

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 33028 of 2015 (C)

PETITIONER:

THE KERALA STATE CO-OPERATIVE BANK LTD.,
CO-BANK TOWERS, PALAYAM, THIRUVANANTHAPURAM-695 033
REPRESENTED BY THE MANAGING DIRECTOR.

BY ADV. SRI.GEORGE POONTHOTTAM, SC, KERALA STATE

RESPONDENTS:

1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.
2. THE DEPUTY REGISTRAR(ADMINISTRATION),
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.
3. THULASEEDHARAN.N.K,
GANGOTHRY, TC 18/777-7, KRA 175-2,
AARAMADA.P.O, PIN-695 032.
4. THE STATE INFORMATION COMMISSION,
PUNNEN ROAD, THIRUVANANTHAPURAM-695 001
REPRESENTED BY ITS SECRETARY.

R4 BY ADV. SRI.M.AJAY, SC, STATE INFORMATION COMMISSION

R3 BY ADV. SRI.V.P.PRASAD

R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 33028 of 2015 (C)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

P1 TRUE COPY OF THE INTERIM ORDER IN WP(C)22652/2015 DATED 28-7-2015.

P2 TRUE COPY OF THE COMMUNICATION AND ITS ENGLISH TRANSLATION
DATED 11.2.2015.

P3 TRUE COPY OF THE APPEAL DATED 28-5-2015.

P4 TRUE COPY OF THE COMMUNICATION NO.C.B.(1)29786/2015 DATED 24-6-
2015 AND ITS ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 33028 of 2015 (C)

Dated this the 16th day of November, 2015.

JUDGMENT

As the record bears out, the third respondent initially filed an application before the Public Information Officer of the petitioner Bank seeking certain information; it was, however, rejected through Ext.P2 on the ground that the petitioner Bank does not fall within the purview of the Right to Information Act, 2005. Aggrieved, the third respondent has filed a First Appeal before the Additional Registrar (ICDP), who has also dismissed the appeal, thereby concurring with the findings of the Public Information Officer of the petitioner Bank.

2. Undaunted, the third respondent has further taken the matter in Second Appeal before the 4th respondent. As a consequence, the Additional Registrar (ICDP), the First Appellate Authority, issued Ext.P4 notice to the petitioner Bank seeking a detailed report, ostensibly, to be submitted before the Second Appellate Authority. Ext.P4 order, nevertheless, reads as if it had been a declaration by the Additional Registrar (ICDP) that the

petitioner Bank is a public authority and that it had to comply with the statutory requirement. Under these circumstances, assailing Ext.P4, the petitioner has filed the present writ petition.

3. The learned Standing Counsel for the 4th respondent has submitted that since the Second Appeal is pending before the 4th respondent, the adjudicatory authority concerned required the Additional Registrar (ICDP) to submit the records as well as a report on the issue raised by the third respondent. According to him, in that context, the First Appellate Authority seems to have issued Ext.P4 only with a view to collecting information from the petitioner.

4. The learned Standing Counsel has also, candidly, submitted that a prima facie reading of Ext.P4 would indicate as if the First Appellate Authority, after rejecting the claim of the third respondent, had a change of heart and declared that the petitioner Bank was a public authority. The gravamen of the learned counsel's submission is that since the Additional Registrar (ICDP), the author of Ext.P4, is not the adjudicatory authority in the Second Appeal, the contradictory content of the communication is of no consequence.

5. The learned counsel for the petitioner, on the other hand, has submitted that Ext.P4 is nothing but a declaration of what has

been rejected by the very authority: that the petitioner is amenable to the process under the Right to Information Act. In that context, he has urged this Court to set aside Ext.P4.

6. The learned counsel for the third respondent, on the other hand, has submitted that while the matter is adjudicated upon by the 4th respondent, the third respondent may be given sufficient opportunity.

7. Heard the learned counsel for the petitioner, the learned Government Pleader, and the learned counsel for the 3rd respondent, apart from perusing the record.

8. Ext.P4, a communication from the Additional Registrar (ICDP), who is not made a party in the present writ petition, is janus-faced. In one breath, it declares that the petitioner Bank is a public authority; in the other, it only seeks a detailed report from the petitioner Bank in compliance with, presumably, a communication issued earlier by the 4th respondent.

9. Be that as it may, the fact remains that the very Additional Registrar (ICDP), acting as the appellate authority, earlier rejected the appeal filed by the third respondent. Under these circumstances, since Ext.P4 is to be treated as a communication from the Additional

Registrar (ICDP) to the petitioner Bank seeking a report; the incidental, inconsequential observation that the petitioner Bank is a public authority, in my considered view, is of no consequence. Since it does not have any binding effect, it does not require any judicial invalidation, either.

10. In the facts and circumstances, it is made clear that the petitioner may provide the necessary report concerning the issue pending before the 4th respondent and take part in the adjudication. It is further made clear that the 4th respondent, on receipt of the report sought, may further proceed with the adjudication of the Second Appeal, after affording an opportunity of hearing to both the parties and dispose it of as expeditiously as possible.

Given the apprehension expressed by the learned counsel for the petitioner, the fourth respondent may frame a preliminary issue on the maintainability of the proceedings and adjudicate accordingly.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv/dmr

