

GOA STATE INFORMATION COMMISSION

Kamat Towers, Seventh Floor, Patto, Panaji, Goa

Appeal No. 47/SIC/2015

Shri Jainath R. Pal,
H. No.235,
Near old Power House,
Vasco.

----- Appellant

V/S

- 1.The Public Information Officer,
Saraswat Bank Ltd.,
Vasco-Da-Gama, Goa.
2. First Appellate Authority,
Co-operative Bank Ltd. Zonal Office,
Mustifund Bldg, Saunsthan,
Dr. Dada Vaidya Road,
Panaji –Goa.

----- Respondent

CORAM : Shri. Prashant S. P. Tendolkar State Chief Information
Commissioner

Smt. Pratima K. Vernekar, State Information Commissioner,

Appeal Filed on 30/04/2015

Decided on: 08/08/2016

ORDER

1).This order deals with the objection raised by the Respondent challenging the maintainability of the present appeal by their reply, dated 4/04/2016.

2).The appellant herein has sought certain information from the respondent No.1 by his application dated 02/02/2015. By reply dated 12/02/2015 the Respondent No.1 informed the appellant that the RTI Act is not applicable to it and hence no information was furnished. The appellant filed first appeal to the Respondent No.2 which, till date has not been decided and hence the appellant has approached this Commission with an appeal purportedly under section 19(3) of the Act.

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3). The Respondents by their reply dated 04/04/2016 has submitted that the present appeal is not maintainable as the provisions of RTI Act is not applicable to the cooperative Banks and that the respondent no.1 is a multistate Cooperative Society and hence is out of the perview of the said Act..

4).It is not disputed that the Respondents is a cooperative bank doing business of banking. For the purpose of inclusion of such entity as a Public authority it should be constituted under the Constitution or by legislation of the Parliament or State Assembly and also could be a body owned controlled or substantially financed by the Government.

5). The Respondent herein, is a Co-operative Society Constituted under the Multi State cooperative banks. This Act provide the scope for its operation and activities. But the core Constitution is that it is Co-operative Bank initially constituted under the concerned state Corporative Societies Act.

6). The Respondent is a co-operative Society which is engaged in the business of Banking and is managed and controlled by the body Constituted by its members by elections. The funds that governs the business is from the members who are the share holders. There is no funding by the government hence, the respondent cannot be said to be controlled by the Government. No doubt the respondent are registered with the registrar of the cooperative society but that itself does not make it a public authority.

7) As the Respondents has raised objection on the ground that it is not a body owned, controlled or financed by the Government the burden was on the appellant to prove that it was so being the information seeker. The appellant has not brought anything on

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record to show that the respondents fulfils this requirement to bring it within the purview of public authority. Being so we are unable to conclude that the Respondent is a Public Authority.

8) Be that as it may, even the Hon'ble Supreme Court in the case of ***Thalappalam Ser.Coop.Bank Limited. And others v/s State of Kerala and others (AIR SCW 5683)*** has held that the registrar of Co-operative society functioning under the cooperative Societies Act is a Public Authority but has held that the co-operative societies registered under the said Act will not fall within the definition of Public Authority under the right to Information Act. In the circumstances the contention of the Respondent that it is not a public authority gets supported.

9) In the above background we find that the objection raised by the respondent is required to be considered and consequently we hold that the respondent is not a public authority. The present appeal therefore is not maintainable and hence the same stands dismissed as not maintainable.

Parties to be intimated.

Copy of this order be sent to the parties free of cost.

Announced in open proceedings.

Sd/-
(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-
(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa