

**CENTRAL INFORMATION COMMISSION**

Room No.308, B wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

Appeal No. CIC/SM/A/2009/000959/LS

**Appellant:** Shri S.K. Sharma

**Public Authority:** Indian Air Force  
(through Wg. Cdr. Sujit Gupta)

**Date of Hearing :** 21/10/2009

Date of Decision: 21/10/2009

**FACTS:-**

The matter, in short, is that the appellant is a teacher in Air Force School, Bamrauli (Allahabad) which is being run by Indian Air force Educational and Cultural Society(Society hereinafter), a body registered under the Indian Societies Act of 1860. Vide his letter dated 07/09/2008, the appellant had sought information on four paras relating to the recommendations sent by the School Management to the higher formations for upgradation of the pay scales of the school teachers etc. The response of the CPIO is not available in the Commission's record. However, the Appellate Authority had passed a detailed order dated 07/04/2009 wherein it was held that the School Management is not a 'public authority' as defined u/s 2(h) of the RTI Act and, therefore, no information is disclosable to the appellant.

2. Hence, the present Appeal.

3. Heard on 21/10/2009. Appellant present. The public authority is represented by Wg. Cdr. Sujit Gupta. It is the submission of the appellant that the School is being run by Society which is entirely 'controlled' by the serving officers of the Indian Air Force at various levels and, therefore, it can be deemed to be a 'public authority'. It is also his submission that part-funding for running the School comes from the Regimental Funds generated by the Indian Air Force and the School stands on the Govt. land. This proves that the School is being 'controlled' by the serving officers of the Indian Air Force and is also being partly financed

through the Regimental Funds and, therefore, by a liberal interpretation, it can be deemed to be a public authority. He has also drawn the Commission's attention to the Allahabad High Court judgment dated 22/11/2002 (Uma Shankar Yadav Vs. School Management Committee Air Force) which pertains to this very School wherein the Court had held that writ jurisdiction of the High Court under Article 226 of the Constitution extends to the School. It is his plea that the ratio of this judgment also supports his contention that the School is a public authority. The appellant would also plead that the ratio of the *Supreme Court judgment in Chhotelal case* does not apply in the matter in hand inasmuch as the Schools in the Indian Army are being run by the retired officers whereas in the Schools run by the IAF Cultural Society, the serving officers of the Indian Air Force have a dominant role.

4. On the other hand, Wg. Cdr. Sujit Gupta would plead that the School does not receive any financial aid either from the Central Govt. or the Indian Air Force and the funds for running the school are raised through fees charged from the students. He would also submit that, no doubt, the serving officers of the Air Force have a role in the management of the IAF Educational and Cultural Society, but their role is notional and it cannot be interpreted to mean that these serving officers are 'controlling' the Society. He would also submit that the School in question is not an integral part of the Air Force and to run the School is not the core activity of the Indian Air Force. It is, thus, his plea that the School does not fall in the ambit of section 2(h) of the RTI Act. He would also submit that the ratio of the Allahabad judgment does not apply in the matter in hand inasmuch as the legal issues involved in the two matters are totally different.

5. Para 6 of the Supreme court judgment in Union of India Vs. Chhotelal (JT 1998 (8) SC 497) is extracted below:-

"6. In view of the character of the Regimental funds, as discussed above, we have no hesitation to come to the conclusion that the said fund cannot be held to the public fund, by any stretch of imagination and the Dhobis paid out of such fund cannot be held to be holders of civil post within the Ministry of Defence so as to confer jurisdiction of the Central Administrative Tribunal to issue direction relating to their service conditions. It is of course true that the Commanding Officer exercise some control over such dhobis but on that

score alone it cannot be concluded that the posts are civil posts and that payments to the holders of such post is made from out of the Consolidated Fund of India or of any public fund under the control of Ministry of Defence.”

A bare perusal of the above indicates that the Regimental Funds have not been held to be public funds by the Hon’ble Supreme Court of India.

6. Further, the ratio of this Commission’s decision dated 29/01/2007 in File No. CIC/AT/A/2006/00123 (Gp. Capt. M. Kapoor Vs. DGMI) wherein it was held that Army Welfare Housing Organisation is not a public authority also applies in the present case.

#### DECISION

7. In view of the above, it appears to me that the Air force School, Bamrauli, is not a ‘public authority’ u/s 2 (h) of the RTI Act and, therefore, I find no infirmity in the decisions of the CPIO and AA. The appeal is, therefore, dismissed.

Sd/-  
(M.L. Sharma)  
Central Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)  
Assistant Registrar

#### Address of Parties :-

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