

# RTI not applicable to unaided Engineering colleges: HC

■ Staff Reporter

IN A major respite to unaided educational institutions especially professional colleges, Nagpur bench of the Bombay High Court has held that same are not covered under the ambit of Right to Information (RTI) Act since they are not substantially financed or controlled by State or Central Government.

Justice Arun Chaudhari while quashing the order of State Information Commission which held that private unaided professional college is covered under RTI, since it adheres to supervisory jurisdiction of the regulatory bodies like AICTE, DTE, Shikshan Shulka Samiti, ruled that educational institutions run by trust are amenable to all the rules and regulations, but this hardly means that such colleges or trust is controlled by State or Central Government

or any of the authority.

In the instant case the State Information Commission on September 1, 2008 had held that Yeshwantrao Chavan College of Engineering (YCCE) run by

Nagar Yuwak Shikshan Sanstha is covered under RTI. The ruling was challenged before the High Court by Sanstha and YCCE through their counsel Adv. Shashank Manohar. It was contended that petitioner Sanstha and YCCE do not fall within the meaning of definition of 'Public Authority' as defined under RTI Act. He argued that none of these petitioners were created or established or constituted by any law made by the State legislature, as assumed by the State Information Commissioner in his order. Further, none of the petitioners have been financed either directly or indirectly by the funds pro-

vided by the appropriate government. The reimbursement made by such governments under their respective schemes is for the students and not for the petitioners towards

the fees recoverable from backward class students or other instrumentation provided by the appropriate government.

Adv Manohar pointed out that grant of permission to start YCCE from the Director of Technical Education or from AICTE or from Nagpur University cannot mean that there is any control since these are the regulatory controls in the matter of admissions, affiliations etc. provided by their respective laws and there is no direct or indirect control as contemplated by the definition. He urged the High Court to quash and set aside the order.

On the other hand respondents pointed out these institutions could

not have been started without the permission of Director of Technical Education or AICTE and the affiliation by Nagpur University which clearly shows that these authorities have full control over the working of college including making of admissions, fees structure, grant of permission to open new courses and

therefore there is material to show that there is control. It was also argued that the land which was allotted to NYSS for constructing building for YCCE was allotted by the State Government on a nominal lease amount. The land which belongs to

Government has been leased out and therefore it can be said that the Government has given its property by leasing out its lands to petitioners and hence the petitioners ought to be held to be public authority. In fact the petitioners appoint-

ed Public Information Officer in terms of the directions issued by the Director. He, therefore, urged High Court to uphold the order of State Information Commissioner.

The High Court in its well researched judgment upheld contentions of petitioner institution and held that it was not covered by RTI. Even the provisions of the Bombay Public Trust Act it is clear that this Act does not on its own establish or constitute any

public trust. Adherence to rule and regulation and obeying regulatory bodies can not be construed as control as the term 'control' used in the RTI definition is for control over the management and affairs and the running of the petitioners and its institutions.

Adv. Shashank Manohar appeared for the petitioner. Adv. Anand Parchure and Adv Rohit Sharma for the respondents.