

## Central Information Commission

Room No.307, II Floor, B Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066  
website-cic.gov.in

### File No. CIC/RM/C/2014/000433/MP

Complainant : Shri Savinaya, Dakshina Kannada  
Respondent : NITTE University, Mangalore

Date of Hearing : April 28, 2017  
Date of Decision : June 09, 2017

#### Present:

Complainant : Not present  
Respondent : Shri Nithya Chetan, Law Officer and Shri Abhshek,  
Advocate – through VC

RTI application : 12.12.2013  
Respondent's reply : 06.01.2014  
First appeal : N.A.  
FAA's Order : N.A.  
Complaint : 02.04.2014

### ORDER

1. Shri Savinaya, the complainant, sought copy of Memorandum of Association of NITTE University.

2. The CPIO, Dept. of Higher Education transferred the RTI application u/s 6(3) of the RTI Act on 16.12.2013 to NITTE University for providing information. The Registrar, NITTE University informed the complainant that university was not a public authority u/s 2(h) of the RTI Act, 2005 and rejected the application. Aggrieved, the complainant made a complaint to the Commission requesting to direct the respondent to provide the information.

3. The matter was heard by the Commission. The complainant was not present in spite of the notice of hearing having been sent to him. However, the complainant in his complaint to the Commission mentioned that as per Section 2(h)(d) of the RTI Act 'public authority' means any authority or body or institution of self-government established or constituted by notification issued or order made by the appropriate Government. Further, according to

Section 3 of the UGC Act, 1956 the Central Government may, on the advice of the UGC, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be **deemed to be a University** for the purposes of the Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of section 2. And Section 2(f) of the UGC Act states that “University” means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act. The appellant in his complaint claimed that a deemed to be university get its status by virtue of notification issued by the Central Government and hence the NITTE University is a public authority u/s 2(h)(d) of the RTI Act, 2005.

4. The respondent stated that the university was self financed and was not established, constituted, owned, controlled or substantially financed/funded by the funds provided directly or indirectly either by the State Government or Central Government and hence was not a public authority under the RTI Act. In support of his contention the respondent cited a judgment of **the Hon’ble High Court of Karnataka at Bengaluru dated 03.11.2015 [W.P.(C) 25114/2009 Manipal University vs. S.K. Dogra and Ors.]** stating that the same issue had been already dealt with by the Hon’ble High Court while setting aside the Commission’s order dated 13.07.2009.

5. The Commission observes that the complainant’s sole contention (as per his written submissions) that as per Section 3 of the UGC Act all the provisions of UGC Act shall apply to such institution (deemed to be university) as if it were a University within the meaning of clause (f) of section 2 of UGC Act has been addressed by the **Hon’ble High Court of Karnataka at Bengaluru dated 03.11.2015 [W.P.(C) 25114/2009 Manipal University vs. S.K. Dogra and Ors.]**. The relevant paras of the judgment are reproduced below:

“4.....It is contended that the second respondent had failed to notice that the petitioner is a ‘Deemed University’ for the purposes of UGC Act, which confers the status of a University on the petitioner. The word ‘University’ used with reference to the UGC Act cannot be considered on par with the University established or incorporated by a Central Act or a State Act. The petitioner has been declared to be a University under an Executive Charter and not by way of legislation as is usually done in case of Universities. This fine line of distinction between the University recognized under the UGC Act and the University established by the Central or a State Act is lost sight of by the first respondent. Therefore, it is contended that the order impugned is unsustainable and is liable to quashed.....”

5. In the present case, the petitioner is not established, constituted, owned, controlled or substantially financed by the funds provided directly or indirectly either by the State Government or the Central Government. Therefore, the appropriate Government for the petitioner is neither the Central Government nor the State Government and hence the first respondent has no jurisdiction to entertain the complaint itself.....”

6. Given the above facts and circumstances and the legal arguments canvassed by the learned Senior Advocate, it would have to be accepted that the petitioner is a ‘Deemed to be University’ and recognized as such under the UGC Act and it is not established under the Act unlike a University, which is generally established under a statute either under a Central Government Act or State Government Act and therefore it could not be confused with any other University which may be so established. It is neither controlled or financed by the State Government and it is certainly a private institution with its own management and control and therefore, the same cannot be brought under the purview of the definition of a ‘public authority’ as contained under the RTI Act.”

The Hon'ble Supreme Court of India in its judgement dated 07/10/2013 in the matter of Thalappalam Ser. Coop. Bank Ltd. and others V/S State of Kerala and others ( Civil Appeal No. 9017 of 2013 ) has held that the burden to show that a body is owned, controlled or substantially financed or that a non-government organization is substantially financed directly or indirectly by the funds provided by the appropriate Government is on the applicant who seeks information, however, in this matter the complainant was not present to put forth his contention in this regard, if any. Having considered the respondent's submissions that the university is self financed and is not established, constituted, owned, controlled or substantially financed/funded by the funds provided directly or indirectly either by the State Government or Central Government, this Commission is of the view that the abovesaid judgment in the case of Manipal University is squarely applicable in the instant matter. Therefore, there appears to be no grounds based on which NITTE University can be considered to be a public authority for the purposes of the RTI Act, 2005.

The NITTE University is not a 'public authority' under the RTI Act, 2005. The complaint is dismissed.

**(Manjula Prasher)**  
**Information Commissioner**

**Authenticated true copy:**

Dy. Registrar

Copy to:

**Complainant**

Shri Savinaya  
Naddodi Darkas House,  
Belvai Post, Manglore,  
Dakshina Kannada, Karnataka-574213

**Respondent**

NITTE University  
Registrar  
University Enclave, Medical Sciences Complex  
Deralakatte, Mangalore-575018