Right to Information and Good Governance

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Lecture 46

Public Authority XIV

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Another interesting aspect to this aspect of whether sports federations are covered under the Right to Information Act, was an interesting case decided by the Supreme Court in K Balaji Iyengar versus the state of Kerala, about whether the office bearers of sports federation are covered under the Prevention of Corruption Act. You know, Balaji Iyengar was a former Kerala junior cricketer. He had filed a complaint against the association in the vigilance court alleging specific instances of corruption and misappropriation.

And he said that the office bearers should be tried under the Prevention of Corruption Act, 1988. Interestingly, the matter was whether the office bearers can be treated as public servants. Office bearers of the sports federation, if they are public authorities, can the office bearers be treated as public servants? Now the Supreme Court, in this case, examined the definition of 'public servant' under the Prevention of Corruption Act, which prescribed the following requisites.

First, you know, you have to hold an office by virtue of which, you are authorized to perform a public duty. Only then you will be designated as a pubic servant and for which the Prevention of Corruption Act will apply. Secondly, the position as an office bearer or an employee of an educational, scientific, social cultural, or any other institution established, or receiving or having any financial assistance from the central government or the state government or any local authority or a public authority. So, either you must be performing a public duty or you must be in a position to receive financial assistance from the central or the state government.

Now, the judges in this case, examined the following facts to ascertain whether the office bearers of the sports associations are performing public duty or not. Now you notice that most of the sports associations, or federations as the case maybe, they do not only have monopoly status on the sport as regards to the kind of regulations they can impose, like in cricket, but they also lay down the criteria for the development of the sport. And it was recognized by the state of Kerala, to promote and regulate the game of cricket, that is the Cricket Association of Kerala, it also used to select the teams that would represent Kerala in the Ranjit trophy or in other tournaments as the case may be. It also selects umpires and organizes games if it is at the international level. So, the Cricket Association of Kerala is not only representing the team but also the state of Kerala. And if a player is selected or not selected, that can be aspects of discrimination and it is not merely are game that is there, but it affects the interest of players, it affects the interest of the fans as well.

Now, on these bases, you will notice that the court found that the association was discharging a public duty and the office bearers of the association were found to be bound within the ambit and meaning of the definition public servant. Now this is very very significant from the fact that if an organization is declared as public authority, inevitably, the offices working in that organization will be within the ambit of the definition of public servant and hence, can be prosecuted under the Prevention of Corruption Act for any kind of corruption allegations, or any kind of misappropriation as the case may be.

And hence, I think the K Balaji Iyengar versus state of Kerala case is a significant case which looks at the impact of the Right to Information Act, especially on those organizations that are

declared as public authorities. Hence, once an organization is declared as a public authority, the office bearers of that organization are public servants as the case may be deemed under the Prevention of Corruption Act.

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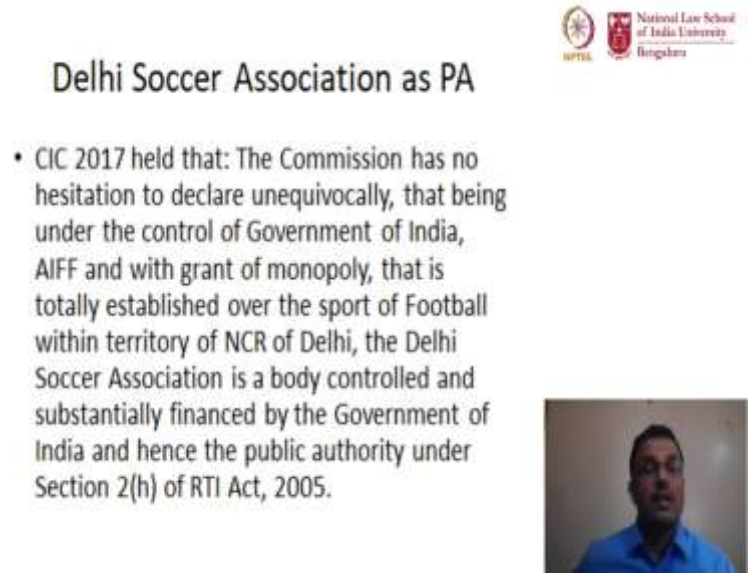

Further, the last case on sports under Right to Information Act is the aspect of the Delhi Soccer Association. It is a 2017 Central Information Commission judgment. In this case, again, the challenge was whether the Soccer Association is a public authority or not. The CIC had no hesitation in declaring it to be so because they found that it was controlled by the Government of India.

And interestingly again, as we reiterate from the K Balaji Iyengar case, the Delhi Soccer Association had monopoly status in the territory of Delhi, that is the NCR region over the football game and it is a body that was owned and controlled and substantially financed by the government. Hence there was no hesitation in declining it to be brought under Section 2(h) of the Right to Information Act.

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If we go further on and we change from sports to other areas, our next area for scrutiny under Section 2(h) is the judiciary or the courts. Now interestingly, whether the courts are public authorities and are they amenable to the RTI Act has been an issue that is grappling many of these instances. However, before we even go to the courts, let us look at some of the decisions on how the courts have treated organizations as public authorities. So, what has been the position of the courts in that sense.

So when it comes to autonomous institutions, like the Indian Olympic Association, the Chandigarh Lawn Tennis Association, these autonomous institutions, though they are not established by the government but as societies and trusts, they are being held to be public authorities. Schools and Educational trusts also have been held to be public authorities. Registered societies and cooperatives are also held to be public authorities by the courts.

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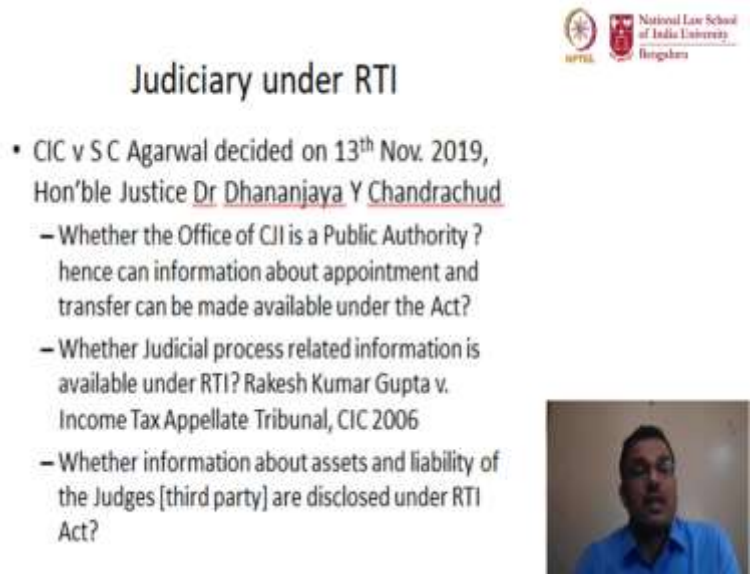

Now, the very famous case on Judiciary under RTI is the most recent one that was decided on 13th November 2019, a judgement delivered by Honourable Justice Dhananjaya Chandrachud. The issue in this case was whether the office of the Chief Justice of India is a public authority or not. Now the office of the Chief justice is important office, it is part of the Judiciary but a very important one when it comes to appointment and transfer of judges, especially in the Constitutional courts that is Supreme Court and the High Court. And our RTI activist, probably the most prominent RTI activist in India, Shri S.C. Agarwal, he had asked certain information and the matter was taken before the CIC and later on it was taken before the Supreme Court as well.

And the issue was, how do we look at the chief justice office as a public authority or not. And also very importantly in the Rakesh Gupta versus The Income Tax Appellate Tribunal, a case decided in 2006, the issue was whether judicial process related information is available under the Right to Information Act. And the third most important aspect in the Judiciary was whether the information about the assets and liabilities of the judges are to be disclosed under the RTI Act or not. I think these three important considerations were to be taken note of, especially when it comes to the discussion of Judiciary under the Right to Information Act.

However in 2019, the Supreme Court definitely clarified and laid to rest the controversy saying that the Judiciary was not above the law, the law equally applies to the legislature, executive and

the judiciary and the office of the Chief Justice of India is the most important office, it is the highest office, it is an office that is headed by the Chief Justice himself and is deciding on very important aspects of appointment, elevations of judges, transfer of judges and hence undoubtedly, this is a public function, it is a public duty and all the expenditure of this office is met by the government or the taxpayers money. And hence Justice Chandrachud in this judgment, declared that the CJI's office is a public authority and is amenable to the jurisdiction of the Right to Information Act.

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The point of, whether entities and committees or other things are covered under the Right to Information Act or not, is also about certain aspects in the Legislature. Now one of the very interesting issues that were taken up by the CIC quite early in 2009, again by a petition filed by Shri S.C. Agarwal, was whether the office of the leader of opposition is a public authority or not. Now generally there is a leader of opposition and he is generally an elected member of the house and he is also, looked as a leader of the opposition. That means all the parties in the opposition would lead and elect a leader, and then the leader would have a special status which means, in the Parliament, they would be given an office and that office holds a lot of information and records.

And hence though it is not an office that is established by the Parliament or created by any Act, it

is a practice that is there in the Legislature and being a practice and office being appointed, documents and records been kept over there, the question before the CIC was whether this office of the leader of the opposition is a public authority or not. And the CIC in 2009 declared it is so, and hence the office of the leader of opposition whoever may be the leader of the opposition, if he occupies that office, that office is a public authority and he shall provide information under the Right to Information Act.

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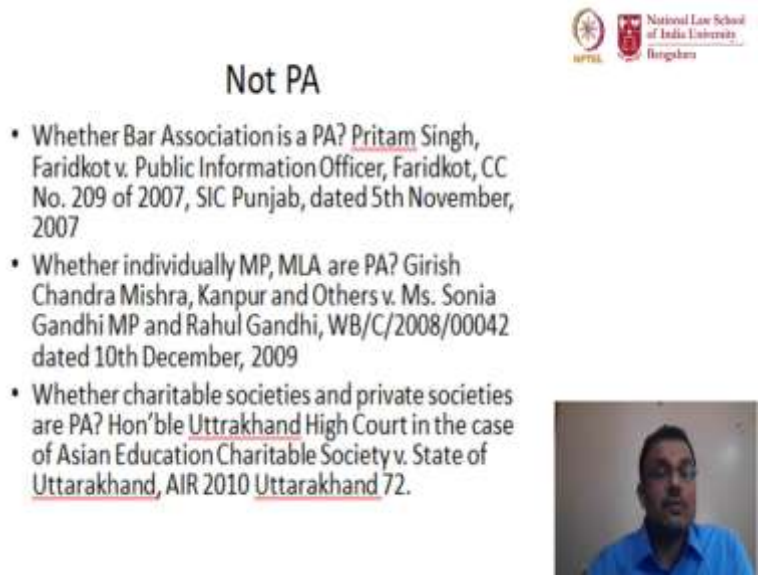

However, what is important for us to note here at this point of time is that till now, we have fairly discussed those institutions that are within the ambit of the RTI, that have been brought within Section 2(h) and that have been declared to be public authority who are supposed to do public functions, who are supposed to do proactive disclosure under Section 4, who are supposed to appoint Public Information Officers, who are supposed to provide the information under the Right to Information Act.

However, kindly note, while a huge gamut of Institutions are brought within the purview of the Right to Information Act, there are a lot of those institutions that have not been brought within the purview of the Right to Information Act. For example, the board for control of cricket in India, that is BCCI, till this date of 2018 judgment of the Information Commissioner Shri

Acharalu, till then the BCCI was not within the purview of Right to Information Act.

For a long time, including those cases that were decided by the CIC previously, I think the BCCI could not be brought within the purview of the Right to Information Act because it had not received substantial funding. However, the test has now changed, thanks to the Supreme Court directions in which public functions, public monopoly have been also considered to be brought within the purview of the Right to Information Act and hence today you have the BCCI being declared, at least, if it is not actually in practice following the same, but at least on paper, in terms of the pronouncement by the Judiciary, you will notice that the BCCI is a public authority right now.

However, there are many Agencies that are not declared to be public authorities because they do not fulfil any of the mandates of the test as required. For example, the question that was in the Pritam Singh, (Farida) Faridkot versus the Public Information Officer was that whether a bar association is a public authority or not. Now, you will notice that in every Court, be it the district or the Mofussil courts, the lawyers create an association for their own benefit, generally the bar association would have a room in the court premises, that is where the lawyers meet, discuss, deliberate and share information.

It is a connective association of lawyers and these lawyers are individual private practitioners and their association, was it to be determined as a public authority or not was taken up in this Pritam Singh case. And you will notice that the CIC has held, sorry this is the SIC, that is the State Information Commission of Punjab held in a judgement of 5th November 2007, that the bar association over there is not a public authority as it received no funding from the government, no substantial funding from the government as well.

Now, interestingly in the Girish Chandra Mishra versus Sonia Gandhi, Member of Parliament and Rahul Gandhi, this was a clubbed hearing that took place in 2008. The most interesting aspect of this was, whether individual Member of Parliament or Member of Legislative Assembly are public authorities or not. Now the most interesting issue over here is, you will notice these are elected members to the legislature, either in the state or in the centre.

They are public servants, because they are covered under the Prevention of Corruption Act, they can be held accountable for corruption in that sense because they are legislatures or they are part of the houses both either Rajya Sabha or the Lok Sabha. However, what is important in the Girish Chandra Mishra case was the distinction that the commission made between public servant and public authority. While it said that the accountability under the Right to Information Act is collectively in the public authority and not individually vis-à-vis the public servants.

And hence, wherever a Right to Information Application is put to a public servant, he would own no duty to respond, rather the citizens are advised to apply or make an RTI application only to a public authority. And unless the institution is an authority, it is a collective body that represents public servants, RTI will not be applicable to individuals. So, there is no individual accountability per se directly under the Right to Information Act for MPs and MLAs.

However, their collective accountability is with a parliament secretariat and the parliament secretariat can be approached to be a public authority, to provide the necessary information that citizens would desire in such cases. Whether charitable societies and private societies are public authorities. Now, the Uttarakhand High Court in 2010, clearly said that charitable societies and private societies that are not funded by the government are not public authorities.

You may say charity attracts public function or the public test, but under the Right to Information Act, the Uttarakhand High Court felt that it is not sufficient to cover them and bring them under the RTI umbrella. So that could be a private charitable society, a private society for the purpose of its own members that is registered under the Societies Registration Act or under the Public Trusts Act, nevertheless, please note, these institutions do not come directly within the ambit of the Right to Information Act.

However, kindly note, whatever the information these societies or trusts give to the registrar of cooperatives or the registrar of societies or if it is held in the government in some agency, that is a department or a minister, then as a third party information, they can be accessed from that department and that ministry but not directly from the society which is having a very private

character or private structure and a private funding. So that is a very significant judgment of charitable societies not being covered under the Right to Information Act.

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Similarly, in 2011, the Kerala High Court exempted the offices and office of public religious institutions and endowments which are brought under the Madras Hindu Religious and Charitable Endowment Act of 1951. And, so this is again another significant judgment about spiritual, cultural, religious institutions and endowments that are created in certain states. Again, I do not think any of these are covered under the Right to Information Act unless they have received substantial funding from the government.

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Another interesting aspect is about those companies that have been government entities before but in which there is a significant disinvestment of government stake holding. Now the case of BALCO is a very important case in terms of whether it is, after disinvestment can be considered as a public authority or not. Look, when it was established, when it was owned and controlled, it was a public authority because the government had a majority stake in it. However, you will notice that the government from time to time has a policy of disinvestment and the disinvestment is such that the government hardly holds any stake that can be called as substantial or significant.

And hence, when a former government company has been disinvested to such an extent that no substantial funding from the government can be tracked or traced, then such government, formerly the government companies may escape the RTI regime. After disinvestment. So, after disinvestment, what is the controlling stake of the government, how much is the government ownership in this company and whether it can be considered for substantial funding or not, will have to be taken due note and consideration of before these kinds of disinvested companies can be considered as public authorities.

So, what was there previously is not necessarily that needs to be continued in the future, depending upon the structure, nature and the functioning of the organization, one can come to know whether currently the RTI Act applies to an organization or not. Whether it was applied previously or not, is not a material consideration in such matters where there is dilution of stake and it has lost the character of being a government entity.

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What is also interesting in this chapter is the chapter on Public Authority is the interlinkages that are generally made between article 12 of the constitution which defines a state to that of Section 2(h) which is a public authority. Now, Article 12 in the Constitution is important because vis-à-vis Article 19(1)(a) which is the right to know and the genesis of the RTI is in the, in Article 19 only. The birth of right to know or Right to Information is in Article 19(1)(a).

You will notice that Article 19(1)(a)'s applicability is only against institutions that are so called, called the state, under Article 12. So, Article 12 definition applies to all such rights and fundamental rights that are part of the Constitution of India. And hence, if you want to exercise any of your rights and freedoms in the Constitution, the entity or the institution has to be a state under Article 12. Similarly, like in the RTI Act, if you want to exercise Right to Information, the entity has to be a public authority.

However, whether the definition of state under Article 12 and the definition of public authority under Section 2(h), are they to be read synonymously, interchangeably or something that can replace one another/ Or should we say that if an entity is state, then it is automatically a public authority under RTI? Or should I say that if you are a public authority under RTI Act, you will be a state under the Constitution?

So, what are the linkages between the constitutional dimension of a state and its instrumentality

to the RTI dimension of a public authority? That I think is a very significant point to be noted and placed across. Because you will notice that there are a lot of entities under the Right to Information Act which may not come within the ambit of state. And hence, if they do not fulfil within the ambit of the state, then will they escape the RTI mandate is one issue that needs a consideration over here or that means a discussion over here.

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Now, the Kerala High Court, in 2007, in this M.P. Varghese versus the Mahatma Gandhi University that is the MG University in Kerala clarified this position. And the clarification is so very important. They said, look the definition under Section 2(h) of the RTI Act is wider that the definition of state under Article 12. And hence the application of Article 12 is not a necessary precondition for the interpretation of Section 2(h). Section 2(h) is a statutory law; it is a statutory interpretation and the application of the same should be independent of Article 12.

And hence, the necessary guiding light of Article 12, especially through cases like the Ajay Hasia case and so on and so forth, there are many such cases, is not necessarily something that should be applied when institutions are being tested under Section 2(h) of the Right to Information Act. So, Section 2(h), in terms of the applicability of the definition of public authority, especially to non-governmental organizations that are substantially funded by the government, can stand independent to that of the application of Article 12.

And hence, you will notice that Section 2(h) has a wider connotation and an application and institutions that do not fall within the ambit and definition of Article 12 can still go on to fall within the ambit and definition of Section 2(h) of the Right to Information Act. That is a very clear proposition coming from the MG University case and the decision of the Kerala High Court in 2007.

And I think it is important that you do not have to compare Article 12 with Section 2(h) and it is not necessary that institutions must necessarily qualify to be a state under Article 12 to be accountable under the Right to Information Act. So that clarification now is a very significant clarification that has been put across and hence, I think the ambit and scope of accountability under the Right to Information Act is wider than what could have been done with this vis-à-vis the definition of state under Article 12 and what could have been achieved, had this right just been a right under Article 19(1)(a).

Because, had it been just an unenumerated right under 19(1)(a), that rights could have been exercised only under those institutions that fall within Article 12. However, the Right to Information Act is in addition to those institutions and hence, I think the Right to Information Act has only added accountability and transparency from a great number of other institutions which were not necessarily the instrumentalities of state which are now getting funding and hence, an accountability is demanded from those organizations.

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I think, you know, the fact of today government looking at liberalization and privatization as an important strategy, and government probably trying to do away with most of this business activity, is the fact that today, the public private partnership model is a reality. You will notice that today government is either privatizing or entering into partnership with private players to run a lot of activities.

So, this most important issue that was put across in this case called the Bangalore International Airport Limited that is in short, we call it BIAL versus the Karnataka State Information Commission. It is a judgment given by the Karnataka High Court in 2010 which was about whether the BIAL that is the Bangalore International Airport Limited is a public authority under the Right to Information Act and can it be called as a state under Article 12.

Now one must know that, PPP today is being executed as a project in various sectors. You will find public private partnership in the highway sector, in the port sector, probably you could find it in many energy related or power sector as the case maybe. The airports are quite significant in terms of the public private partnership, you have Bombay, Delhi, Hyderabad and Bangalore are put in PPP mode with the concession agreement that is given for 30 years.

And hence, the question was, how do you look at accountability from these public private partnerships. Now, when you talk about public private partnership, one would definitely look at

it from this aspect that if it is a partnership between public and private, what is the percentage of public investment in this business. Now if you consider the public stake equity or investment, you will notice in most public private partnership projects, especially in the airport sector, the public investment which is both centre and state, is just 26 percent of equity.

It is only 26 percent, it is not 51 percent to hold such a company which is generally registered as a private limited company beyond 51, because if it is 51 percent, then it is entitled to be called as a government company automatically covered under the Right to Information Act. However, under the public private partnership projects, the government is always a minority shareholder and, in the Bangalore, International Airport Limited case, the government, both centre and state combined together, had only 26 percent shareholding.

And hence, BIAL said that, look with 26 percent shareholding, you cannot consider or call it substantial, you cannot consider that this company is owned by the government and neither to be controlled because it is just 26 which is not a significant equity in this particular entity. However, you will notice that, you know, the main part that are to be decided in this case is just with 26 percent shareholding, why should BIAL be considered as a state also under Article 12 amenable to the writ jurisdiction or writ supervision.

So, I think that is what the Karnataka High Court had to decide in this case. And what did the Karnataka High Court do? They considered not only 26 percent equity, they considered the various facets of a PPP project and they started off saying that look, a PPP project is made on government land. And the land belongs to the government on which the PPP project is built, it is owned, it is operated and finally after 30 years of concession period being completed, it is transferred back to the government.

Also, that many of the PPP projects get soft loan of hundreds of crores at low percentage of interest to actually commence their activity. And with 26 percent I think there is a significant board control or management of the state and the government. And I think what the High Court said is 26 percent could be substantially sufficient to hold the BIAL to be accountable under the Right to Information Act. And I think this clearly shows the path about the accountability that is

demanded in such businesses and in such transactions.

The fact remains, please note, that here we are talking about public money and if it is only 26 percent, why should it matter? Why should not an accountability be ensured from such agencies? And after this case, you know, many of the public private partnership projects appealed to the government. They wanted to seek exemptions from the applications of the Right to Information Act so as to protect their private business entities.

And hence, there was some kind of resistance from the PPP agencies after the Karnataka High Court Judgment. And hence they did not comply with this order of the Karnataka High Court and they refused to do it claiming that this is not applicable. And hence, DoPT that is Department of Personnel and Training which is the nodal agency for the implementation of the Right to Information Act, in 2013, issued a circular and they clearly stated that public private partnerships are covered under the Right to Information Act.

And hence, whenever a PPP contract is given through a concession agreement and PPP is actually created through a special purpose vehicle, and registered as a private limited company, and the details of project reports concession agreement, operation and maintenance manuals, so on and so forth, they should be provided under the RTI Act unless they are exempted from disclosure as applicable under Section 8. So, you will notice that the exemption clause will definitely apply.

However, certain kinds of information can definitely be collected especially about how much fees and tolls are collected, what are the other kind of revenues, whether it is a loss making project or whether it is profit or not, I think these are certain things that were clearly clarified in the DoPT circular or what is accessible under Right to Information Act from the public private partnership and what is not accessible from such agencies. So that is again a significant case. According to me, it is a very important landmark decision of the Karnataka High Court in bringing some of these projects under the Right to Information Act.

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Conclusion 1: Test to determine a PA:

- Form v. Function [National Stock exchange case]
- Broad v. Narrow interpretation: The Delhi High Court has stated that the second part of the definition is "distinct in alternative, and not cumulative. {IOA and Delhi Gurudwara case]

Let us conclude this chapter which is the Public Authority and we should conclude in a couple of points. So, let me draw conclusion number 1. Now the test to determine a public authority is very very significant and you will notice that the test is not one that is necessarily uniform. It depends upon the agency, the institution, there is a lifting of the corporate veil as we know and hence, based on that, I think, the commissions and the courts have been holding organizations to be public authority or not.

However, the first point of debate in this is whether it is the form or the function that is relevant to determine an agency as a public authority or not. So how it is created or what it is doing that is what we are trying to look into. Now when you look at form, we looked at how the agency is formed, created, established or how is the government equity or investment or capital in, that is what we say as a form test. Like how was it formed, whether government has a significant say in the formation of that entity.

If so, then it is a public authority. So how is the form created, so that is the first way of looking at it. Second is, what functions does it do as against what is there in the form? So even if the government has not formed those entities, they are just societies created under Societies Registration Act, they do not, the government has not formed them, the government has not created them, incorporated them or you know, established them. Then you, I, you probably have to see whether what kind of functions do they do.

Do they perform any public function? Are they performing any public duty for which accountability should be demanded under the Right to Information Act? So I think, there is always this greater debate about what is more prominent, the form or the function test. Now for example, if you look at the National Stock Exchange case which is not yet settled so far and the matter is still pending for final adjudication, you will notice that the commission thought that the National Stock Exchange is performing a public function.

Whether it is created by the government or not was completely irrelevant because here is where a consumers' money or the shareholders' money are being traded. And because it is performing a vital public function, I think the commissions wanted the National Stock Exchange or various other stock exchanges to be accountable under the Right to Information Act. So should the function test be a standalone test, should it be the only test, can it be enough to bring institutions under the domain of public authority or not is probably something that has to be definitely viewed, analysed and examined.

Second, when it comes to Section 2(h) which as I told you in the very first class, which I was dealing with this Section 2(h), I was talking about it being an inclusive definition. Now inclusive definitions always have scope for, expansion and admission of agencies so it is always a workable definition, in terms of interpretation that judges can do. Now the question here is very clear that if I look at Section 2(h), should I have a broad interpretation of the same or should have a narrow interpretation of the same?

So, what is the purpose, objectives to be served under the Right to Information Act? The purpose is to look at accountability, the purpose is to look at transparency, the purpose is to reduce corruption, the purpose is to bring about openness in a given system. If those are the objectives that has to be served by the implementation of The Right to Information Act, then obviously the interpretation of Section 2(h) must be on a broader side. It must be far wider; it must be constructed quite liberally and then public function test is definitely admissible or acceptable.

However, if it is going to be narrow, again the judges will have to decide that, then one will have

to see what is the purpose of a narrow definition. The purpose of a narrow definition is, you do not want to unnecessarily strain organizations or institutions that get simply, a small amount of sum from the government and great amount of work under RTI then gets reimplemented or then gets to be executed. So, should you stress these organizations by bringing them under the RTI Act is a question that judges will have to consider. So, I think this is a important conclusion that I would want your attention to be brought to in this discussion or under this chapter.

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Now, conclusion number two is, what factors will suggest a body to be public authority or not. So, let us list out those factors to call an agency to be public authority or not. The first, the agency role should be closely assimilated to or take the place of a local authority. Now, if there is some kind of replacement of a local authority by any new agency that is being created, then we must probably bring it under the domain of public authority because where a local authority is abdicating its responsibility and giving it to some other agency, this is normally in the case of privatization.

A lot of government function or government activity of various agencies, including local authorities, is being handed over to private agencies. Then in those cases those agencies or institutions should be brought within the public authority premises. Second, if an agency's functions are linked to the government and they are closely connected with governmental

functions, then definitely those agencies should be brought within the domain of public authority is what we can probably want to conclude from this chapter.

The third is, if there are, agencies of national importance which have public function, public finance and also headed by public servants, these are instances where, you may have an army wives welfare association so on and so forth, I am just giving you some instance or example. Then the test of public authority definitely must be applicable to such organizations. The fourth test is obviously state controlled and state ownership and state inspection of its performance wherever there is adequate regulation of the state in terms of the performance of the parameter.

So, if they are state owned and control, obviously they come within the definition of a public authority. Obviously, I think if agencies are susceptible to Judicial review and RIT, that is good enough reason or if they are audited by the CAG which is public accountability of actions especially when they receive any kind of finance more than 25 lakhs in a given financial year, I think amenable to RTI is inevitable.

Obviously, NGOs or charitable institutions, so called non-profit institutions, if they receive substantial funding, they should also be covered under the Right to Information Act. Obviously, if institutions have statutory powers and, remember if these are statutory powers granted to an institution and they are to be exercised against the public, then obviously you would expect these institutions to be covered under the Right to Information Act. So, any institutions that is granted statutory power, like say the Life Insurance Corporation of India, and they are enforced against the public, then they are also accountable under the right to.

So that is probably the conclusion in terms of the test of public authority. If the Parliament has intended in the act to cover the actions of an organization, so this is the indirect test, so the Parliament has not created the organization but it intends to cover or control such an organization, then I think under the indirect test, those agencies can be also covered under the domain of public authority.

Also, if the Parliament would not have intended to afford protection under the Act, so I think, if

the Parliament would not have intended to afford (protection), protection then there is no question of, such agencies being covered. However, I think the intent of the Parliament then is a very important and a reflective character for us to determine the agencies to be public authority or not. So, I think the intention of the Parliament, will be definitely necessary to check whether authorities can be covered or they cannot be covered.

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My final conclusion and conclusion number three is obviously something that I have taken from the second Administrative Reforms Commission report that was submitted by a group of experts, headed by Shri Veerappa Moily. And they did submit the Second Administrative Reforms Commission report in which they submitted a chapter on master key to good governance, especially where in they looked at the implementation of the Right to Information Act.

They said one of the keys to good governance is an adequate and sufficient implementation of the Right to Information Act. And what did they observe in that case? So, I have put over there the relevant para from which this has been extracted. They very clearly say that in wake of the outsourcing functions of the state, very important kindly note, so traditionally they were done by the government but now suddenly the government has started to outsource the same, especially to private entities.

It is desirable that these institutions that enjoy a natural monopoly character and whose function impinges on the citizen, it could be the water sector or electricity sector or any other sector that impinges on citizens lives substantially must be covered under the registration of the Right to Information Act. So, I think the desirability of bringing private institutions that have traditionally been monopolized by the government is definitely something that can be cited under the Second Administrative Reforms Commission report.

So, this could be the conclusion number three that if a private body is performing a public function which is definitely outsourced by the government, then even those agencies should be covered under the Right to Information Act. So, friends, in this chapter, we have only dealt with Section 2(h) of the Right to Information Act, just one definitional part is what has been dealt in this complete chapter but it is significant. And remember in this chapter, we have significantly with so many examples and case studies, we have addressed this situation.

Who is accountable to give you information under the Right to Information Act, kindly note it is only those institutions that are public authorities and that fall within the definition of Section 2(h) of the Right to Information Act will have accountability and obligation to implement this law, will appoint public information officers, will make proactive disclosure under Section 4 and the PIOs will unfortunately attract penalty in case they infringe on the right to information. That is the sum and substance of his chapter, but I think it is a very significant one in terms of the fact that you know from now on who is under RTI and who is not under the Right to Information Act.