HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 83570 OF 2013 (GM-RES)

BETWEEN:

THE PRINCIPAL ,
BASAVESHWAR ENGINEERING COLLEGE,
BAGALKOT.

... PETITIONER

(BY SRI S.B. HEBBALLI., ADVOCATE)

AND:

1. KARNATAKA INFORMATION COMMISSION
   REPRESENTED BY
   STATE INFORMATION COMMISSIONER,
   COURT HALL NO. 6, NO. 14/3
   1ST FLOOR, MYTIC SOCIETY,
   NRUPATUNGA ROAD, BANGALORE-1.

2. THE VICE CHANCELLOR,
   VISVESHWARAIAH TECHNOLOGICAL UNIVERSITY,
   MACHHE, BELGAUM-14.

3. SADASHIV S/O. SIDRAMA KEMBAVI
   AGE: 39 YEARS, OCC: LECTURER,
   R/O. YOGESH NILAYA, PLOT NO. M-40,
   BRIVANDAN SECTOR NO. 63-A
   NAVANGAR, BAGALKOT,
   DIST: BAGALKOT.

... RESPONDENTS

(BY SRI D.M. BANDI, ADVOCATE FOR R1,
SRI ANAND SHETTY, ADVOCATE FOR R2,
SRI UMAPATI, ADVOCATE FOR R3.)

Digitally signed by MOHANKUMAR B SHELAR
Location: HIGH COURT OF KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ENTIRE PROCEEDINGS INCLUDING THE IMPUGNED ORDER DATED 13.08.2013 PASSED BY KARNATAKA INFORMATION COMMISSION BANGALORE IN KIC 2487 PTN 2013, A COPY OF THE SAID ORDER IS PRODUCED HEREIN AS PER ANNEXURE-G.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

This writ petition is filed assailing the order of the State Information Commissioner.

2. The petitioner's learned counsel, reiterating the grounds urged in the writ petition, would submit that the petitioner is an Engineering College and is not a grant-in-aid institution. He would contend that although certain departments of the institution have been extended grant-in-aid by the State Government since 1968, the institution as a whole cannot be treated as a grant-in-aid college so as to attract the impugned proceedings.

3. Placing reliance on the order passed by this Court in W.P. No.145155/2020 (GM-RES), disposed of on

12.09.2025, learned counsel would submit that the controversy involved in the present petition stands squarely covered by the said decision, which pertains to the very same institution, namely Basaveshwar Engineering College, Bagalkot.

4. He would further submit that, in the said proceedings, this Court had directed the petitioner-college to file an affidavit indicating that it does not receive financial assistance from the State Government in excess of 85% for running the institution. Pursuant to the said direction, an affidavit was filed placing the relevant factual particulars on record. Taking note of the averments made therein, the Co-ordinate Bench proceeded to quash the order passed by the Karnataka State Information Commission, which was substantially similar to the impugned order in the present writ petition.

5. Having regard to the reliance placed on the aforesaid judgment, this Court deems it appropriate to

extract paragraphs 4 to 10 of the said order, which read as follows:

> *"4. Respondent No.4 has been served and there is no representation on his behalf.*
>
> *5. Section 2(h) of the RTI Act reads as follows:*
>
> > *(h) "Public Authority" means any authority or body or institution of self-Government established or constituted.-*
> >
> > *(a) by or under the Constitutions;*
> >
> > *(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 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.*

6. For the purpose of passing any direction, the authority to whom the direction is made, ought to be a public authority, which would include a body which is established, constituted, owned, controlled or substantially financed, directly or indirectly by funds provided by the appropriate government.

7. An affidavit is filed by the Principal of the petitioner/college stating that though they are receiving aid, but they are not receiving aid more than 85% aid to run college.

8. Perused the order of the Apex Court in the case of Thalappalam Service Co-operative Bank Limited & Others Vs. State of Kerala & Others2 . Paragraph-48 of the said judgment reads as under:

> *"48. Merely providing subsidiaries, grants, exemptions, privileges etc., as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD etc., but those facilities or assistance cannot be termed as "substantially financed" by the State Government to bring the body within the fold of*

> *"public authority" under Section 2(h)(d)(i) of the Act. But, there are instances, where private educational institutions getting ninety five per cent grant-in-aid from the appropriate government, may answer the definition of public authority under Section 2(h)(d)(i)."*
>
> 9. *It is to be noticed that, if authority is to be considered to be a public authority, the same must be substantially financed.*
>
> 10. *As it is noticed that the assertion of the petitioner that they do not receive more than 85% of the aid, taking note of the observation at paragraph-48 of the order, it could be stated that the institution/petitioner would not come within the definition of the public authority*."
>
> *(emphasis supplied)*

6. In the light of the aforesaid judgment rendered by the Co-ordinate Bench, which pertains to the very same petitioner-institution, this Court is of the considered view that the issue is no longer *res integra*. The status of the petitioner-College, namely that it does not fall within the ambit of a "public authority" under Section 2(h) of the Right to Information Act, 2005, having already been determined

by this Court pertaining to petitioner institution, the impugned order passed by the concerned respondent cannot be sustained. The impugned order, therefore, deserves to be quashed.

7. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition is ***allowed***.

(ii) The impugned order passed by the Karnataka Information Commission, Bengaluru is hereby quashed and set aside.

(iii) Consequently, all further proceedings, if any, initiated pursuant to the impugned order shall stand annulled.

(iv) No order as to costs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

VNP / CT: GSM
List No.: 1 Sl No.: 109