

**KIC 10168 APL 2016 C/W KIC 10170 APL 2016
KARNATAKA INFORMATION COMMISSION**

Website: www.kic.gov.in

(Court Hall No. 3)

“Mahiti Soudha” No. 104, 1st Floor, Devaraj urs Road
Behind K.P.S.C Office Premises, Opp to Vidhana Soudha West Gate-2, Bengaluru-1
(Shri. T. Narasimha Murthy V/S 1.) PIO & the General Secretary, Karnataka Chitrakala
Parishath, Kumara Krupa Road, Bangalore-01. 2.) FAA & the President, Karnataka
Chitrakala Parishath, Kumara Krupa Road, Bangalore-01.)

ORDER

Date: 09.08.2017:

1. Appellant is present and the PIO & General Secretary, Karnataka Chitrakala Parishath, Kumara Krupa Road, Bangalore-01 is represented by Shri Rajath, Advocate.
2. The Appellant had in his request for information dated 25.04.16 has sought the following information under section 6(1) of the RTI Act:

“1) List of people who have been hired on contract basis for Chitrakala Parishath and the college of fine arts, since June 2013. Please provide name, designation, power and duties in respect of each such employee.

2) Details of all appointment process i.e. the advertisement released constitution of the selection committee and the list of candidates selected along with monthly salary, since 2013 till date, year wise...ETC.”

3. FACTS OF THE CASE:

The appellant Shri T.Narasimha Murthy had sought certain information on the affairs of the Karnataka Chitrakala Parishath under section 6(1) of the RTI Act, 2005 on 25.4.2016 by totally filing 8 RTI applications, which were clubbed at the request of the appellant. However, the General Secretary of Karnataka Chitrakala Parishath vide his letter dated 21.5.2016 addressed to appellant had informed that the Karnataka Chitrakala Parishath is not a Public Authority as defined in section 2(h) of the RTI Act, 2005 and as such it is not necessary to provide the information sought. On submission of 1st appeal under section 19(1) of the Act, once again the Respondent took the same stand and advised the appellant through his letter dated 28.6.2016 to refer the judgment of Hon'ble High Court of Kerala in Civil Appeal No.9017/2013 (Arising out of SLP © No.24290/2012 of Thallappan Cooperative Bank Ltd., Vs. the state of Kerala & others in the matter and stated that the earlier reply given by him continues to hold good.

Being aggrieved of not getting the sought information, the Appellant, in his second appeal submitted to the Commission under section 19(3) of the Act, stated that the Karnataka Chitrakala Parishath is substantially financed by the Government and the land on which it is built up belongs to public. He, therefore, contested that the Karnataka Chitrakala Parishath is a Public Authority under the Act and requested the Commission to direct it to provide the sought information free of cost.



4. The Commission conducted first hearing of the case on 1.6.2017. During the course of the hearing the appellate reiterated his contentions as referred above. However, the representative of the Respondent Smt.Pallavi Holla, Advocate had said that the Karnataka Chitrakala Parishath is not a Public Authority under section 2(h) of the RTI Act, 2005 and accordingly denied providing of information sought by the appellant. She further requested time for filing of objections. The Commission felt that the Respondent has not adequately substantiated his stand of not being a Public Authority and directed him to furnish the following documents within 30 days to the Commission to assess whether it is a Public Authority or not and adjourned the case to 9.8.2017:

- (i) Copies of Audited Financial Statement of Karnataka Chitrakala Parishath for the last 3 years AND
- (ii) Copy of Lease Agreement entered into with the Government, if any.

5. Shri Rajath, Advocate appeared on behalf of Karnataka Chitrakala Parishath for the hearing on 9.8.2017.

As directed in the previous hearing dated 1.6.2017 Shri Rajath, Advocate submitted copies of Audited Financial Statement of the Karnataka Chitrakala Parishath for the last 3 years to the Commission and also statement of objections on behalf of the Respondent. However, he did not furnish a copy of lease agreement entered into with the Government.

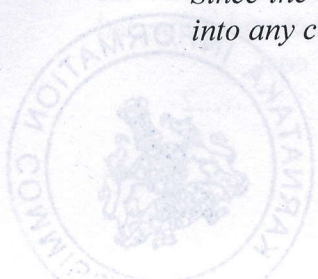
6. Objections filed by the respondents and the observation of the Commission:

- (I) **The Karnataka Chitrakala Parishath has stated that the appeal has been filed with an oblique motive to cause hurdles in the smooth administration of the institution and harass the respondents.**

The Commission observed that the Karnataka Chitrakala Parishath has merely made the statement and not substantiated with any supportive evidences for the same. Hence the statement does not merit consideration.

- (II) **The appellant is in the habit of filing umpteen numbers of applications under the Act with an intention to harass the respondents and to cause hurdles in the smooth functioning of the institution. The appellant is making the application more out of habit than for any useful purpose.**

Since the allegation is not substantiated with any data, the Commission cannot come into any conclusion in the matter.



- (III) The stand of respondent that Karnataka Chitrakala Parishath does not fall within the definition of "Public Authority" relying upon the decision rendered by the Hon'ble Supreme Court of India in Civil Appeal No.1/2013 in the case between Thallapallan Cooperative Bank Ltd., V/s the State of Kerala and others. It has further stated that it is not established or constituted under the constitution, etc., not a body owned, controlled or substantially financed, neither it as an NGO substantially financed directly or indirectly by the Government and a society is not a public authority as defined under the Act.

A glance of the Audited Financial Statements of 3 years submitted by the respondent reveals that the Karnataka Chitrakala Parishath has been receiving various grants / funds from the Government of Karnataka, University Grants Commission, etc.,

The various grants received by the respondent, as reflected in the financial statements, are furnished hereunder:

(Amount in lacs)

PERIOD	2013-14	2014-15	2015-16
Particulars			
UGC (Autonomous) Grant	10.00	10.00	10.00
UGC XI Plan Grant	12.14	6.20	-
Salary Grant	54.00	95.04	248.96
Government Building Grant	-	-	700.00

Besides the above the respondent has been enjoying the following Grants / funds as appearing from the financial statement for 2013-14:

Corpus Fund Grant from GOK	100.00
Grant National Museum	1.87
Govt. Building Grant	134.10
Grant Kannada Culture Dept	4.50

(It is also observed from the 49th annual report (year 2014-15) of the respondent that the Government has made a budgetary allocation of Rs.2000.00 lacs for construction of campus for Karnataka Chitrakala Parishath).

DECISION

As can be seen from the above, though the respondent is a body registered under the Societies Act and it is a non-government organization, the Commission is of the conclusive view that it is substantially financed directly by the Government and its agencies and the assistance received is solid and massive. The assistance is received for both capital expenditure like construction of buildings, etc., and also for revenue expenditures like salary grant, etc.,

....4.



Further, the Commission observed that the Government may not have any statutory control over the respondent as it is non-government organization but still it is established that the respondent has been substantially financed by the funds provided by the Government and its other agencies. As such, the respondent will fall within the scope of section 2(h) (d)(ii) of the RTI Act. Consequently, even private organizations which are though not owned or controlled but substantially financed by the appropriate government will also fall within the definition of public authority under section 2(h)(d)(ii) of the Act.

As such, the Commission declared that the Karnataka Chitrakala Parishath is a Public Authority under section 2(h)(d)(ii) of the RTI Act, 2005.

7. The Commission, therefore, directed the Karnataka Chitrakala Parishath to appoint its General Secretary as Public Information Officer and also meticulously comply with all the provisions of the Right to Information Act, 2005. It shall also comply with the requirement under section 4(1) (a) and to publish within 120 days the particulars under section 4(1)(b).
8. Further, the Commission directed the PIO & General Secretary, Karnataka Chitrakala Parishath under Section 7(1) of the RTI Act, 2005 to provide information to the appellant free of cost by speed post and also submit copies of information to the Commission on the next date of hearing.
9. The Commission further directed the PIO & General Secretary, Karnataka Chitrakala Parishath under Section 18(3)(a) to appear before the Commission on the next date of hearing along with the copies of information provided to the appellant.
10. The Commission also directed the First Appellate Authority & President, Karnataka Chitrakala Parishath, Kumara Krupa Road, Bangalore, to initiate necessary steps under section 19(8)(a) of the Act for providing the information to the Appellant.
11. The case is adjourned to 15.12.2017 at 3 p.m.
12. Dictated, draft corrected, signed and pronounced in the open court, this 9th day of August, 2017.




(N.P.Ramesh)

STATE INFORMATION COMMISSIONER

....5.

Addresses of parties:

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Shri. T. Narasimha Murthy, # 09, 13 th G Cross, Jogupalya, Halasur, Bengaluru-560008.	Public Information Officer & The General Secretary, Karnataka Chitrakala Parishath, Kumara Krupa Road, Bangalore-01.
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First Appellate Authority & The President, Karnataka Chitrakala Parishath, Kumara Krupa Road, Bangalore-01.	

- (i) **Public Information Officer must mention his full name, address and telephone number in all communications concerning RTI.**
- (ii) **All parties must mention the case number in all communications relating to this case, whether addressed to the Commission or other persons.**