

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 19282 of 2021**

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SANKALCHAND PATEL UNIVERSITY

Versus

GUJARAT INFORMATION COMMISSION

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Appearance:

MR HEMANG M SHAH(5399) for the Petitioner(s) No. 1

for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 22/12/2021****ORAL ORDER**

1. Mr. Shalin Mehta, learned senior counsel appearing with Mr. Hemang M. Shah, learned advocate for the petitioner submitted that clause (h) of Section 2 of the Right to Information Act, 2005 (hereinafter referred to as the "Act of 2005") defines the term "Public Authority" to mean 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. It is submitted that the petitioner, being the private university, would not fall either in the clauses (a), (b) (c) and so also clause (d). It is submitted that the petitioner, is not covered under sub-clause (c) of clause (h) of Section 2 of the Act of 2005 because it is not body or institution of self-government that is established or instituted under the Constitution or law made by the parliament or by law made by the State Legislature or by way of notification issued and therefore,

the conclusion arrived at by the respondent No.1, is erroneous and against the provisions of the Act of 2005. To substantiate said contention, reliance is placed on the judgment in the case of *D.A.V. College Trust and Management Society & ors. v. Director of Public Instructions & ors.* reported in (2019) 9 SCC 185. It is submitted that though the reliance is placed by the State Information Commission, the principle enunciated in the said judgment strengthens the case of the petitioner rather the authority.

2. Considered the submissions. Issue notice, returnable on 21.01.2022.

3. By way of ad-interim relief, till the next date of hearing, the operation, implementation and execution of the order dated 07.12.2021, is hereby stayed.

4. Direct service is permitted.

RAVI P. PATEL

(SANGEETA K. VISHEN, J)