
B.S.M. Charitable Trust Vs First Departmental Appellate Authority & Others

Writ Petition (M/S) No. 2482 Of 2020

Court: Uttarakhand High Court

Date of Decision: March 2, 2021

Acts Referred:

Right To Information Act, 2005 & Section 2(h) # Registration Act, 1908 & Section 51

Hon'ble Judges: Manoj Kumar Tiwari, J

Bench: Single Bench

Advocate: Ajay Veer Pundir, Devesh Ghildiyal, Bhuwanesh Joshi

Final Decision: Allowed

Judgement

Manoj Kumar Tiwari, J

1. This writ petition has been filed by B.S.M. Charitable Trust seeking following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 08.12.2020 passed by respondent no. 1 in Appeal No.

29 of 2020, Shri Samrat Sharma v. Public Information Officer (contained as Annexure No. 4 to this writ petition).

(ii) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent nos. 1 & 2 to not supply any information to the

respondent no. 3 or his associates in regard to the petitioner trust, as petitioner trust is not the "public authority" as per the provision of section

2(h) of the Right to Information Act, 2005.

2. The order impugned in the writ petition is passed by Additional District Magistrate (Finance & Revenue), Haridwar, while acting as First Appellate

Authority under Right to Information Act.

3. By the said order, first appeal filed by respondent no. 3 seeking certain information from petitioner was disposed of by holding that since petitioner

does not receive any financial aid from the State Government, therefore, respondent no. 3 cannot get desired document under Right to Information

Act. However, liberty was given to respondent no. 3 to make application before Sub-Registrar, Roorkee for obtaining certified copy of the documents,

copy whereof was sought under Right to Information Act.

4. A counter affidavit has been filed on behalf of respondent nos. 1 & 2. Para 4 & 7 of the said counter affidavit is reproduced below:-

“4. That the petitioner’s trust was registered under the provisions of the Registration Act, 1908 before the office of Sub Registrar Roorkee-Ist.

The said trust was registered in Book 4 of section 51 of Registration Act, 1908 which do not relate to immovable property be entered. It is further

submitted that copies of entries in book no. 4 and in the index relating thereto shall be given to any person executing or claiming under the documents

to which such entries respectively refer or to his representative. The requisite search for entries in book no. 4 shall be made only by the registering

officer. Index and entries in book no. 4 is not open to all for inspection.

7. That the documents of trust contained in book no. 4 hence the public inspection of the book no. 4 as well as index are barred by law and copies of

documents in book no. 4 can be given to its executive or concerned parties.”

5. Thus, the defence taken in the counter affidavit is that document relating to registration of trust is not a public document.

6. Mr. Devesh Ghildiyal, learned Brief Holder for the State submits that copy of trust deed, which respondent no. 3 had sought under RTI, is not a

public document, therefore, the same cannot be given to respondent no. 3, even if he applies for getting certified copy of the said document.

7. This Court finds some substance in the contention raised on behalf of the respondent nos. 1 & 2. Since petitioner is not receiving any financial aid

from the State Government, therefore, it is not a public authority, as defined under Section 2(h) of the Right to Information Act, and respondent no. 3,

who is not a member of the trust, cannot get copy of the trust deed.

8. In such view of the matter, the First Appellate Authority has rightly held that respondent no. 3 cannot invoke the provision of Right to Information

Act for getting the desired document. However, First Appellate Authority erred in granting liberty to respondent no. 3 to apply for getting certified

copy of the trust deed.

9. Every person has a right to get certified copy of a public document for which no direction is needed. However, document’s copy, whereof is

desired by respondent no. 3, is not a public document, as stated in para 4 & 7 of the counter affidavit, therefore, the observation made by First

Appellate Authority in the last sentence of the impugned order cannot be sustained in the eyes of law.

9. Accordingly, writ petition is allowed. The impugned order dated 08.12.2020 is quashed in so far as it permits respondent no. 3 to apply for getting

certified copy of the trust deed by making application.