Both being parliamentary (Central Indian) Acts, no question of conflict between State Law *versus* The Indian Central law arises here."

(5) Of course it would be dangerous course to allow the States or Union Territory in India the right to urge in Courts that their own laws and Acts are unconstitutional and invalid. We respectfully adopt the reasoning of the Division Bench of Calcutta High Court and, therefore, we have no hesitation to reject the argument raised.

(6) In view of the above, there is no merit in the instant petition and the same is accordingly dismissed with costs.

R.N.R.

Before M.M. Kumar & T.P.S. Mann, JJ.

D.A.V. COLLEGE TRUST & MANAGEMENT SOCIETY AND OTHERS,—*Petitioners*

versus

DIRECTOR OF PUBLIC INSTRUCTION & OTHERS,—*Respondents*

C.W.P. No. 2626 of 2008

25th February, 2008

Constitution of India, 1950—Art. 226—Right to Information Act, 2005-S.2(h)(d)—DAV institutions receiving substantially grant-in-aid from Government—Whether fall within expression 'public authority' as used in S. 2(h)(d)—Held, yes—Definition of 'public authority' includes any organization/body owned, controlled or substantially financed directly or indirectly by funds provided by Government—Petition dismissed.

Held, that a perusal of the definition of 'public authority' shows that 'public authority' would mean any authority or body or institution established or constituted apart from other things by the notification issued by an order made by the appropriate Government. It is to include even any body owned, controlled or substantially financed or non-

Government Organizaiton substantially financed directly or indirectly by the funds provided by the appropriate Government. It is undisputed that the petitioners are receiving substantially grant-in-aid from the Chandigarh Administration. Once a body is substantially financed by the Government, the functions of such body partake the character of 'public authority'. The definition of expression 'public authority' itself shows that 'public authority' would include any organization/body owned, controlled or substantially financed directly or indirectly by funds provided by the Government or even the non-Government organization which is substantially financed. The petitioner has claimed that they are getting only 45% grant-in-aid after admitting that initially the grant-in-aid paid to them was to the extent of 95%. If on account of policy of the Government the grant-in-aid to the extent of 95% which was given initially allowing the petitioner to build up its own infrastructure and reducing the grant-in-aid later would not result into an argument that no substantial grant-in-aid is received and, therefore, it could not be regarded as 'public authority'. Therefore, we do not find any substance in the stance taken by the petitioner that it is not a 'public authority'.

(Para 5)

T.S. Dhindsa, Advocate *for the petitioners.*

M. M. KUMAR, J.

(1) The short issue raised in this petition is as to whether the D.A.V. College, Sector 10, Chandigarh could be regarded as 'public authority' within the meaning of Section 2(h)(d) of the Right to Information Act, 2005 (for brevity 'the Act').

(2) There are colleges with the name of D.A.V. College, Sector 10, Chandigarh, M.C.M. D.A.V. College, Sector 36, Chandigarh and a school with the name of D.A.V. Secondary School, Sector 8, Chandigarh. These institutions are established by the society and are admittedly getting financial aid to the extent of 95% from the Union Territory, Chandigarh. It is claimed that grant-in-aid was initially to the extent of 95% which has come down to 45%. The grievance aired by the petitioner is that the Director of Public Instruction, U.T., Chandigarh

has initiated proceedings against the petitioners under the Act whereas the petitioners do not fall within the expression 'public authority' as used in Section 2(h)(d) of the Act. It is claimed that the petitioners cannot be considered to have been receiving substaintial financial aid from the government or government resources. In respect of petitioner No. 4 i.e. D.A.V. Secondary School, Sector 8, Chandigarh, respondent No. 2,—*vide* order dated 10th October, 2001/3rd December, 2007 (Annexure P/1) has already expressed its opinion that it is a 'public authority' within the meaning of Section 2(h)(d) of the Act. Members of the public had sought information from the petitioners by moving applications to the Public Information Officer. On 25th September, 2007 (Annexure P.2), one Arun Aggarwal, respondent No. 5 has sought information regarding annual fee structure for various Classes/ Programmes/Diplomas/Certificate courses/Add-on courses offered by the D.A.V. Secondary School, Sector 10, Chandigarh alongwith many other informations. Likewise, on 26th September, 2007 (Annexure P.3), one Shri Avanindra Chopra, respondent No. 6, has requested for supply of information concerning advertisement/notices issued by the D.A.V. Secondary School, Sector 10, Chandigarh in respect of college admissions for the session 2007-08. One Sat Pal Kharwal, respondent No. 7 on 26th February, 2007 (Annexure P.4) had also requested for supply of some information. However, the petitioners, in their reply sent to respondent No. 5 has taken the stand that the Act does not apply to their institution as it is not a 'public authority'. Respondent No. 1 on 10th September, 2007 advised the petitioner to comply with the provisions of the Act as the petitioner is getting 95% grant-in-aid from the Chandigarh Administration. The view of respondent No. 1 is expressed in the following terms :

> "In view of the above provisions, it is clear that the D.A.V. College, Chandigarh being an Aided college getting 95% Grant-in-Aid from the Chandigarh Administration is controlled and substantially financed by the Government and as such the college authorities are bound to comply with the provisions of the Act.
>
> We operate in an era of transparency and accountability and it is expected that all our decision must stand the

test of public scrutiny. Issues relating to annual fee structure for various courses, leave encashment, contributory provident found deductions etc. are not covered by the provisions of Section 8 of the Act which provides exemption from disclosure of information.

Even otherwise, the annual fee structure, being an integral part of the Prospectus, is open to all it would be improper to withhold information on the same."

(3) Similar directions have been issued by the Central Public Information Officer, office of respondent No. 1 to the petitioners for furnishing information to respondent Nos. 5, 6 and 7 (Annexures P.8 to P.10).

(4) We have heard the learned counsel at a considerable length and find that the petitioners are covered by the expression 'public authority' as used by Section 2(h)(d) of the Act. The afore-mentioned provision is reproduced hereunder for facility of reference :

"2. Definitions. In this Act, unless, the context otherwise required.—

xx xx xx xx xx xx

(h) 'public authority' means any authority or body or institutions of self government established or constituted,—

(a) to (c) xx xx xx xx

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government."

(5) A perusal of the definition of 'public authority' show that 'public authority' would mean any authority or body or institution established or constituted apart from other things by the notification issued by an order made by the appropriate Government. It is to include even any body owned, controlled or substantially financed or non Government Organisation substantially financed directly or indirectly by the funds provided by the appropriate Government. It is undisputed that the petitioners are receiving substantially grant-in-aid from the Chandigarh Administration. Once a body is substantially financed by the Government, the functions of such body partake the character of 'public authority'. The definition of expression 'public authority' itself shows that 'public authority' would include any organisation/body owned, controlled or substantially financed directly or indirectly by funds provided by the Government or even the non Government organisation which is substantially financed. The petitioner has claimed that they are getting only 45% grant-in-aid after admitting that initially the grant-in-aid paid to them was to the extent of 95%. If on account of policy of the Government the grant-in-aid to the extent of 95% which was given initially allowing the petitioner to build up it sown infrastructure and reducing the grant-in-aid later would not result into an argument that no substantial grant-in-aid is received and therefore it could not be regarded as 'public authority'. Therefore, we do not find any substance in the stance taken by the petitioner that it is not a 'public authority'.

(6) There is another aspect of the matter. In another context, a Five Judges Full Bench of this Court in the case of **Ravneet Kaur** *versus* **The Christian Medical College, Ludhiana (1)** has considered the question as to whether the functions discharged by a private body like Dayanand Medical College, Ludhiana or Christian Medical College, Ludhiana are public functions or private functions. The Full Bench has taken a view that since the institutions discharge public functions, it cannot be regarded as a private individual limiting the powers of the Court in issuance of directions including prerogative writs. It has further been held that imparting of education is a public function irrespective of any financial aid. Once the institutions like the petitioners are performing public functions affecting the life of a huge segment of the

(1) AIR 1998 Pb. & Hy. 1

society and in addition are receiving substantial grant-in-aid then it cannot be argued that it is not a 'public authority'. Therefore, for the additional reason, detailed in **Ravneet Kaur's case** ***(supra).*** the writ petition would not survive and the question posed has to be answered against the petitioners.

(7) No other argument has been advanced.

(8) For the reasons afore-mentioned this petition fails and the same is dismissed.

R.N.R.

Before M.M. Kumar & T.P.S. Mann, JJ.

BANSAL INDIA (PVT.) LTD.,—***Petitioner***

versus

STATE OF HARYANA & OTHERS,—***Respondents***

C.W.P. No. 3206 of 2008

3rd March, 2008

Constitution of India, 1950—Art. 226—Land Acquisition Act, 1894—S.9—Rejection of application for change of land use—Petitioner failing to challenge order for about 7 years—Inordinate and unexplained delay—Availing of remedy of writ petition under Art. 226—Limitation—Within reasonable time but not later than period of 3 years provided for filing a civil suit—After insurance of notification and declaration u/ss 4 and 6 of 1894 Act writ petition also not maintainable—Petition dismissed being devoid of merit.

Held, that the writ petition suffers from inordinate and unexplained delay. It is admitted position that the application of the petitioner for change of land use was rejected,—*vide* order dated 6th October, 1994. The aforementioned order has never been challenged, which shows that the petitioner has accepted the position which existed then and was satisfied with the rejection of its application for change of land use. After more than seven years, on 21st December, 2001, a