

# 'अनुदानित संस्था' आरटीआय' चौकटीत नाही'

म. टा. विशेष प्रतिनिधी, मुंबई

'सरकारकडून अनुदान किंवा आर्थिक सहाय्य मिळते म्हणून खासगी संस्था ही सार्वजनिक संस्था ठरत नाही. परिणामी, ती माहिती अधिकार कायद्यांतर्गत माहिती पुरवण्याचे बंधन असलेल्या चौकटीत येत नाही', असा महत्त्वपूर्ण निर्वाळा मुंबई उच्च न्यायालयाने एका प्रकरणाच्या निमित्ताने दिला. त्यामुळे

नाशिकमधील शिक्षण संस्थेला १४ वर्षांनंतर मोठा दिलासा मिळाला आहे.

'अंजुमन तराकी-ए-तालीम' या शिक्षण संस्थेने २०१२मध्ये अॅड. संदीप वाघमारे यांच्यामार्फत याविषयी रिट याचिका केली होती. एका व्यक्तीने माहिती अधिकार कायद्यांतर्गत

■ उच्च न्यायालयाचा महत्त्वपूर्ण निर्वाळा

■ नाशिकमधील संस्थेला १४ वर्षांनंतर दिलासा



संस्थेतील कारभाराविषयीची विशिष्ट माहिती मागितल्यानंतर त्याला संस्थेने विरोध दर्शवला. मात्र, कालांतराने माहिती अधिकाऱ्यांनी ती माहिती पुरवण्याचा आदेश संस्थेला दिला. त्या आदेशाला संस्थेने आव्हान दिले. 'आमची संस्था ही सार्वजनिक

'संस्था सरकारच्या नियंत्रणाखाली नाही'

कायदेशीर मुद्द्यांचा विचार करताना न्या. बोरकर यांनी 'पीपल वेल्फेअर सोसायटी विरुद्ध राज्य माहिती आयुक्त' या प्रकरणातील पूर्णपीठाच्या निवाड्याचा आधार घेतला. 'तरतुदीप्रमाणे सार्वजनिक संस्थेची व्याख्या लक्षात घेता संस्थेची मालकी, त्यावरील नियंत्रण किंवा सरकारकडून

भरोव निधी या बाबी आवश्यक आहे. या प्रकरणात याचिकाकर्ती संस्था ही सरकारच्या मालकीची किंवा सरकारच्या नियंत्रणाखालील नाही. सार्वजनिक संस्थेप्रमाणे जबाबदारी पार पाडण्याची सक्ती केली जाऊ शकत नाही', असे न्या. बोरकर यांनी स्पष्ट केले.

संस्थेच्या गटात येत असल्याचे चुकीचे गृहित धरून कायद्यातील तरतुदीचे पालन करण्याचा चुकीचा आदेश आम्हाला देण्यात आला आहे. तसा आदेश देताना त्या कायद्यांतर्गत प्रशासनाची कायद्याचा योग्य विशारद केली नाही. असा आदेश देण्यापूर्वी

संबंधित संस्था ही माहिती अधिकार कायद्यांतर्गत सार्वजनिक संस्था या व्याख्येत मोडते की नाही, याची खातरजमा प्रथम करणे अत्यावश्यक आहे,' असा युक्तिवाद संस्थेने न्या. अमित बोरकर यांच्यासमोर झालेल्या अंतिम सुनावणीत मांडला.



*Shabnoor*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11447 OF 2012

Anjuman Tarraqui – E – Taleem,  
Through Secretary  
Ansari Md. Ibrahim Abdul Khalique ... Petitioner  
V/s.  
The State Information Commissioner,  
Nashik Bench Ors. ... Respondents

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AYUB  
PATHAN

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Mr. Sandeep Waghmare, for the Petitioner.

Mr. A. I. Patel, Addl. GP with Ms. V. S. Nimbalkar, AGP,  
for the State – Respondent Nos.1, 2 and 4.

CORAM : AMIT BORKAR, J.

DATED : MARCH 11, 2026

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. The challenge raised in the present petition arises from an order passed by the authorities functioning under the provisions of the Right to Information Act, 2005. By the said order, the concerned authority has directed the petitioner–Trust to furnish certain information which had been sought by respondent No. 3 by invoking the provisions of the said enactment. The petitioner has approached this Court questioning the legality and correctness of that direction.
3. It is not in dispute that respondent No. 3 had submitted an application seeking certain information relating to the affairs and

functioning of the petitioner–Trust. The request was made under the mechanism provided by the Right to Information Act. The authority dealing with the application proceeded on the assumption that the petitioner–Trust was amenable to the provisions of the said Act. On that basis, the authority concluded that the information demanded by respondent No. 3 was liable to be furnished and accordingly issued directions to the petitioner to supply the said information.

4. The petitioner, however, contends that such a direction proceeds on an incorrect legal premise. According to the petitioner, before directing disclosure of information, it was necessary for the authority to first determine whether the petitioner–Trust falls within the category of entities which are subject to the obligations created by the Right to Information Act. The grievance of the petitioner is that this basic jurisdictional issue was not properly appreciated by the authority while passing the impugned order.

5. The principal contention advanced on behalf of the petitioner is that the petitioner–Trust cannot be treated as a “public authority” within the meaning of the provisions of the Right to Information Act. It is urged that the scheme of the Act makes its obligations applicable only to those bodies which satisfy the statutory definition of “public authority”. Unless an institution answers that description, the authorities functioning under the Act would have no jurisdiction to compel such an institution to disclose information.

6. In support of this submission, reliance has been placed upon the judgment of the Full Bench of this Court in *People Welfare Society vs. State Information Commissioner*, reported in 2024 SCC OnLine Bom 716. Learned counsel for the petitioner has invited attention to paragraph 35 of the said judgment, where the Full Bench has examined in detail the scope of the expression “public authority” occurring in the Right to Information Act. The Full Bench has clarified that merely because an institution governed by a Trust receives grants or financial assistance from the State, such circumstance by itself would not automatically render the Trust a “public authority” within the meaning of the Act.

7. The Full Bench has emphasized that the definition contained in the Act requires the existence of certain specific elements such as ownership, control, or substantial financing by the appropriate Government. Unless those requirements are clearly satisfied, a private Trust cannot be compelled to act as a public authority under the Act. The principle emerging from the said decision is that the mere receipt of grants or aid does not alter the essential character of a private Trust so as to bring it within the statutory framework of the Right to Information Act.

8. Applying the above principle to the facts of the present case, it becomes necessary to examine whether the petitioner–Trust satisfies the statutory requirements which would bring it within the fold of a “public authority”. On the material placed before this Court, it is not shown that the petitioner–Trust is owned or controlled by the Government. There is also no material indicating that the Trust is substantially financed in such a manner that it

would fall within the statutory definition. In absence of such foundational elements, the petitioner–Trust cannot be compelled to discharge obligations which the statute imposes only upon public authorities.

9. Once the legal position clarified by the Full Bench is kept in view, the impugned order passed by the authorities under the Right to Information Act cannot be sustained. The direction requiring the petitioner–Trust to furnish information is founded upon the assumption that the petitioner is a public authority. As discussed above, such an assumption is not supported by the legal principles laid down by the Full Bench of this Court.

10. When a binding precedent of this Court clearly explains the scope of the statutory definition, the authorities exercising powers under the Act are expected to apply that principle while determining whether the Act is applicable to a particular institution. If the institution does not fall within the statutory definition, the authorities cannot extend the reach of the Act by issuing directions which the statute itself does not contemplate.

11. In the present matter, the impugned order overlooks the limitation placed by the statutory scheme as interpreted by the Full Bench. Consequently, the order suffers from a fundamental legal infirmity. In such circumstances, interference by this Court in exercise of its writ jurisdiction becomes necessary in order to correct the error apparent on the face of the record. For these reasons, the impugned order cannot be sustained in law.

12. Rule is therefore made absolute in terms of prayer clause (a).

13. In view of the above discussion and findings, the writ petition stands disposed of in the aforesaid terms.

14. There shall be no order as to costs.

(AMIT BORKAR, J.)