that such a body is a "public authority" within the meaning of Section 2(h)(c) of the RTI Act.

9. The submission made by the learned counsel to assert that the petitioner-University is not a body of a "self-Government" and thereby would not be covered under the expression "public authority", is also without merit. Self-Government as sought to be portrayed in the pleadings on record and at the stage of arguments would not be a requirement and essential ingredient for invoking the provisions of RTI Act. It would have been a relevant para-meter to fulfil the requirement under Article 12 of the Constitution of India in relation to enforcements of the fundamental rights through Courts. The RTI Act, on the other hand, intends to achieve access to information and to provide an effective frame-work for effecting the right to information recognized under Article 19 of the Constitution of India.

10. For the reasons recorded above, this Court finds no infirmity in the impugned order dated 14.12.2012, Annexure P4, passed by the State Information Commission, Punjab holding the petitioner-University to be falling within the meaning of "public authority" under Section 2(h) of the RTI Act.

11. No merit. Dismissed.

(TEJINDER SINGH DHINDSA)

MARCH 01, 2013 JUDGE SRM

Note: Whether to be referred to Reporter? (Yes/No)