

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar) & Shri Sudhir
Bhargava**

Central Information Commissioners

Subhash Chandra Agrawal v. Constitution Club of India (CCI)

CIC/SM/C/2011/000097/SS

Date of hearing : 01-04-2016

Date of decision : 14-10-2016

Facts:

1. Complainant filed RTI application seeking information regarding a news clipping "Constitution Club: 50 MPs slam management". He wanted information on following points :

- i. Whether it is true that Lok Sabha is ex-officio President of Constitution Club?*
- ii. When was the Constitution Club constituted/opened for the first time and purpose of its Constitution?*
- iii. Was its Constitution ever changed to make it an association?*
- iv. If, yes, when was it changed?*
- v. If yes to (3), give copies of the file noting/ documents/ correspondence etc on change of Constitution of Constitution Club of India.*
- vi. Was there any funding from public-exchequer even after Constitution Club was changed into an association?*
- vii. Was a No-Objection-Certificate obtained from Union Ministry of Urban Development (owner of the building) before handing over Constitution Club to an association?*
- viii. Who owned property, assets, land, building and other belongings etc of Constitution Club (at the time of its first ever Constitution)?*

ix. *Who presently owns property, assets, lands, buildings and other belongings etc of Constitution Club presently etc?.*

2. Shri Harish Chander, Deputy Secretary at Lok Sabha secretariat, on 10.06.2010 transferred the RTI application to the Manager, Constitution Club under section 6 (3) of the RTI Act.
3. Complainant approached the Commission on 19.07.2010 against the non-receipt of information by CPIO. In his complaint, he claimed that the RTI petition was transferred to the manager, Constitution Club by Lok Sabha secretariat vide letter dated 10.06.2010. But since no further response has been there from Constitution Club of India, he approached the Commission.
4. Appellant filed non-compliance petition with the Commission on 04.07.2011, wherein he stated that in response to the notice issued by the CIC, Constitution Club has refused to respond to RTI petition claiming that they are not public authority as defined under section 2 (h) of RTI Act.
5. The complaint was heard by Hon'ble Chief Information Commissioner, who by his note dated 10.07.2012 referred the matter to larger bench consisting of CIC, IC (ML) and IC (SS) which heard on 18.07.2013, and decided to ask Director General, CPWD to provide the following information :
 - a. *Whether the Constitution Club of India is located on land of the Central Government?*
 - b. *If Yes, whether this land was allotted to the Constitution Club of India (by whatever name known at the relevant time) and, if yes, on which date?*
 - c. *What is the total area of the plot on which the Club is located?*
 - d. *What are the terms and conditions on which this plot has been allotted to the Club?*
 - e. *Copy of the lease agreement and*
 - f. *Any other information.*

6. Respondent authority presented :

- a. The Constitution Club of India was formed as an unregistered body in February 1947 with the objective and purpose of fostering social contacts and providing usual amenities of a Club for benefit of the members of the Constituent Assembly of India. It was later found expedient to constitute a society for the furtherance of its aims and objectives. Consequently a society was registered under the Societies Registration Act, 1860 by the name Constitution Club of India. The Club is therefore a society registered under the said Act.
- b. The aims and objects of the Club were akin to the usual functions of any other Club or academic society. That there is nothing in the aims and objects of the Club which suggests, even remotely, that the Club performs any public functions or any activity which in ordinary course ought to be performed by the state or any of its machineries. The Club is a private body constituted for the benefit of private person. Membership of the Club, subject to its rules and regulations is open to all people's associated with or interested in the furtherance of the aims and objectives of the Club.
- c. The Club is controlled by and the management of its affairs is entrusted to the governing council which consists of the President, Vice-President, General Secretary of the Club, Secretary (Administration), Secretary (Culture), Secretary (Sports), Treasurer and other elected members.
- d. The Speaker, Lok Sabha is the ex-officio President of the Club, the Deputy Speaker, Lok Sabha is the ex-officio General Secretary and the Union Minister for Urban Development and the Deputy Chairperson, Rajya Sabha are the ex-officio Vice Presidents of the Club. However, the said positions are the honorary and ceremonial.
- e. That there is no control of any nature or to any degree exercised by any Government over the Club or its management of activities. Merely because certain ceremonial positions in the Governing Council of the Club have been reserved for certain state-dignitaries, it does not make the Club a Government-controlled body. The respective official duties of these dignitaries as Speaker or Deputy Speaker or Union Minister do not include being members or office bearers of the Governing

Council of the Club. Neither they gave any instructions by the Government in respect of the management of the Club nor do they have to report in this regard to the Government.

- f. The Club is completely self-funded. The funds of the Club are constituted by membership subscriptions and tariff/charges received by the Club from members or outsiders who use the Club-auditorium etc. the Club does not received any fund, grant or financial support whatsoever from any Government or state or public entity or from any source other than membership subscriptions or charges. The day to day activities of the Club are performed with monies received in the aforesaid manner and through no other source.
- g. The Club has movable assets including furniture, office-ware, computers and other equipments which have been and are purchased by the funds of the Club only. No assets have been provided to the Club by any Government or state or public authority.
- h. The Club pays regular electricity and water charges as per market rates to the respective authorities. No subsidy or concession whatsoever has been given to the Club in this regard.
- i. The Club does not enjoy any tax exemption granted by any tax authority and is assessed to and pays income tax and service tax as applicable to all societies.
- j. The land and building in which the Club is housed has not been allotted by any Government to the Club. It is the property of the Ministry of Urban Development, Government of India. The Club is a licensee of the Government in the said building and is paying licensee fee to the Government.
- k. The Club never applied to the Government/lessor for or sought any concession or subsidy in the rate of licensee fee. The Club has been paying to the Government/lessor whatever license fee has been demanded by them. If any increased license fee is demanded by the Government/lessor, the Club will either pay the same or not continue the license arrangement. It is for the lessor to decide what charges/fee it would levy or demand from the licensee. The Ministry of Urban Development/lessor is itself responsible for the

maintenance/renovation of the building and does not give any funds to the Club for the said purpose.

1. On the question of whether Constitution Club is a public authority within the definition of the RTI Act. Admittedly, the Club is not a body established or constituted :
 - By or Under the Constitution or
 - By any other law made by the parliament or
 - By any other law made by the state legislature or
 - By notification issued or order made by the appropriate Government.

The Act draws a clear distinction between Constitutional bodies and other bodies. In respect of Constitutional bodies, Section 2 (h) of the Act provides that all the bodies or institutions established or constituted by it under the Constitution will be covered under the meaning of the term public authority. This means that all the bodies which have been created either by the Constitution or under a Constitutional provision will be deemed to be public authorities. However, in respect of other bodies, the same clause provides differently. Only those bodies which have been created by a statute or by an executive notification are deemed to be public authorities. Those which have been created under a statutory provision or under a provision of a Government notification have been deliberately kept out of the purview of the definition of the public authority. While defining the term public authority, the legislature has deliberately chosen to include bodies created under the Constitution and exclude the bodies created under other statutory provision.

- m. Even if admitted that the Constitution Club of India has been created either by or under the Constitution. Therefore the question that arises for the consideration is whether the Club is a body created by any statute or Government notification. The answer must necessarily be in the negative. As explained above the Club is a society, which have been registered under the Societies Registration Act. However, mere registration under a statute or being regulated by a statute does not amount to being created by the statute. It is only those bodies which

are created by a statute which are deemed to be public authorities and not those which are created under statutory provisions.

- n. What therefore remains to be decided is whether the Club falls under section 2 (h) (d) (i) and (ii). The Constitution Club of India is certainly not a body owned by any Government. It is further clear from its memorandum of association and rules and regulations that the Club is also not a body controlled by any Government. There is no control of any nature or to any degree exercised by any Government over the Club or its management or activities. Merely because certain ceremonial position in the governing council of the Club have been reserved for certain stated dignitaries does not make the Club a Government controlled body. The respective official duties of these dignitaries as Speaker or Deputy Speaker or Union Minister do not include being members or office bearers of the governing council of the Club. They sit on the governing council of the Club not because their official calling requires them to do so but because in the opinion of the Club their presence on its governing council leads grace and credence to the Club. It is common practice amongst various societies and NGOs to have important state dignitaries or even senior bureaucrats on their apex bodies. This practice does not ipso facto make these societies and NGOs public authorities.
- o. For a body to be controlled by the Government, it is necessary that the Government should exercise control over its management. In the present case, the Government has no say whatsoever in the management of the affairs of the Constitution Club. Some of the individuals who exercise control over the management of the affairs of the Club are also state dignitaries in their official calling. However, the Government does not exercise any control over the Club even through these person. Neither they gave instructions by the Government in respect of the management of the Club nor do they have to report in this regard to the Government. It is therefore clear that the Club is not a body controlled by the Government.
- p. Therefore, the narrow conspectus in which the present issue is to be considered is whether the Constitution Club of India is a body or NGO substantially financed by funds provided by the appropriate

Government in accordance with the meaning prescribed in section 2 (h) (d) (ii). The Act does not contemplate that Government aid in any form whatsoever, is enough to treat a body as a public authority. It does not provide that all bodies which are being substantially aided by the Government in any form will be covered within the meaning of public authorities. What the Act requires in terms is substantial financing by funds provided by the Government. Whereas aid may take any form (including grant of subsidiaries, concession and waivers), “financing by funds” requires more than a mere passive act.

- q. Section 2 (h)(d) of the Act provides that the bodies “substantially financed by funds provided by” the appropriate Government shall be covered within the meaning of public authority. Respondent officer gave various definitions of “funds” as per the Black Law Dictionaries and others and stated that the various definition of the term funds leads to an inescapable conclusion that the term funds mean a sum of money set aside for a particular purpose. Therefore, the expression “financed directly or indirectly” by funds provided by the appropriate Government necessarily contemplates an active role of the appropriate Government by pumping in/infusing money from its funds into the concerned body. What is required is an active/actual transfer of funds from a specially constituted corpus of the Government to the concerned body. A mere passive act in the form of some kind of a concession is not enough. The expression directly or indirectly occurring in the said clause refers to the route of the financing and not its form. If the transfer of funds is from a Government department to the concerned body without any third party intervention, the financing would be direct. However, if the Government first transfers its fund to another entity which in turn transfers the same or part of it to the concerned body, the financing would be indirect. Nevertheless, in both cases, the form must be actual transfer of funds in the sense of the liquid or grant or convertible wealth.
- r. In the present case, firstly, the Club has never sought any concession in the license fee from the Government; it has been paying whatever amount it has been asked by the Government to pay. Secondly, assuming that the Government is charging a reduced/concession

license fee from the Club for use of its building, the same cannot be treated as financing by funds provided by the Government.

- s. Thus, the very first threshold/pre-requisite for qualifying as a public authority under clause (d) of section 2 (h) i.e. that the body should be financed directly or indirectly by funds provided by the appropriate Government is not met in the present case and therefore, the Club cannot be deemed to be a public authority at all. Though after the aforesaid conclusion, there is no need to explain or discuss whether charging a reduced/concessional license fee for use of premises would be treated as substantial financing nevertheless without prejudice to the aforesaid, it is submitted that the same does not amount to substantial financing.
- t. A reading of the aforesaid definitions makes it clear that the term finance or financing refers to providing with necessary funds. The term substantial denotes something of consequence as opposed to something that is insignificant or trivial. What amount to substantial financing cannot be straight jacketed into a rigid formula of universal application. Each case must be examined on its own facts. However, what is necessary is that there must be actual provision/transfer/infusion of funds or pecuniary resources and such funds or pecuniary resources must be substantial/significant. In the present case, as explained above, the Constitution Club of India is not provided with any fund or pecuniary resources by the Government, much less any substantial fund or pecuniary resources. Consequently, it cannot be held that the Club is a body which is being substantially financed by the funds provided by the appropriate Government.
- u. Most of the earlier judgments of the Commission where under NGOs and private bodies have been held to be public authorities are distinguishable from the facts of the present case. In most of those earlier cases, besides grant of concessional land leases, other supervening/significant factors have been present e.g. Grant of tax benefits etc. Grant of concessional land lease alone has never been persuaded this Hon'ble Commission to bring the concerned body within the purview of the RTI. It has always been a cumulative effect of all factors present together. Therefore, grant of concessional land

lease alone would not be enough to treat the concerned body as a public authority within the meaning of RTI. In any case without prejudice to the aforesaid, the decision of this Hon'ble Commission where under grant of concessional land leases and similar benefits have been held to be substantial financing by funds provided by the appropriate Government deserve to be reconsidered in the light of the aforesaid submissions.

7. Manager of the Constitution Club in his reply to the appeal reiterated that CCI was not public authority. He also made reference to the judgment of S.S Angadi Vs. State Chief Information Commissioner [AIR 2008 Kant 149], M/S Zee Tele Films Ltd vs. Union of India and others [AIR 2005 SC 2677], P. Bhaskaran and others Vs. Additional Secretary, Agricultural (Cooperation) Department and others [AIR 1988 Kerala 75] and Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology and others [(2002) 3 SCR 100].
8. Mr. Sumit Gakhar, Dy. Land and Development Officer by his letter dated 26.06.2012 stated that the information sought by the appellant vide RTI application dated 07.06.2010 relate to the Constitution Club pertain to Lok Sabha Secretariat. Hence, it is not possible for the office to provide any information to the appellant.
9. Mr. Sumit Gakhar, by his letter dated 13.08.2013 submitted that no land had been allotted to the Constitution Club of India by the Land and Development Office. He also stated that any other information on the matter may be obtained from the Directorate of Estates and/or CPWD in this regard.
10. Mr. Pankaj K.P Shreyskar by his letter dated 14.08.2013 requested the Director General, Central Public Works Department to provide the following information as per the request of the full bench on 18.07.2013 and their response are as follows:
 - a. Whether the Constitution Club of India is located on the land of the Central Government? Answer: Yes Sir:

- b. If Yes, whether this land was allotted to the Constitution Club of India (by whatever name known at the relevant time) and if yes, on which date?
Answer: Not traceable/available.
- c. What is the total area of the plot on which the Club is located? **Answer: Constitution Club of India is located inside the Vitalbhai Patel House Complex with the total area of 40583.48 sqm. The area of the Constitution Club of India is 1267.10 sqm on second floor.**
- d. What are the terms and conditions on which this plot has been allotted to the Club? **Answer: Copy of memo no. 1253-LSS dated 2.3.1955 is enclosed.**
- e. Copy of the lease agreement, Answer: **Not available/traceable**
- f. Any other information. Answer: **No answer**

11. Mr. Robin Adaval, Director (works) in response to Mr. Pankaj K.P Shreyskar letter dated 14.08.2013 replied on 23.08.2013, gave the above answers:

12. Advocate representing the respondent authority in response to the queries raised verbally by the full bench during the hearing held on 18.07.2013 explained further as follows:

- a. The area being used by the Constitution Club of India is an extension/attachment to the Vitalbhai Patel House Main building on Rafi Marg, New Delhi. It is not a separate premise. The corridors of the Vitalbhai Patel house are attached to the Club building. However, the Vitalbhai Patel House Main building is not part of the Club.
- b. The Club runs strictly on a no profit/no loss basis. The Club does not run commercially and functions are organized on recommendation of members of the Club/Members of parliament. The licensor-MoUD is fully aware of this position and approves the same. The rental received from booking of halls etc is used to cover the Clubs expenses including staff salaries and allowance, electricity charges, water charges and maintenance charges. The same is not shared with the licensor or any other entity. No profit is earned by the Club at all. The accounts of the Club are duly audited by a chartered accountant. The building in which the Club is housed dates back to the year 1965. The almost 48 year old building was in a virtually dilapidated state and its condition was posing a safety threat to users and occupiers. Hence, at the behest of the owner of the property, the Ministry of Urban Development, Government of India, a renovation exercise was undertaken by the CPWD. In last 50 years several municipal and state laws were implemented making

certain requirements mandatory for building owners. Therefore to the make the building in consonant to such requirements and to prevent any mishap owing to the dilapidated state of the building, the Ministry of Urban Development, in its capacity as the owner of the building renovates the same. It must be remembered that the building/land in which the Club is housed has not been allotted by the Government to the Club – the Club is a mere licensee of the Government paying the demanded licensee fee. The owner of the building remains the Union Ministry of Urban Development. Like in the case of all other buildings, the maintenance and upkeep of the building and statutory and legal compliance in respect thereof are the sole responsibility of the Ministry. It is to meet those responsibilities that the Ministry has renovated the building and made necessary changes in keeping with the applicable laws. These changes have not been made to suit any peculiar requirement of the Club but to save the building and make it consonant to applicable statutory and other legal requirements.

13. Commission on 08.08.2014 directed as follows:

“2. The Commission directs the under mentioned Union Ministers/departments to furnish the following information in the form of duly sworn affidavit within thirty days of receipt of this order.

- a. Directions to CPWD
 - i. To submit a status report of the building/maintenance of CCI, New Delhi along with the copies of relevant documents.
 - ii. To explain the relationship of land measuring 40583.48 sq.m.
- b. Directions to M/o Urban Development
 - i. To explain the current status of file which was stated to be not-traceable in their letter dated 23.08.2013 written to Joint Secretary, CIC.
 - ii. To furnish the status of CCI and their relationship with CCI.
- c. Directions to CCI
To submit the annual statement of audited accounts for the last three years.
- d. Direction to Directorate of Estates, M/o Urban Development
To furnish the status of CCI and their relationship with CCI.
- e. Directions to Lok Sabha Secretariat
To furnish the status of CCI and their relationship with CCI.
- f. Directions to Land and Development Office.
To furnish a site plan of the area occupied by CCI.”

14. Mr. Robin Adaval, Director (Works) and CPIO, by his letter dated 26.08.2014 had forwarded the above mentioned decision of the Commission to DDG (Works)/CPWD, Nirman Bhawan, New Delhi, The Director of Estates/Nirman Bhawan, New Delhi, Land and Development Officer, L&DO, Nirman Bhawan, New Delhi.
15. Mr. Sumit Gakhar, by his letter dated 09.09.2014 submitted that the site plan of the Constitution Club of India is not available in their office. However, a copy of the layout plan of Constitution Club of India has been obtained from Sr.Architect/CPWD, Nirman Bhavan, New Delhi which is attached with this letter. The other relevant information/detail in the matter may be available with CPWD.
16. Mr. Sumit Gakhar, replied on 11.09.2014, stating that the directions of the Commission had been already complied by letter dated 01.09.2014. in which it was stated as follows :

“I am to refer to Central Information Commissions Order dated 11.08.2014 on the subject mentioned above. In compliance of the directions in Para 6 of the Commission, it is informed that the site plan of the Constitution Club of India is not available with this office.

A copy of layout plan of Constitution Club of India has been obtained from Sr. Architect/CPWS, Nirman Bhavan, New Delhi. The Other relevant information in the matters may be available with CPWD. The copy of layout plan obtained from Sr. Architect/CPWD is enclosed herewith.

CPWD replied on 05.09.2014 in pursuance of Commission decision dated 08.08.2014 and Commissions letter dated 14.08.2014. It replied as follows:

- i) Whether the Constitution Club of India is located on the land of the Central Government,
To be replied by L & DO/DOE.
- ii) If yes, whether this land was allotted to the Constitution Club of India, (by whatever name known at the relevant time) and if yes, on which date.
To be replied by L&DO/DOE
- iii) What is the total area of the plot on which the Club is located:

The total plot area of Vitalbhai Patel House Complex is 10.03 acres. This Complex houses various building detailed as below:

No.	Name of Building	Area in Sq. Ft.
1.	Mavlankar House	14789
2.	VBP House	30807
3.	ConstitutionClub	13634
4.	Servants Qtr and Garbage	6208
5.	ESS and Pump Room	1822
6.	Swimming Pool	2842
7.	A.C Plant Room	865
	Total Area	70967 (Sq. mtr) 6595.446

No demarcation of any plot of land exists as can be attributed to ConstitutionClub as it is one of building in the total complex. Allotment letter issued vide Union Minister of Works and Housing OM No. 1253-L/55 dated 02.03.1955 was enclosed. He stated that from the OM it appeared that only Club building which has been allotted to the ConstitutionClub. No land seemed to be allotted to the Club.

- iv) What are the terms and conditions on which the plot has been allotted to the Club

To be replied by L & DO/DOE

- v) Copy of the lease agreement.

“Shri J.L Chopra, Under Secretary to the Government of India by its memorandum dated 02.03.1955 on the maintenance of Government furniture and furnishing in the Constitution Club –

“The undersigned is directed to refer to the correspondence resting with the Lok Sabha Secretariat endorsement No. 59 (11)-AN(G)/55 dated the 10th February, 1955 on the above subject and to say that the Government of India examined the financial position of the Constitution Club in 1950 when it was decided to waive the recovery of arrears of rent on the following conditions :-

- i) The Club pays nominal rent for the entire premises including hire charges of furniture at Rs. 100/- p.m.from 01.01.1954 but responsibility for

maintenance of furniture shall be that of the Club authorities.

- ii) The Club should continue to pay electricity charges direct to the NDMC as is being done by them since 01.01.1951.
- iii) The Club should arrange for a direct water supply connection from NDMC as early as possible and pay water charges directly. Pending installation of a separate water meter by the Club the CPWD will continue to pay the water charges and assess the amount to be paid by the Club. The Club should pay these charges regularly on demand.
- iv) The Club should undertake to pay arrears of electricity and water charges due from them for the period 10th February 1949 to 31st December, 1950 amounting to Rs. 2,040/4/- and also the water charges for the period 1.01.1951 to 30.12.1952 amounting to Rs. 3116/-

2. The General Secretary of the Constitution Club, New Delhi was duly apprised of the above conditions vide this Ministry DO Letter No. W-11/12 (81)/54 dated 08.03.1954. It would be clear from the above that the terms of condition (i) the Government fixed a nominal rent of Rs. 100/- pm for the use of the entire premises and the existing furniture on the distinct undertaking that the upkeep and the maintenance of the Government furniture would be carried out by the Club at their own cost and for this purpose it was up to the Club to make themselves self-supporting by raising the subscription from the members. The Government of India should not therefore, be asked to undertake repairs, renovation and maintenance of the furniture and furnishing of the Constitution Club.

It is requested that the Club authorities may be informed accordingly”

17. Respondent authority submitted the annual statement of audited accounts of Constitution Club of India for 3 years.

18. Mr. Kushal Sarkar, Additional Director, CAPIO, Lok Sabha Secretariat by his letter dated 23.09.2014 submitted the following affidavit of Shri. Jadumani Baisakh, stating :

- a. That theobjectives and purpose of fostering social contacts and providing usual amenities of a Club life for the benefit of the members of the Indian Constituent Assembly and inter alia to provide a platform for interaction amongst the past and present members of parliament. As such the Club is managed by the governing council formed in accordance with its memorandum.
- b. its activities are governed by its memorandum of association. In fact, its day to day operations and vital decision making powers have been conferred upon the Secretary (Administration, Culture, Sports). It is relevant to mention that the Hon'ble Speaker, Lok Sabha, Hon'ble Deputy Speaker, Lok Sabha, Hon'ble Speaker, Lok Sabha, Hon'ble Union Minister for Urban Development and Hon'ble Deputy Chairperson Rajya Sabha are functioning as ex-officio, President, General Secretary, Vice-President I and II respectively of the Governing Council.
- c. The relationship between CCI and the Lok Sabha Secretariat is historical in nature in as much as it is a Club that was originally formed in 1946 with the primary object of providing an informal meeting place for the members of the constituent assembly with a view to facilitating the work of framing the new Constitution of India. On 29.05.1965, the premises in which the CCI was located was handed over to a representative of the Lok Sabha Secretariat with the stipulation that henceforth rent at Rs 250 per month would be charged for the CCI premises and that the CCI would be responsible for payment of electricity and water consumption as per bills raised by CPWD. Pertinently, the management of the CCI premises was handed over to the manager of the governing body of the CCI on the very same day viz 27.05.1965.
- d.
- e. The memorandum of the CCI would demonstrate that the Secretariat has no administrative control over its affairs which are controlled and managed by its governing council. Furthermore, the general activities of the CCI are supervised and controlled by the Secretary (Administration) who is required to act as per the broad guidelines laid down by its Governing Council.
- f. Notwithstanding the above, and particularly in view of the historical association with the CCI, the Lok Sabha Secretariat has on a few occasions,

offered gratuitous administrative assistance to the CCI as and when requested and only for the limited purpose of conducting elections and auditing of its accounts till 1996.

- g. In this context it is also relevant to mention that on few separate instances, personnel employed with/deputed to the Lok Sabha Secretariat were permitted to render gratuitous assistance to the CCI for a certain period of time subject to the following conditions :
- i. The said work does not occupy so much as to interfere with his official duties
 - ii. The said work will be under taken outside the normal office hours, and
 - iii. No remuneration will be accepted for the said work without prior permission of the secretariat.
- h. The only relationship with the CCI is with reference to Mavalankar Auditorium, the management/administrative control of which had been transferred to the Secretariat by the Ministry of Urban Development in 1989 vide office memorandum dated 06.08.2014 the same has been transferred back with immediate effect to the Ministry of Urban Development.

19. Shri Arvind Kumar, Director and AR of the Constitution Club by his submission dated 17.05.2016 enclosed the copies of the audited balance sheets for the year 2012-13 and 2013-14.

20. The Commission on 01.04.2016 directed :

“3. The Commission directs the CPWD and the Ministry of Urban Development to provide all relevant documents relating to the Constitution Club of India. On the request of the Counsel for Constitution Club of India, the case is posted for fresh arguments/written submissions on 22.04.2016 at 3 PM ..”

21. Mr. G.P. Sarkar, Deputy Director of Estates forwarded the copies of the documents available with Directorate of Estates and related to Constitution Club of India.

The Constitution Club premised at Vithalbhai Patel House was handed over directly to the representative of the Lok Sabha Secretariat on 27.05.1965 by the C.P.W.D and the rent for the premises was Rs. 250/- PM. The Directorate of Estates was concerned with the realization of rent only. The Directorate of Estates was concerned with the realization of rent only. The maintenance of

the building is with the CPWD. The charge of water and electricity was to be paid by the Club authorities. Subsequently six servant quarters and a garage were allotted to the Constitution Club in V.P House on 03.11.65 and 12.11.65 respectively. The license fee was accordingly raised to Rs 404 per month. On a subsequent review of the case it was decided that expenditure on the maintenance and replacement of furniture etc would be borne by the Club authorities themselves and Government will not incur any further expenditure and the letter in this regard addressed to the Deputy Secretary, Lok Sabha Secretariat was issued on 23.06.1967. The Club-premises consists of 3 conferences halls, one swimming pool, cafeteria etc.

It is stated that the matter regarding renovation and remodeling of the existing building of the Club is being dealt in the work division, M/o Urban Development. The Constitution Club is under the administrative control of Lok Sabha Secretariat and its allotment etc is made by them. The maintenance of the auditorium is with the CPWD.

The Directorate of Estates has sent letters dated 12.03.2003, 28.08.2003, 27.10.2003 and 16.12.2003 seeking the information the Lok Sabha Secretariat regarding status of the Constitution Club vis-à-vis Lok Sabha. Lok Sabha Secretariat vide their letter dated 05.01.2004 has submitted the detail status of the Club.

L & DO by their U.O Note dated 01.04.2004 had intimated that as per record the area falls under the control of CPWD/Directorate of Estates. In this connection, it is mentioned here that the Constitution Club premise at Vitalbhai Patel house were handed over through CPWD to the Lok Sabha secretariat on 27.05.1965 on license basis. The directorate of Estates is collecting rent of the premises. The electricity and water charges are paid by the Club.

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Mr. Devender Singh (Director), Lok Sabha Secretariat in his letter dated 05.01.2004 to Additional Secretary, Ministry of Urban Development and Poverty Alleviation had stated as follows:

(i) Status of the Constitution Club vis-à-vis Lok Sabha, Secretariat :

- (a) The building was leased by MOUD at a nominal rent of Rs.405/-p.m. The Club was registered under the Societies Registration Act XXI of 1860 on 09.05.2002;

- (b) The Constitution Club functions independently under the full control of governing council consisting of (1) Secretary (administration); (2) Secretary (culture); (3) Secretary (Sports); (4) Treasurer; and (5) Executive Members (not exceeding 11). However, election is not held for the posts of president, Vice President and General Secretary. Hon'ble Speaker, Lok Sabha, Hon'ble Deputy Speaker, Lok Sabha and Hon'ble Union Minister of Urban Development & poverty Alleviation are the ex-officio President, General Secretary and Vice President of the Club, respectively;
- (c) Lok Sabha Secretariat do not have any administrative control whatsoever over the Club till now. However, in the meeting of the governing council of the Constitution Club held on 21.08.2003 under the Presidentship of Hon'ble Speaker, Lok Sabha, it was proposed to make the building and other infrastructure of the Club a party of the Parliament Estate.
- (ii) **Official view of Lok Sabha on the proposal of Shri R.P. Rudy, Secretary(Administration) for renovation/modification of existing Constitution Club premises and also allotment of land adjacent to the Constitution Club for construction of new buildings.**
- (a) In a meeting of the Governing Council held on 19.03.2002 under the chairmanship of the Hon'ble Deputy Speaker, Lok Sabha, in which Secretary General, Lok Sabha and other senior officers of the Lok Sabha Secretariat were also present, Secretary (Administration), Constitution Club, Shi R.P. Rudy, informed the governing council that M/S NBCC had prepared am budget estimates of Rs. 60 crore(at a later stage it was downsized to Rs.29.78 crore) for construction of new complex and suggested that the required funds might be provided by the Lok Sabha Secretariat as one time grant. Hon'ble Deputy Speaker, Lok Sabha directed the officials of the Secretariat that the required funds may be explored at the earliest in consultation with the Ministry of Finance keeping in view that the activities of the Club are aimed at to foster and inculcate the interest, awareness and importance of Politics and its institutions in India and abroad and enhance knowledge and experience of people from various walks of life for ne promotion and development of Politics, democratic and Parliamentary activities and its institutions;

- (b) Accordingly, the matter was taken up on 08.04.2002 with the Ministry of Finance for providing the required funds under the Demands for Grants of Lok Sabha for being given to the management of the Constitution Club for its renovation/alteration, etc. Since then protracted correspondence has been exchanged with the Ministry of Finance in resolving their queries/observations, etc. finally, as desired by the Ministry of Finance, a memorandum was submitted to them on 06.01.2003 for their consideration. Thereafter, in the meeting of the committee on Non-plan Expenditure(CNE) held on 30.05.2003 in the Ministry of Finance, it was decided to provide a one-time grant of Rs. 29.78 crore to the Club subject to certain condition;
- (c) Further, in between the developments as stated at (b) above, a meeting of the Governing Council was held on 10-01-2002 in the Chamber of Hon'ble Speaker, Lok Sabha and Ex-Officio President of the Club. It was decided in the meeting that in order to improve general ambience of the building and the surroundings and also to provide the facilities at par with other prominent Clubs in Delhi, the land adjacent to the Constitution Club might be allotted to the Club, and the office bearers of the Club might take up the matter with the Ministry of Urban Development and Poverty Alleviation for allotment of land adjacent to the Club. Consequently, Hon'ble Union Minister of Urban Development and Poverty Alleviation deputed officers from that Ministry with the proposal to allot the land adjacent to the Constitution Club by demolishing three bungalows nos. 2 and 4 on Jantar Mantar Road and Bungalow no. 16 on Ashoka Road. The proposal was found workable by the Governing council of the Club.
- (d) In the ongoing efforts with the Constitution Club facilities at par with the other prominent Clubs in Delhi, a meeting of the Governing Council of the Club was also convened on 21.08.2003. Hon'ble Speaker, Lok Sabha as President and Union Minister of Urban Development and Poverty Alleviation as Vice-President of the Constitution Club were also present in the meeting. It was unanimously proposed in the meeting that the buildings and the other infrastructure to be created might be made part of the Parliament Estate, so that release of funds and building works of the Constitution Club are brought within the statutory provisions

of Government of India for smooth renovation/ remodeling of the Club;

- (e) After the minutes of the above meeting were approved, a letter was sent to the Ministry of Finance on 31.10.2003 conveying the above decision with a request to make the budgetary provision of Rs. 29.78 crore, as agreed to in the CNE meeting held on 30.05.2003, in the budget of the Ministry of Urban Development and Poverty Alleviation. The Ministry of Urban Development and PA were also conveyed the above decision on 28.10.2003, with a request to advise the secretariat on some techno-legal aspects in regard to the transfer of land, building and other infrastructure of the Club to Lok Sabha Secretariat for making it a part of Parliament's Estate. The matter is under the consideration of Urban Development and PA;
- (f) The Ministry of Finance wrote a letter No. 10(23)-MD/2002 dated 13.11.2003 to Ministry of Urban Development and PA intimating them that the proposal may be included in the grant of Ministry of Urban Development & PA. A copy of the said letter was also endorsed to the Secretariat.

(iii) Details of the new project and source of funding.

The details of the new project along with the estimates submitted by the NBCC are sent herewith. As regards source of funding, it has already been stated that the required funds will be provided by the Ministry of Finance. It may also be stated that the Ministry of Finance have also been requested to make a token provision of Rs. 5 crore in the Supplementary Demands of Grant of the Ministry of Urban Development and PA for the year 2003-04 to start with the project during the current financial year itself in case all the requirements are fulfilled by the MOUD in this regard. The remaining amount would be included in the Budget Estates of that Ministry for the year 2004-05."

22. Commission on 22.04.2016 gave following directions:

- “3. The Commission directs the following CPIO's:
- (1) O/o Secretary, Ministry of Urban Development.
 - (2) Principal Secretary to the Hon'ble Speaker of Lok Sabha.
 - (3) Secretary to the Ministry of Urban Development
 - (4) L&DO, Nirman Bhavan.

To produce the lease deed and the file relating to the lease deed along with the correspondence or any other relevant documents pertaining to the CCO. To explain the lease, conditions of the lease, rate of the lease, including the latest revision, before the Commission.

4. The Commission also directs the CPIO of CPWD and the Director(Works), Ministry of Urban Development to show cause as to why maximum penalty should not be imposed against each of them for not responding to the direction of the Commission dated 01.04.2016 to provide all relevant documents pertaining to the CCI. The Commission also directs the manager, CCI to present copy of the lease deed along with the entire file to the Commission.

5. The CPWD is directed to produce the file noting about maintenance/repairs etc as on today of the CCI.

6. CCI is directed to provide the Commission, copies of the audited balance sheets for the years 2012-13/2013-14, with copies of the petitioner.

7. All the documents shall reach the Commission by 20.05.2016”

23. Appellant by his letter dated 02.05.2016 submitted that respondent authority had provided a copy of the audited balance sheet only for the fiscal year 2014-15 against the direction by Hon'ble Central Information Commission through its Order dated 08.08.2014 to submit the same for the last 3 years. He also stated that Constitution Club and other concerned public authorities had failed to put on record copy of the lease deed between Constitution Club and the concerned public authorities. Appellant further stated the audited balance sheet for the fiscal year 2014-15 had shown a rental income of Rs. 2,44,94,692 against the nominal lease rent as stated in the Commission hearing. Even the nominal lease rent to be paid by the Constitution Club is not shown on expenses side in audited balance sheet of fiscal year 2014-15 by the Constitution Club. High earning of Rs. 2,44,94,692 against payable nominal lease rent to a public authority owning the premises is an additional ground for declaring Constitution Club a public authority under RTI Act.

24. Respondent authority on 04.05.2016 submitted the audit report under section 44 AB of the Income Tax Act for the financial year 2014-15.
25. Executive Engineer, CPWD, New Delhi by their letter dated 18.05.2016 stated that they could not find the records, maintained by this office either original lease/leave and license agreements or any copy thereof. He further submitted that the expenditure incurred by CPWD on construction/renovation/up gradation of building of Constitution Club of India and expenditure in maintenance of Constitution Club of India are submitted below :

Year	Renovation/Up gradation		Maintenance
2014-15	Civil	1.04 Crore	-
	E&M	1.88 Crore	-
2015-16	Civil	4.19 Crore	-
	E&M	2.69 Crore	-

26. Mr. K. Sona, Deputy Secretary, Lok Sabha Secretariat by her letter dated 19.05.2016 stated :

“The lease deed and the files related to lease deed of Constitution Club are not available in the records available with the branches concerned”

27. Shri Maha Singh, Ministry of Urban Development replied on 20.05.2016 intimated that the office of Director (Works) vide letter of even number dated 19.09.2014 has informed that works division of MoUD neither makes allotment nor transfers the land. Allotment of buildings, bungalows, quarters etc, is being dealt by Directorate of Estates. L&DO makes allotment of land. Maintenance and repair work is being carried out by CPWD. Renovation/additional construction works are also being carried out by CPWD with the approval of the competent authority. Earlier replies to CIC were sent based on the inputs provided by CPWD, L & Do and Directorate of Estate. In this

connection it is also stated that there is single file system in the works division of MoUD. Proposals with regard to renovation/addition/alteration/ additional construction in CCI comes on proper file from CPWD for examination and approval of MoUD. Work Division of MoUD examines the proposals and consults integrated finance division (IFD) of MoUD, wherever necessary before obtaining approval of Competent Authority. After obtaining approval of the Competent Authority, the files are sent back to CPWD for further necessary action at their end. Administrative approvals and expenditure sanctions are issued by CPWD. No records or files are being kept in the works division. CIC had sought some information from DG, CPWD vide letter dated 14.08.2013 with regard CCI. The then Secretary (UD) directed works division to send the reply on behalf of MoUD. Works Division, therefore, sought information from CPWD, DE and L & Do vide their ID dated 21.08.2013. On the basis of replied received, a reply was sent to CIC vide letter of even number dated 23.08.2013. Thereafter, another letter from CIC was received seeking information on two points vide letter dated 11.08.2014. Work division again sought information from CPWD, L & DO and DE on these two points for sending reply to CIC. Replies were received from CPWD, DE and L&DO. On the basis of replies received, reply was sent to CIC vide letter of even number dated 19.09.2014.

Bench was told that MoUD received the maintenance/addition/ alteration proposal of CCI along with the estimates from CPWD which were examined in works division and approved by the competent authority in MoUD. The Commission on 04.04.2016 directed CPWD and MoUD to provide all relevant documents relating to CCI.

Shri Anil Kumar, US, MoUD reiterated the same on 22.04.2016. He stated that his division does not have any information with respect to the lease deed as well as the file relating to the lease deed. L & DO, CPWD and Directorate of Estates have been requested to provide the required information relating to lease deed to CIC.

28. Respondent authority had submitted the audited balance sheets for the year 2012-13 and 2013-14.

29. Mr. G.P. Sarkar, Deputy Director of Estates by his letter dated 30.05.2016 forwarded to the Commission details of license fee and electricity charges.

“Mr. Prakash A, Dy. Director (H), Ministry of Urban Development in compliance of Commissions Order dated 06.05.2016 stated that license fee realized by the hostel section in connection with the Constitution Club of India prior to October 2013 is not available with the section. However, a copy of the letter addresses to CCI in connection with missing period of License fee for the period March 2014 to May 2014 was enclosed for information and necessary information.

Mr. Prakash A, Dy. Director (H) stated that the licensee fee of Rs. 550/- was paid by the Constitution Club of India.

For the month of March 2014, April 2014 and May 2014 the license fee details were missing. They also submitted that they paid electricity charges for the period from 30.01.2014 to 19.05.2016.

Mr. Rajanish Kumar Jha, CPIO, Ministry of Urban Development, Land and Development Officer replied on 19.05.2016 stating that no land has been allotted to the Constitution Club of India by the Land and Development officer and also stated that any other information on the matter may be obtained from the Directorate of Estates and/or CPWD in this regard.”

Analysis and decision:

30. Learned Senior Counsel Mr. Prashant Bhushan presented argument before the Bench saying that the Constitution Club of India is constituted by, consisting of all public authorities constituted under the Constitution of India like Speaker and Deputy Speaker, and other officers as ex-officio members. It is meant for the present and former members of Parliament. He argued that the Constitution Club of India is paying a very nominal amount of money as license fee and making profitable use of the highly valuable property. The Government of India is spending crores of rupees for repairs and renovation of the buildings under control of CCI. He said that these facts by themselves

establish that the CCI is a public authority under Section 2(h) of Right to Information Act, 2005.

31. The Constitution Club of India has a historic background. It has a pre-Constitution existence, started for members of Indian Constituent Assembly. It is claimed to be acting as platform for interaction amongst the Past and Present Members of Parliament. It was established in 1947 housed at Curzon Road, formally inaugurated by the then President Sarvepalli Radhakrishnan on February 1965 at present location of Vitalbhai Patel House. It has partnership with Swaniti Initiative which runs Research and Development Advisory (RADA) cell to assist the Members of Parliament.
32. Replies by Mr. Sumit Gakhar, Deputy Land and Development Officer and Mr. Robin Adaval, Director (Works) show that the land and buildings belong to State and CCI is a licensee. When asked for copy of lease agreement, they did not say that there was no lease, and it was a license. It is clear suppression on fact. Instead, they said 'not traceable/available'. It is misleading to suggest there was a lease deed and it was not available, when it was a license. Their advocate's explanation to the Bench confirms this as The Advocate says CCI is a mere licensee. The CCI has also suppressed this information. Shri. J.L Chopra, Under Secretary in another letter mentions about 'rent' as if it was a lease. This again is misleading.
33. Mr. Kushal Sarkar, Additional Director, CAPIO, Lok Sabha Secretariat, was directed to furnish an affidavit. Shri. Jadumani Baisakh filed affidavit saying:

In fact, its day to day operations and vital decision making powers have been conferred upon the Secretary (Administration, Culture, Sports). It is relevant to mention that the Hon'ble Speaker, Lok Sabha, Hon'ble Deputy Speaker, Lok Sabha, Hon'ble Speaker, Lok Sabha, Hon'ble Union Minister for Urban Development and Hon'ble deputy chairperson Rajya Sabha are functioning as ex-officio, President,

General Secretary, Vice-President I and II respectively of the Governing Council. The relationship between CCI and the Lok Sabha Secretariat is historical in nature

34. This reveals the inherent links with and controls by the 'state' over the CCI. The submissions of the officers reveal that Government was rendering administrative assistance to CCI, and significantly, the management and administrative control over Mavalankar Auditorium was transferred to the Lok Sabha secretariat by the MoUD and in turn, the Secretariat transferred it to CCI. Similarly transfer of several buildings from CPWD, MoUD is being done to Secretariat and to CCI from time to time. These officers sometimes describe transaction as lease and sometimes as license. There are several proposals to demolish certain buildings and transfer the land to CCI. The official view of Lok Sabha on the proposals of Mr. Rudy of CCI is submitted to the Commission as follows: The details of the new project along with the estimates submitted by the NBCC are sent herewith. As regards source of funding, it has already been stated that the required funds will be provided by the Ministry of Finance. It may also be stated that the Ministry of Finance have also been requested to make a token provision of Rs. 5 crore in the Supplementary Demands of Grant of the Ministry of Urban Development and PA for the year 2003-04 to start with the project during the current financial year itself in case all the requirements are fulfilled by the MOUD in this regard. The remaining amount would be included in the Budget Estates of that Ministry for the year 2004-05." This proves that there is complete funding by the state.

35. The Constitution club spends public money for public representatives. The Constitution, common sense, provisions of RTI Act, Parliamentary control through Speaker, Deputy Speaker and Secretary demand that it should be public authority and its information be accessible under RTI law.

36. The responses to directions from CIC explained that CCI is located on Government land and using its buildings. The CCI claimed that they are paying Rs 100 rent per month, which was not reflected in some of their annual statements. Either they are not paying rent or it could be no rent at all. Sometimes they referred it as license fee of Rs 100 or Rs 250 per month. For some months those details of license fee payment were also claimed to be missing. Neither CCI nor the Government offices produced any lease deed. It seems there is neither lease nor the deed. There is no evidence to show any 'license' related documents. The CCI is surviving on the lands and properties of the Union Government. It is absolutely dependent totally upon the state property. It has no source of income of its own.
37. The CCI makes income of more than Rs 2 crore on rent by using the land and buildings of Union Government, repaired and maintained by the Government, in the heart of national capital by paying nominal amount of Rs 100 or 250. Besides this they have monopoly over 'assistance' to MPs relating to the research, academic, sports, conferences and entertainment needs of MPs, former MPs and others. The submissions by various authorities reveal that the MoUD, office of Speaker, CPWD, etc are wielding complete control. Their claim about absence of control is not correct.
38. The CCI does not care to pay or report about it, ignoring the consequences. Interestingly, concerned offices do not take any measures for non-payment of the fee, profit making by the CCI using the resources. The concerned departments of Union are so indifferent and negligent that they do not know whether CCI was lessee or licensee, they do not know where lease deed is and what conditions for license are. The Government spends hundreds of crores of Rupees for CCI, even plans to build a new building with Rs 140 crore for CCI, but does not make it accountable. It is absolutely not reasonable on the part of MoUD to leave highly valuable land and buildings in the hands of a society, without even auditing or questioning the way resources are used by it. Such a kind of attitude of state towards

public wealth does not go well with governance, let alone the 'good governance'.

39. In Governing Council meeting on 19.3.2002, huge amount was allocated for renovation, later it was downsized and again increased as per latest reports.
40. It is relevant to refer to a detailed report in Indian Express on June 18, 2016, which explains the 'character' of the CCI and its close association with the Union Government. Mr. Shyamlal Yadav wrote that CCI was moving to take administrative control of Government Property in Delhi's Lutyen's Zone. The Indian Express claimed that it possessed certain documents that showed that CCI took control of Mavalankar Auditorium and 11 suites of Vithalbhai Patel House (VP House) owned by the Directorate of Estate under MoUD and process to take over 21 more suites at VP House by CCI is under process. Another significant fact revealed by this newspaper report is that the Central Public Works Department CPWD has been directed to construct within three years a new complex for the Club at estimated cost of Rs 140 Crore.
41. The news report referred to a Lok Sabha Secretariat note, dated July 18, 2014, says: "Considering all the issues, then Speaker (Mrs. Meira Kumar), who is ex-officio Chairperson of CCI had decided that it would not be appropriate to transfer the management of Mavalankar Auditorium to the Constitution Club of India and status-quo may be maintained." Journalist Mr. Shyamlal Yadav wrote that administrative control of these properties was first returned to MoUD from Lok Sabha and Rajya Sabha secretariats, and they were further transferred to the CCI. The objective of MoUD was to provide proper place to facilitate MPs, and their guests across the country and to create a place to meet their recreational, social and academic needs. As per the media report, the Club Secretary Mr. Rudy, who later became Union Minister emailed to Indian Express that it was not

correct that former Speaker Mrs. Meira Kumar rejected request to transfer Mavalankar Auditorium to Constitution Club of India (CCI). This matter figured in the General Body meet of CCI held on 15.3.2010 chaired by former Hon'ble Speaker Mrs. Meira Kumar and was taken up for consideration, Mr. Rudy on January 6, 2015 requested the CPWD to construct a "new complex within 3 years. It was also reported that on June 23, 2014, CCI sought transfer of some adjoining flats in VP House with attached corridors to the Club. On October 1, 2014, Union Minister for Urban Development said: "There is already shortage of availability of suites with General Pool in VP House, your request could not be acceded to", later the suites were returned from Lok Sabha and Rajya Sabha pools to "general pools" under MoUD and then transferred to CCI. Writer claimed that the Director of Estate approved the transfer. Rudy's request for nine more suites was rejected. <http://indianexpress.com/article/india/india-news-india/Constitution-Club-of-india-mps-society-moves-to-take-control-of-more-govt-space-in-lutyens-delhi-2920393/>.

42. The contention that they never claimed any concessions from the Government fails totally. The CCI is enjoying enormous concessions and manages valuable immovable properties, besides getting a new building and possession of suites etc. This substantial funding, if withdrawn, the CCI cannot function even for a minute. The test laid down by the Supreme Court in ***Thalappalam Ser. Coop. Bank Ltd. and others vs State of Kerala and others*** [SLP (C) No.24290 of 2012] that "the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist" is met.
39. Information provided by the public authorities and contention of the counsel confirm these aspects. The responses to directions from CIC said that CCI is located on Government land and using its buildings. CCI claimed that they are paying Rs 100 rent per month, which was

not reflected in their annual statements. Either they are not paying rent or it could be no rent at all. Neither CCI nor the Government offices produced any lease deed. It seems there is neither lease nor the deed. There is no evidence to show any 'license' related documents. The CCI is surviving on the lands and properties of the Union Government. It is absolutely dependent upon the state property. It has no source of income of its own. The CCI makes income only with the land and buildings in the heart of national capital.

40. All this reveals that Union Government is transferring huge properties and creating big facilities at the cost of exchequer to Constitution Club of India, which is enough to declare it as public authority under RTI Act. People should have a right to ask about functioning of CCI and spending on it to create facilities for their elected representatives and others. It is clear that the state is pumping hundreds of crores of rupees, giving highly valuable state lands and buildings, asking CPWD to construct new building worth Rs 140 crore, with direct control of properties through MoUD or Lok Sabha Secretariat and facilitating them to make huge income every year. Thus, there is direct and substantial funding by Government to the CCI. The Speaker, Lok Sabha is the Ex-officio President of the Club, the Deputy Speaker, Lok Sabha is the Ex-officio General Secretary and the Union Minister for Urban Development and the deputy chairperson, Rajya Sabha are the Ex-officio Vice President of the Club. Though said positions are claimed to be honorary and ceremonial, they are, in fact, substantially controlling as proved by the transactions and transfers.
41. The CCI does not fall in any of the clauses from (a) to (d) of Section 2(h) of the RTI Act. However, when the above clauses are not satisfied, recourse had to be made to (i) or (ii), since the CCI cannot be termed as an NGO, therefore, only testing parameter left is sub-clause (i) i.e. body owned, controlled and substantially financed. Thus the owner of land & buildings is undoubtedly the 'state'.

- 42.Ownership: Ownership in case of CCI is not clear because as per the respondent, the CCI is a lessee of the MoUD (lessor). However, no lease deed was produced before the Commission, despite a specific direction by the Commission in this regard.
- 43.Control: Control of CCI as per the appellant is by the Central Government on the ground that important positions in the Governing Council of the CCI are held by Speaker Lok Sabha, Dy. Speaker Lok Sabha etc. i.e by Government Servants. However, the same does not imply that merely because certain Government Servants are holding a position in his/her ex-officio capacity, that the Government is exercising control through the ex-officio members. The same is substantiated by the case of **Army Welfare Housing Organization Vs. Adjutant General's Branch, LPA No. 867 of 2013 dated 19.11.2014**, wherein, the board of management of the appellant comprised of serving officers of Army, thus, exercising control over it the Delhi High Court has held:

“14. We see no reason as to why the aforesaid principles be not applied to the facts of this case. Though the persons occupying the position in the LPA Nos.867/2013 Page 21 of 25 Board of Management of the appellant are serving Army officials who in performance of their duties as such officers are required to act as per the dictates of the Army Headquarters or the Ministry of Defence but the same cannot lead to the presumption that they, in their capacity / position as members of the Board of Management of the appellant will also act as per the dictates of the Army Headquarters or the Ministry of Defence. Thus it cannot be said that for this reason the Board of Management of the appellant is under the control of Army Headquarters or the Ministry of Defence. Such persons, as members of the Board of Management of the appellant are expected to exercise their functions in accordance with the Charter of the appellant, honestly and reasonably.

16.... The appellant was incorporated to provide a further motivating force to the soldiers in terms of social security to their families, shelter being a basic necessity of life, i.e. for constructing houses for Army

personnel serving or retired on „No profit No loss basis“. Neither any interest of Army Headquarters or the Ministry of Defence in having its preferred nominees on the Board of Management of the appellant was disclosed, nor can we fathom any.”.

44. Thus, from the above it is clear that Government does not control the affairs of the CCI In the above described circumstances. However the members of CCI are not mere officers or government employees but Constitutional Authorities like the Speaker and the Union Minister, etc, whose decisions are substantial enough to dictate terms to the CCI.

45. Substantially financed: This is an important parameter, because in the present case no lease deed was furnished so a presumption can be drawn that there is no such lease deed between the MoUD and the CCI. This implies that MoUD owns the premise where CCI is located. It is an accepted fact that all the renovations are undertaken by the MoUD. Further, as is clear from the Income-Expenditure Statement of the CCI, rent receipts amounting to approximates Rs. 2 cr. which the CCI is earning, is from the property owned by MoUD. Also, the income of the CCI matches, the expenditure as reflected in the income-expenditure statement of the CCI reveal that if the rent receipts are removed from the income of the CCI, there would be a deficit of Rs. 2 cr., which is substantial enough to hamper the functioning of the CCI and the CCI might cease to exist. This means, such funding by the Government i.e. inclusive of rent receipts and the renovation amount is so substantial in nature and it cannot be ignored for considering the public character of the CCI.

46. Further, the three conditions mentioned in Section 2(h)(d)(i) of the RTI Act are distinct and not cumulative, therefore, even if one of the three is satisfied as per the facts of the case, it would be sufficient and there is no need for all three to be satisfied. The same was held by the Hon'ble Delhi High Court in the case of *National Stock Exchange of*

India Limited v. Central Information Commission and Ors., W.P. (C) No. 4748/2007 dated 15.04.2010:

a. “17....The three conditions, i.e. owned, controlled, substantially financed are distinct in alternative and not cumulative.....If a body satisfies requirements of Clause (i) or (ii), conditions (a) to (d) need not be satisfied.....”

47.Thus, it is clear that there is an indirect funding of the appropriate Government to the CCI and therefore, the CCI is held to be a Public Authority in terms of Section 2(h)(d)(i) of the RTI Act.

48.The Bench notes that the responses of public authorities to interim order of this Commission show pathetic maintenance of records. Their claim that most important documents about Constitution Club of India are not available reflects serious negligence. The Commission requires them to be careful and systematic in keeping the records.

49.The Constitutional Club of India is thus declared as “public authority” under Section 2(h), it has to supply the information sought, also requires, as per Section 19(8)(a)(ii) of RTI Act, 2005, the CCI to appoint a Central Public Information Officer, and put in place a RTI response cell, within one month from the date of receipt of this order.

(M. Sridhar Acharyulu)

(Sudhir Bhargava)

Central Information Commissioners

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