

Before Mukul Mudgal, C.J. & Ajay Tewari, J.

**THE KARNAL COOPERATIVE SUGAR
MILLS LTD. & OTHERS,—Appellants**

versus

**STATE INFORMATION COMMISSIONER &
ANOTHER,—Respondents**

LPA No. 122 of 2010 in
CWP No. 17686 of 2009

8th September, 2010

Constitution of India, 1950—Art. 226—Right to Information Act, 2005—S. 2(h)—Sugar Mill managed by a State Civil Service Officer— Whether Sugar Mills is a public authority under 2005 Act—Held, yes—Appeal dismissed, orders of Single Judge dismissing petition of Sugar Mills and that of State Information Commissioner holding the Mills bound to give information upheld.

Held, that the appellant—Sugar Mill is managed by Managing Director who is a State Civil Service Officer. The appellants have divulged no information regarding the extent of financial help/investment/equity participation made by the Government in the appellant-Mill. It is evident that this information if furnished may have gone against the appellants' stand. In the circumstances, no fault can be found with the judgment of the learned Single Judge and consequently, this appeal is dismissed.

(Para 7)

P. K. Mutneja, Advocate, *for the appellants.*

B. S. Rana, Addl. A. G. Haryana, *for respondent No. 1.*

Jashandeep S. Sandhu, Advocate, *for respondent No. 2.*

MUKUL MUDGAL, CHIEF JUSTICE

(1) This appeal has been filed against the judgment of the learned Single Judge dismissing the writ petition of the appellants against the order of the State Consumer Commission wherein it had held that the appellant

Sugar Mill was a public authority under the Right to Information Act, 2005 (for short 'the Act').

(2) The appellant-Sugar Mill had refused to give certain information under the Act. The State Information Commissioner held that the appellant was bound to give such information holding it to be a public authority. As mentioned above, the writ petition having been dismissed, the appellants are before us.

(3) Learned counsel for the appellants has argued that the learned Single Judge has erred in holding the appellants to be public authority Section 2(h) of the 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 Constitution ;
- (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 appropriate Government.”

(4) Counsel for the appellants has further argued that the appellant-Sugar Mills is neither a body owned, controlled or substantially financed by the government nor is it a non-government organization substantially financed, directly or indirectly by funds provided by the appropriate government.

(5) The learned Single Judge held that as regards funding, the appellants had not divulged any details about the share-holding of the government or any other finances which may have been provided by the

Government. Learned Single Judge also noticed that having itself appointed a Public Information Officer, the appellant admitted that it was a public authority.

(6) Counsel for the appellants has relied upon a decision of the Hon'ble Supreme Court in **General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur UP versus Satrughan Nishad and others (1)**, a decision of this Court in CWP No. 6226 of 1992, **Raj Pal and others versus Karnal Co-operative Sugar Mills Limited Karnal and others**, decided on 11th November, 1992, and decision of the Karnataka High Court in **Dattaprasad Co. op Housing Society Ltd., versus Karnataka State Chief Information Commissioner, (2)**. As regards the first two decisions, they relate to the test of Article 12 of the Constitution. Thus, they are not at all relevant to determine the ambit of Section 2 of the Act where the phrase is 'public authority' and not 'State'. The third decision was in respect of a cooperative society which was entirely a private house building society. The allegation sought to be made was that since all cooperative societies were under the ultimate control of the Registrar Cooperative Societies, they would all be public authorities. There was no participation of the government in the said society. It was in those circumstances that the learned Single Judge held that the society was not amenable to the Right to Information Act, 2005.

(7) In our view, the present case is clearly distinguishable for the reason that here the appellant-Sugar Mill is managed by a Managing Director who is a State Civil Service Officer. As mentioned above, the appellants have divulged no information regarding the extent of financial help/investment/equity participation made by the government in the appellant-Mill. It is evident that this information if furnished may have gone against the appellants' stand. In the circumstances, no fault can be found with the judgment of the learned Single Judge and consequently, this appeal is dismissed with no order as to costs.

R.N.R.

(1) (2003) 8 S.C.C. 639

(2) 2009 (5) R.C.R. (Civil) 833