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IN THE HIGH COURT OF KARNATAKA AT BENGALURU**DATED THIS THE 6TH DAY OF AUGUST, 2025****BEFORE****THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ****WRIT PETITION NO. 52581 OF 2017 (GM-RES)****BETWEEN**

PIO & THE PROJECT DIRECTOR
NIRMITI KENDRA
NEAR MEDAHALLI
CHITHRADURGA DISTRICT-577502
REPTD BY ITS DIRECTOR
MUDALGIRIAPPA

...PETITIONER

(BY SRI. JAYAKUMAR S. PATIL., SR. ADVOCATE FOR
SRI. RAHUL.P., ADVOCATE)

AND

1. THE STATE INFORMATION COMMISSIONER
MAHITHI SOUDHA
104, 1ST FLOOR
DEVRAJ URS ROAD
BEHIND KPSC OFFICE PREMISES
OPP:VIDHANA SOUDHA
WEST GATE-2
BANGALORE-560001
2. THE DEPUTY COMMISSIONER
CHITRADURGA DISTRICT
CHITRADURGA
3. SRI H R THIMMAIAH
PRESIDENT
COUNCIL MEMBER
BHARAT KRISHIKA SAMAJ
HIRIYUR
CHITRADURGA DISTRICT-573143

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



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4. S.K. MALAGATHI,
S/O KALAKAPPA,
AGED ABOUT 40 YEARS
NANDI NAGAR,
KOPPAL.58231
(IMPLEADED BY AN ORDER DATED 05.03.2025)

.... RESPONDENTS

(BY SRI. M. SRINIVAS KUMAR., HCGP FOR R2;
SRI. RAJASHEKAR K., ADVOCATE FOR R1;
SRI. J. PRASHANTH., ADVOCATE FOR R3;
SRI. AMRUTHESH.N., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER IN KIC 13961 APL 2015 DATED 29.8.2017 AS PER ANNEXURE-A PASSED BY THE 1ST RESPONDENT AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 24.07.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner, PIO and the Project Director, Nirmithi Kendra, near Medahalli, Chitradurga District, is before this Court seeking for the following reliefs:

- i. *To issue a writ of certiorari by quashing the impugned order in KIC 13961 APL 2015 dated 29.08.2017 as per Annexure-A passed by the 1st Respondent.*
- ii. *To call for the entire records in KIC 13961 APL 2015 dated 29.08.2017 from the 1st respondent from Karnataka Information Commission CH No.3.*



iii. To pass an appropriate order/s as deems fit by this Hon'ble Court in the interest of justice and equity.

2. The Petitioner-Nirmiti Kendra is stated to be registered under the Karnataka Societies Registration Act, 1960, and is governed by the Rules and Regulations of the Societies Registration Act. It is contended that the Nirmiti Kendra is a private Society and it is not financed or aided by the State or Central Government.
3. The object of the Nirmiti Kendra being to develop skills in the construction area and carry out the civil contract/s assigned by the State. It is contended that the Nirmiti Kendra is governed by its governing body and as such, would not come within the purview of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act' for short).
4. In that background, Sri Jayakumar S. Patil, learned Senior Counsel appearing for the Petitioner would submit that;



4.1. The Nirmiti Kendra is not a Public Authority under the RTI Act. The endorsement issued by the Nirmiti Kendra on an application submitted by the 3rd Respondent for furnishing of information is proper and correct. The order of the 1st Respondent, the State Information Commissioner, dated 29.08.2017, directing the PIO of Nirmiti Kendra to furnish the information/documents sought for as also imposing a penalty of Rs.25,000/-, is not sustainable

4.2. His submission is that the Nirmiti Kendra not being a Public Authority, it would not be amenable to the rigor of the RTI Act. As such, no information is required to be furnished by the Nirmiti Kendra to any applicant under the RTI Act.

4.3. On the above grounds, he submits that the above petition is required to be allowed by



setting aside the order passed by the 1st respondent, the State Information Commissioner.

5. Sri.J.Prashanth, learned counsel appearing for Respondent No.3 submits that;

5.1. The Nirmithi Kendra has been established for the purpose of carrying out activities on behalf of the State. In terms of Section 2(h) of the RTI Act, 2005, it is a Public Authority and it is controlled or substantially financed by the Government. There is no requirement for any notification to be issued or an order to be made. The mere fact that it is controlled or substantially financed would be sufficient for the Nirmithi Kendra to be included as a Public Authority in terms of Section 2(h)(d)(i) of the RTI Act.

5.2. His further submission is that even if the Nirmithi Kendra were held to be a Non-Government



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Organisation, it is substantially financed directly or indirectly by funds provided by the appropriate Government. As such, it is a Public Authority in terms of Section 2(h)(ii) of the RTI Act.

5.3. The Nirmiti Kendra is constituted for the development of a low-cost technical alternative in housing. The Rural Development and Panchayath Raj Department had made a proposal for setting up the Nirmiti Kendras in seven centres of the State. The funds for the project are to be made available by HUDCO under the scheme for setting up of the Nirmiti Kendras.

5.4. It is by virtue of a Government order that the Nirmiti Kendras were constituted at Tumkur, Bellary, Kolar, Mandya, Gulbarga, Mysore and Bangalore with the assistance of Karnataka Land Army Corporation/Technology Research



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Organisation. The Nirmiti Kendras operate under the Chairmanship of the Secretary, Rural Development and Panchayath Raj, and 11 other members are provided to give requisite technical inputs.

5.5. The working group consisted of the Secretary of Government of Karnataka, Public Works Department, the Chief Engineer, Communications and Buildings, Bangalore, the Engineer-in-Chief, Multipurpose Division and the Director, Area Development Programme (ADPR).

5.6. On that basis, he submits that the establishment of the Nirmiti Kendra, being by way of a Government Order, funding being through HUDCO, the activities of the Nirmiti Kendra being as recommended by the Rural Development and Panchayath Raj Department, the Nirmiti Kendra would be a public Authority.



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5.7. Insofar as control is concerned, he submits that it is the Chief Secretary of the Zilla Panchayath, who is the Chairman. The Deputy Secretary of the Zilla Panchayath is the Vice Chairman and the Deputy Commissioner is a member. Thus, the operation and management of the Nirmiti Kendra are conducted by the Government officers in terms of the Government Order dated 06.03.1995. Subsequently, vide Government Order dated 04.01.2005, the CEO's of the Zilla Panchayaths were appointed as the Presidents of various Departments, including the Nirmiti Kendras.

5.8. He also relies upon the byelaws of the Petitioner to contend that the funds and budget shall include and consist of grants from the Government and any other State Government and the Government of India, and as such, there is substantial funding by the Government.



5.9. His submission is also that the Nirmiti Kendra is carrying out various works on behalf of the State, and it is the sovereign functions which are discharged by the Nirmiti Kendra.

5.10. He refers to the Government Order dated 03.04.2014 to contend that a special audit of the Nirmiti Kendras at various centres in Raichur, Belgaum, Dharwad, Hassan, Mandya, Bellary and Chitradurga has been entrusted to the Principal Accountant General, Karnataka, which also indicates the supervision exercised by the Government. On that basis, he submits that the Nirmiti Kendra is a Public Authority.

6. Sri.N.Amruthesh, learned counsel appearing for Respondent No.4, who was impleaded subsequently, adopts the arguments of Sri.J.Prashanth, learned counsel for respondent No.3, he further submits that

6.1. Many of the works of the Government being discharged by the Nirmiti Kendra, there are



crores of rupees of public money which are spent by the Nirmiti Kendra and by claiming that it is not a Public Authority, the Nirmiti Kendra has so far avoided disclosure of its activities, thereby the Nirmiti Kendra has been used as a tool for carrying out opaque operations, giving a go by to transparency. The RTI Act was promulgated for the purpose of bringing about transparency. The Nirmiti Kendra cannot seek to escape its liability from disclosure of its activities where permissible under the RTI Act.

6.2. He relies upon the decision of the Hon'ble Apex Court in the case of ***D.A.V COLLEGE TRUST AND MANAGEMENT SOCIETY AND OTHERS Vs. DIRECTOR OF PUBLIC INSTRUCTIONS AND OTHERS***¹, more particularly, paras 12,

¹ (2019) 9 SCC 185



15, 16 and 17, which are reproduced hereunder for easy reference.

"12. *The next contention is that a public authority can only be an authority or body or institution which has been established or constituted (a) under the Constitution; (b) by any law of Parliament; (c) by any law of State Legislature or (d) by notification made by the appropriate Government. It is the contention of the appellants that only those authorities, bodies or institutions of self-government which fall in these four categories can be covered under the definition of public authority. It is also contended that in Thalappalam case [Thalappalam Service Coop. Bank Ltd. v. State of Kerala, (2013) 16 SCC 82] the Court did not consider the effect of clause (d) on the remaining portion of the definition.*

15. *If we analyse Section 2(h) carefully it is obvious that the first part of Section 2(h) relates to authorities, bodies or institutions of self-government established or constituted (a) under the Constitution; (b) by any law of Parliament; (c) by any law of State Legislature or (d) by notification made by the appropriate Government. There is no dispute with regard to clauses (a) to (c). As far as clause (d) is concerned it was contended on behalf of the appellants that unless a notification is issued notifying that an authority, body or institution of self-government is brought within the ambit of the Act, the said Act would not apply. We are not impressed with this argument. The notification contemplated in clause (d) is a notification relating to the establishment or constitution of the body and has nothing to do with the Act. Any authority or body or institution of self-government, if established or constituted by a notification of the Central Government or a State Government, would be a public authority within the meaning of clause (d) of Section 2(h) of the Act.*

16. *We must note that after the end of sub-clause (d) there is a comma and a big gap and then the*



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definition goes on to say "and includes any" and thereafter the definition reads as:

"(i) body owned, controlled or substantially financed;

(ii) non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;"

The words "and includes any", in our considered view, expand the definition as compared to the first part. The second part of the definition is an inclusive clause which indicates the intention of the legislature to cover bodies other than those mentioned in clauses (a) to (d) of Section 2(h).

17. *We have no doubt in our mind that the bodies and NGOs mentioned in sub-clauses (i) and (ii) in the second part of the definition are in addition to the four categories mentioned in clauses (a) to (d). Clauses (a) to (d) cover only those bodies, etc., which have been established or constituted in the four manners prescribed therein. By adding an inclusive clause in the definition, Parliament intended to add two more categories, the first being in sub-clause (i), which relates to bodies which are owned, controlled or substantially financed by the appropriate Government. These can be bodies which may not have been constituted by or under the Constitution, by an Act of Parliament or State Legislature or by a notification. Any body which is owned, controlled or substantially financed by the Government, would be a public authority."*

6.3. By relying on ***Dav College's*** case, he submits that where there is substantial funding made, all the funds of the Nirmiti Kendra being received from the State and/or its



instrumentalities, the RTI Act, would be applicable to the Nirmiti Kendra.

6.4. Lastly, he submits that all the officers manning the Nirmiti Kendra are Government Officers, who are also paid by the Government. Thus, both on account of the control of the Nirmiti Kendras by Government Officers, as also on account of the State funding, the payment of persons manning the Nirmiti Kendra, the Nirmiti Kendra would be a Public Authority.

6.5. On that basis, he submits that the above petition is required to be dismissed.

7. Heard Sri.Jayakumar S. Patil, learned Senior Counsel for the petitioner. Sri.J.Prashanth, learned counsel for Respondent No.3, Sri Amruthesh N., learned counsel for Respondent No.4 and Sri.Rajashekar K., learned counsel for Respondent No.1 and learned AGA for Respondent No.2. Perused papers.



8. The short question that would arise for consideration in the present matter is:

"Whether the Nirmiti Kendra would be a Public Authority in terms of Section 2(h) of the Right to Information Act, 2005?"

9. The constitution of the Nirmiti Kendra, though as a Society, is in terms of a direction issued by the Government of Karnataka; there is a proceeding held in this connection. The Rural Development and Panchayath Raj Department, having examined the proposal to set up the Nirmiti Kendras in seven centres, held several meetings. The proceeding of the Government of Karnataka and the Government Order in this regard is reproduced hereunder for easy reference:

***"PROCEEDINGS OF THE GOVERNMENT OF
KARNATAKA***

Sub: Starting of "Nirmiti Kendra" for Developing Low Cost Technology alternatives in housing

PREAMBLE: The Rural Development and Panchayath Raj Department has examined the proposals to set up "Nirmiti Kendras in 7 centers for developing low cost



technology alternatives in housing. These Technology centers are essentially meant to serve the purpose of Technology transfer, skill up-gradation, a low cost materials manufacturing centre and such other activities as may promote low cost housing in the rural area.

In the preliminary meeting convened by the Development Commissioner on 5.8.88 it was decided that (i) to begin with at least 20 centers, one in each district could be set up over a project period of 2 years i.e., 1988-90.

(ii) The details of the training programmes, selection of trainees, adoption of relevant technology and other details of the technology centers would be done jointly by the Karnataka Land Army corporation, the Zilla Parishad's concerned and some of the technology Research organizations such as Astra, KORID, etc., among others.

(iii) The funds for this project should be drawn from the grants to be made available HUDCO as provided for under their scheme for setting up of Nirmiti Kendras.

(iv) The Technology Centers would take up as part of their training programme, setting up of live housing clusters of atleast 100 houses for each center. If need be the funds required would be supplemented from out of NRBP/Food grains additionality grants;

In a subsequent meeting held on 6-9-1988 it was decided that start with 7 centers would be set up immediately to be sponsored by HUDCO under their scheme for setting up Nirmiti Kendras. The details of the Centers to be set up are fallows:

- i) Technology Centers would be set up at Tumkur and Bellary with the assistance of the jointly run by KDAC and Astra*
- ii) The building centre at Kolar would be set up with the assistance from KORID, one center at Mandya with the assistance of CTTRD and one center as Gulbarga with the assistance of the MYRADA.*



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iii) Once centers would be set up at Mysore with the assistance of the Engineering Dn. Of Jayachamarajendra College, Mysore (IV) one Technology centre will be set up at Bangalore jointly by KHB and Astra.

Each of these 7 centers shall with the assistance of the Research organizations so nominated take up Training of Masons, Carpenters, Artisans and also develop low cost Technology alternatives including monitoring of low cost housing immediately.

The Karnataka Land Army Corporation will be the Nodal Agency for these centers and the centers will be supervised and monitored by the Zilla Parishad's concerned.

As part of their Training Programme each of the centers will take up 100 live houses in clusters of at-least 40 each to demonstrate the effective use alternatives. of low cost technology

**GOVERNMENT ORDER NO. RDP.ADP.96.HRD.88/
BANGALORE, DATED 09.11.88**

In view of the details at the preamble cited above sanction is hereby accorded for setting up of Seven Nirmiti Kendra (Technology Centres) one each at Tumkur/Bellary/Kolar/Mandya/Gulbarga/Mysore and Bangalore with the assistance of the Karnataka Land Army Corporation/Technology Research organization as detailed in the preamble to this order. The funds for this project shall be met out of HUDCO grants admissible under the scheme for setting up of Nirmiti Kendras. If necessary and to the extent required the funds shall be supplemented from out of NREP/Food grants additionally grants.

This order issued with the concurrence of IFA, Rural Development and Panchayath Raj Department.

BY ORDER AND IN THE NAME
OF THE GOVERNOR OF
KARNATAKA

Sd/-



10. From the above proceedings, it is clear, firstly, that the initiative to establish the Nirmiti Kendra was taken up by the Rural Development and Panchayath Raj Department. The objects of the same were discussed and finalised. Funds for the project were to be drawn from HUDCO. In pursuance thereof, a Government Order had been issued whereunder a sanction was granted for setting up of seven Nirmiti Kendras, including the petitioner.
11. A working group was appointed under a Government Order dated 22.03.1990, which was entrusted with the responsibility of supervising and overseeing the progress and programs of the Nirmiti Kendra. The proceedings of the Government of Karnataka in that regard are reproduced hereunder for easy reference:

**"PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA**

*Sub: Construction of Standing Committee to oversee
The programme of Nirmiti Kendras.*

*Read: 1. Proceedings of the meeting held on
07.10.89 To review the progress in the
construction of Nirmiti Kendras.*

*2. Govt. Order No.RDP 52 TSM 87 dated 1.2.90
Issued by the Director, Special Economic
Programme, RD & PR Department.*

Preamble:

In the review meeting of Nirmiti Kendras of the State held on 7.10.89, it was decided to constitute a Standing Committee to oversee the programme of Nirmiti Kendras. In Govt. Order Under reference at (2) above, a Working Group has been constituted under the Chairmanship of the Secretary, RD & PR and other 11 members to provide the requisite technical inputs into the scheme of low cost housing and to ensure the use of local materials in low cost technology on systematic basis. This Working Group serves the purpose for which the Standing Committee is proposed to be set up.

The Development Commissioner has opined that there cannot be too many committees for the same purpose and first the Technical Group which has been set up for low cost housing Technology must also cover the overseeing of the Nirmiti Kendras. Hence this Order.

**Govt. Order No. RDP.ADP.148, NK, 89, Bangalore,
Dated 22.3.1990.**

In the circumstances as explained in the Preamble, the Government is pleased to entrust the Responsibilities of supervising the progress and programmes of Nirmiti Kendras in the State to the 'Working Group' constituted vide G.O.No.RDP.52.TSM.87, dated 1.2.90.

In Order to enable the Working Group to discharge the added responsibilities in respect of Nirmiti Kendras, the



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constitution of the Working Group is enlarged as to include the following additional members.

- | | |
|---|--------|
| 1. Secretary to Govt. of
Karnataka, PW-1 | Member |
| 2. The Chief Engineer
Communication & Buildings, B'lore | Member |
| 3. The Engineer-in-chief
PHE, Multipurpose Engineer Dvn.,
Bangalore | Member |
| 4. The Director,
Area Development Programmes,
RD & PR Department,
Bangalore. | Member |
| 5. Prof. Kantharaj
Officer-in-charge | Member |

The revised constitution of the Working Group has come into force with immediate effect and would be in force until further orders.

*By Order in the name of
Governor of Karnataka*

*Sd/-
(Director)
Area Development Programmes &
E/O Deputy Secretary to Govt.
Rural Development & P.Raj Dept.*

12. It is in pursuance thereof that the petitioner was registered as a Co-operative Society. The governing



body of the Nirmiti Kendra, as per the byelaws, is as under:

"4. GOVERNING BODY:-

a) There shall be a Governing Body of 13 members.

b) the Governing Body shall be composed of.

*1.Chief Secretary, ZP Chitradurga-
Chairman*

*2. Deputy Secretary (Dn) ZP Chitradurga- Vice
Chairman*

*3.Deputy Commissioner, Chitradurga-
Member*

*4.Ex.Engineer, ZP Eng. Division Chitradurga-
Member*

*5.Ex.Engineer, ZP Eng. Davanagere-
Member*

*6.Deputy Director, KLAC, Chitradurga-
Member*

*7.Asst. Director, KLAC, Chitradurga-
Member*

*8.Chief Planning Officer, Chitradurga-
Member*

*9.Regional Chief HUDCO, Bangalore-
Member*

*10.Chief Advisor TESCO SOK Bangalore-
Member*



*11. Officer in Charge N.B.O Bangalore University
Bangalore- Member*

*12. Principal JMIT Engg, College Chitradurga-
Member*

*13. General Manager, DIC, Chitradurga-
Member*

*The byelaws while dealing with funds, notes
as under:*

*The Funds of the Kendra shall consist of the
following:-*

- i. Grants from the Government and any other State
Government and the Government of India.*
- ii. Grants and contributions from other corporate
bodies, agencies, institutions and persons in India
and outside.*
- iii. Loans from Government, any other state
Government, the Government of India, and other
financing institutions.*

13. The above would indicate that the control and supervision of the Nirmitti Kendra is by Government Officers, the funding is from HUDCO, which is again a Government entity, and contracts are issued by the government for the works done. There is a preference



for the Nirmiti Kendra to carry out works of the Government.

14. Section 2(h) of the Right to Information Act is reproduced hereunder for easy reference:

Section 2. Definitions. In this Act, unless the context otherwise requires,

(h) "public authority" means any authority or body or institution of self-government established or constituted--

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(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;

15. A perusal of Section 2(h) of the RTI Act, would indicate that it is not only funding, but also control, which would have to be considered to determine whether it is a public authority or not.



16. Insofar as control is concerned, the above extracts make it clear that, firstly, Nirmithi Kendras were established on the recommendation of the Rural Development and Panchayat Raj Department. A working committee comprising Government Officers was created, comprising Secretaries, Chief Engineers, etc., to supervise the working of the Nirmithi Kendra.
17. The general body of the Nirmithi Kendra consists of all the top officers of each District, and the day-to-day activities of the Nirmithi Kendra are run by officers belonging to the State Government, many of whom belong to the Indian Administrative Service and the Karnataka Administrative Service. Thus, it is clear that Nirmithi Kendra is under the complete control of Government servants.
18. Insofar as the funding is concerned, as observed supra, the funding is by HUDCO, Government organisations, and financial institutions, and these



funds are used for the implementation of public works. Thus, not only is the funding provided by the Government, but the works carried out by Nirmathi Kendra are also considered Government works.

19. I answer the question framed by holding that, a Nirmathi Kendra would be a public authority in terms of Section 2(h) of the RTI Act.
20. In that view of the matter, the finding and conclusion of the Karnataka Information Commission and the direction issued to furnish the document sought for cannot be faulted. It is not expected of a Governmental authority and the officers of the Nirmathi Kendra, who are Government officers, to have taken such a stand that a Nirmathi Kendra would not come within the purview of the RTI Act. All the Government offices and Departments are subject to RTI Act and are required to make available the information sought for. The attempt made by the



officers of Nirmathi Kendra to suppress such transparency leaves much to be desired and does not inspire confidence. By way of such conduct, the petitioner Nirmathi Kendra has successfully avoided disclosure of information and details. In that view of the matter, I am of the considered opinion that the costs would also have to be imposed on the Nirmathi Kendra.

21. In view of my finding, no grounds being made out, the petition stands **dismissed** by imposing a cost of Rs.50,000/- payable to the Karnataka State Legal Service Authority, within a period of three weeks from the date of receipt of a certified copy of this order.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

KTY/AP
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