

Format for Society / Trust

Date

To,

Sub:- Non applicability of Right to Information Act. 2005 to the Educational Societies/ Trusts ...

- Ref:-**
1. Your application under RTI Act, 2005 dated ____ (received on _____)
 2. Hon'ble Bombay High Court, Bench at Nagpur order dated 01-03-2024 in Letters Patent Appeal No. 466/2011 in Writ Petition No.5168/2010 (D).
 3. Hon'ble Bombay High Court order dated 23-10-2024 in Writ Petition No. 2492/2024.

Sir.

Received your application dtd _____ under Right to Information Act, 2005 **(Ref No.1)**. We would like to inform you that _____ (Name of the Society /Public Trust) is registered under the Bombay Public Trusts Act. 1950, Reg. No. _____, dtd _____ and /or Societies Registration Act, 1860, Reg. No. _____, dtd _____.

(A) With reference to above, we are informing you as under:-

- 1) The Educational Institution and the Public charitable Trust registered under the Bombay Public Trusts Act, 1950 and/or a Society registered under the Societies Registration Act, 1860 is not a 'Public Authority' within the meaning of Section 2 (h) of the Right to Information Act, 2005 as it is not a 'Public Authority established or constituted under the Constitution, law made by Parliament, law made by State Legislature or by notification issued or order made by the appropriate Government and it is also not a body owned, controlled or substantially financed by the Government or a non-Government

Organization substantially financed directly or indirectly by funds provided by the appropriate Government.

- 2) The question of “applicability RTI Act to Public Trust registered under provision of Maharashtra Public Trust Act, 1950 which are running an institution” is decided by Hon’ble Bombay High Court, Bench at Nagpur in it’s constituted full Bench by order dated 01-03-2024 in the matter of People Welfare Society V/s The State Information Commission, Nagpur Bench, Nagpur (Letters Patent Appeal No. 466/2011 in Writ Petition No.5168/2010 (D) the relevant portion of the order is as under:-

<p>Whether a Public Trust registered under the provisions of Maharashtra Public Trusts Act 1950, which is running an institution that receives grant from the State is duty bound to supply information sought from it under provisions of Right to Information Act 2005?</p>	<p>If the information solicited under the RTI Act, is regarding the Public Trust, then there is no obligation to supply the information, if such Public Trust, does not fall within clause (i) of sec.2 (h) of the RTI Act and has not received any substantial Government largesse or land on concession, to implement the aims and objects of the said Public Trust.</p>
	<p>In case the information solicited is in respect of the Educational or other Institutions run by the Public Trust, then depending on the extent of financial support given by the State, in case such finance, is found to be substantial, which is a plea to be decided by the Information Commissioner, information relating to such Educational or other Institutions can be directed to be supplied.</p>
	<p>The Charity Commissioner would also not be legally obliged to supply such information, which may be collected by him, in respect of the Public Trust, under the provisions of the Maharashtra Public Trusts Act, in case such information falls</p>

	under the exempted category mentioned in Section 8(j) of the Act and the demand does not have statutory backing. In case the information solicited does not fall in the exempted category under sec.8 of the RTI Act, then information as submitted to the Authorities under the provisions of the Maharashtra Public Act, under its various provisions by the Public Trust, can be supplied by the Authority who has the custody of such information.
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The Order of Hon'ble Bombay High Court, Bench at Nagpur order dated 01-03-2024 in Letters Patent Appeal No. 466/2011 in Writ Petition No.5168/2010 is enclosed herewith. (**Annexure-I, Page No. ___ to ___**)

3) In view of the above, Right to Information Act- 2005 is not applicable to our Society/Trust.

B) Legal aspect w.r.t. Information related to the Third Party under Right to Information Act, 2005:-

1) With reference to third party information Section 11 (1) of Right to Information Act- 2005 is reproduced as under.:-

“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 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”

- 2) The Question of ‘complaints/ applications/ representations or of threats, by unconnected people, is decided by Hon’ble Bombay High Court, by it’s order dated 23-10-2024 in the matter of Nishant Namdeorao Gatkal & ors. V The State of Maharashtra & ors, the relevant portion of the order is as under : -

14. We direct the Registrar (Judicial) to place a copy of this order before the Chief Secretary of the State of Maharashtra, as well as, the Principal Secretaries, General Administration Department and the School and College Education Department, in order to issue strict directions to all the Education Departments and the Statutory Authorities to refrain from entertaining such complaints/applications/representations or of threats, by unconnected people, more so, in view of the Notification dated 3rd December 1958, the Circular dated 26th December, 2019 and the Government Resolution dated 14th October, 2019 referred to herein above.

Hon’ble Bombay High Court order dated 23-10-2024 in Writ Petition No. 2492/2024 is enclosed herewith. **(Annexure-II, Page No. __ to __)**

In view of the above, Right to Information Act- 2005 not applicable to our Society/Trust. Therefore, your application is disposed off.

Thanking you,

Yours faithfully.



Sign: _____

Name: _____

Post: Secretary/ Competent Authority

Encl.: Annexure I and II, Page No. ___ to ___.