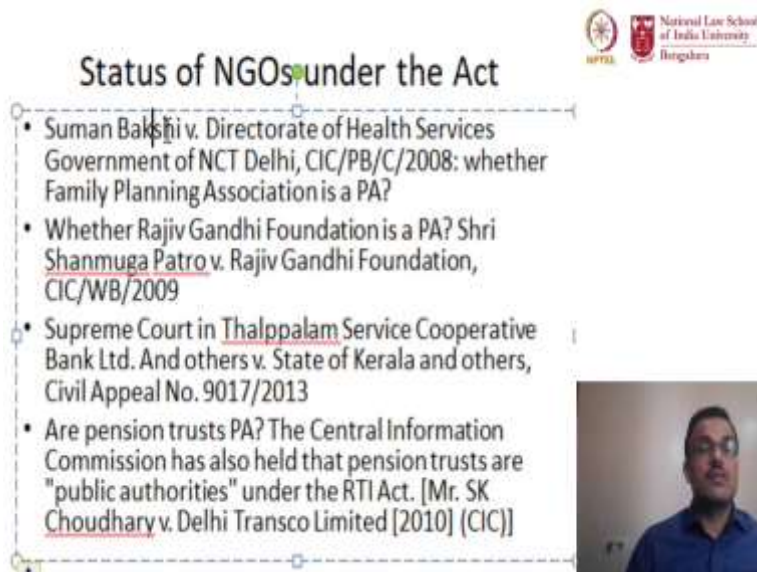


## Right to Information and Good Governance

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**Lecture 39**  
**Public Authority - VII**

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The slide is titled "Status of NGOs under the Act" and features a list of four bullet points. The first bullet point is "Suman Bakshi v. Directorate of Health Services Government of NCT Delhi, CIC/PB/C/2008: whether Family Planning Association is a PA?". The second is "Whether Rajiv Gandhi Foundation is a PA? Shri Shanmuga Patro v. Rajiv Gandhi Foundation, CIC/WB/2009". The third is "Supreme Court in Thalappalam Service Cooperative Bank Ltd. And others v. State of Kerala and others, Civil Appeal No. 9017/2013". The fourth is "Are pension trusts PA? The Central Information Commission has also held that pension trusts are 'public authorities' under the RTI Act. [Mr. SK Choudhary v. Delhi Transco Limited [2010] (CIC)]". In the top right corner of the slide, there is a logo for the National Law School of India University, Bangalore. In the bottom right corner, there is a small video inset showing a man with glasses and a blue shirt, presumably the speaker, Doctor Sairam Bhat.

This Suman Bakshi case, the complainant. She was a lady, Mrs. Bakshi, she was an ex-employee of this organization called Family Planning Association. She was an extension educator over there and she submitted an RTI application to the municipal corporation of Delhi, seeking certain kinds of information.

Now, in this case, interestingly, being an ex-employee of an organization and seeking information up to the said or the same organization, this was something that she was about to ask, but she did not ask it from directly from the Family Planning Association because the Family Planning Association had not appointed a PIO and had not accepted to come within the purview of the Right to Information Act.

Means she thought that because the municipal corporation of Delhi controls that organization, the municipal corporation would provide the said information. So, that is the reason and purpose behind why she went ahead and filed this application with the municipal corporation of India. Now later on you know it was kind of the matter was transferred and it was held by the Delhi government that the Family Planning Association is an NGO and it is not a public authority at all.

And it is headquarters is in Mumbai. And the RTI request, which was held by the NGO, that information had to be obtained and provided to the applicant. Now, in this case, the Information Commission wanted to know what is the status or background of the Family Planning

Association. So, what they did was, they asked to the Delhi government to check the background of the Family Planning Association, to check whether it is a public authority or not because the commission almost hinted about the fact that the Family Planning Association could be considered as public authority. Though that issue was not the direct issue before the commission, they did say that it was the duty of such organizations who are receiving aid and funding for the government to come within the purview of the Right to Information Act and put in a mechanism under which the right can be facilitated on.

So, in this case, the Commission gave a very broad recommendation and they said that it is up to the ministries and departments of the central government who should make an assessment of the kind of NGOs which are being financed by them. So that once the departments and ministers have a list of those NGOs that are being financed by them, they can ask these NGOs to implement the Right to Information Act.

And this will facilitate obtaining of information directly from such organizations and the Department of the Ministry will not be bothered for the same. So, this was something that was recommended in this case. And I think the recommendations are very prominent recommendation for the ministries and departments to suo moto find out the kind of non-governmental organizations that they are supporting and to issue directions to them so that they can come within the purview of the Right to Information Act.

So, I think the status of NGOs under the Act with the discussion of the Suman Bakshi's case, I think is a very prominent one. And I think this case was decided quite early in 2008 and I think it was expected, departments and ministries make a list of these non-governmental organizations and suo moto, proactively decide who should be accountable as a public authority and who should not be accountable as a public authority. And I think that is a very significant aspect that was coming out from this particular case.

So, let us go to the second one, and I think the second one is also very interesting. It is a case of Rajiv Gandhi foundation. Now the Rajiv Gandhi Foundation is a very important you know, non-governmental organization named after the former prime minister. Mrs., probably the family of headed by Mrs. Sonia Gandhi is the patron managing the Rajiv Gandhi Foundation. However, the issue in this case was very clear that a Delhi based lawyer Mr. Patro, he filed an RTI application and he was very clear that Rajiv Gandhi Foundation was not replying or responding to his RTI application at all.

So, aggrieved by the fact that the Rajiv Gandhi Foundation was not providing information to him Mr. Patro decided that he will challenge this before the Central Information Commission, and he would want the Central Information Commission to decide whether the Rajiv Gandhi Foundation is a public authority or not. Now, so you know, if you look at this case, the Rajiv Gandhi Foundation, this is what the petitioner argued, was involved in large scale public activity. And by the virtue of the kind of activities that it had assumed the character of this organization is that of a public authority.

Interestingly this foundation had received nearly 4 percent of funding from the government. So, this was something that was stated and it was accepted at all and the Commission had to evaluate whether seeking 4 percent funding is sufficient for declaring Rajiv Gandhi Foundation as a public authority or not.

Now, the matter from the Central Information Commission went to the Delhi high *court as well and the Delhi high court also was asked to intervene in this case.* And the Delhi high court very clearly wanted to know what is a status of the accounts. And hence what they ask from the Rajiv Gandhi Foundation is to submit their audited account. So, that there is very clear about the role of the NGO, which was very clear that it was not established by the government. Neither was it controlled by the government.

However, to know whether it was sufficiently financed, the audited statement and account was something that was summoned by the Delhi high court. Interestingly, in this case, the board of trustees is something you know how does a board of trustees get nominated? Again, you will notice that the board of trustees, were not controlled by the government. And the board of trustees were independent, they had nothing to do with a government.

The government did not have any intervention with a board of trustees as well. However, because it was receiving that 4 percent funding from the government the question of its accountability under the RTI was clearly established, or clearly asked for if I may say so. The next point in the Rajiv Gandhi Foundation which is relevant and important most about the land, interestingly the land was allotted by the government to the Rajiv Gandhi Foundation at a very nominal price, and there was a perpetual lease that was granted in the year 1998 and hence four percent funding, land at a nominal price, which was a perpetual lease.

These were factors in terms of how probably the Delhi High Court wanted to evaluate whether the Rajiv Gandhi Foundation can be declared as a public authority or not. So, that is also an interesting episode for us to view and check and know how probably NGOs are tested under the RTI Act.

And according to me, if the Rajiv Gandhi Foundation is held to be a public authority that would be a very significant milestone in the way accountability is ensured from some of these organizations that have been kind of an agency of the government, but not the government itself.

But I think four percent funding should be a good enough funding for it to be covered within the domain of public authority. Anyway, that is my view, I think wait for the view of the high court to also state very clearly, what is the status of the Rajiv Gandhi Foundation. Is it a public authority or is it not a public authority?