

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

225

CWP-1220-2016

Decided on : 24.10.2016

*The Boparai Kalan Cooperative Multi Purpose Agricultural Service
Society Ltd.*

... Petitioner

Versus

The State Information Commission, Punjab and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present : Mr.Ashwani Prashar, Advocate
for the petitioner.

Mr.S.S.Chandumajra, Addl.AG, Punjab.

Mr.Sukhminder Singh, Advocate for
Mr.A.S.Cheema, Advocate for respondent No.2.

G.S.Sandhawalia, J. (Oral)

Petitioner seeks the quashing of the orders dated 23.12.2015 and 07.01.2016, (Annexures P/4 and P/5) passed by the respondent No.1 & 3, Commission and Assistant Registrar Cooperative Societies, Jagraon, respectively. As per the said order dated 23.12.2015, the respondent-Commission directed the respondent No.3 to collect information from the petitioner society, and provide the same to the applicant as per para No.52 of the judgment of Apex Court in case **Thalappalam Ser. Cooperative Bank Ltd. and others** Vs. **State of Kerala and others**, 2013 (16),SCC 82. Directions were also given to appear before the Commission failing which action under Section 20

(1) the Right to Information Act, 2005 was to be initiated.

In pursuance of the said directions, communication letter dated 07.01.2016 (Annexure P/5), was issued by respondent No.3 to the petitioner society that information be prepared as per point 4 of the application and the same be sent to the said office so that the report could be prepared before the respondent-Commission.

Counsel for the petitioner has pointed out that in the appeal, the petitioner society has not been arrayed as party and resultantly, it is submitted that the order has been passed at his back and against the principles of natural justice.

The respondent No.2 has chosen not to file its response to the writ petition, even though the counsel had put in appearance on 18.02.2016.

The above arguments finds merit.

In view of the interim directions issued, the respondent No.3 is thus, acting upon the same. Such directions would thus, not be maintainable and have given no opportunity to the petitioner to defend its case. The impugned order does not show in any manner whether the information asked for in point 4 of the application was of such nature that the respondent No.3 could have access to it under the provisions of the Punjab Cooperative Societies, Act, 1961, and would fall within the ambit of Thalappalam (supra) as held in para No.52 which reads as under:-

52. Registrar of Cooperative Societies functioning under the Cooperative Societies Act is a public authority within the meaning of Section 2(h) of the Act. As a public authority, Registrar of Co-operative Societies has been conferred with lot of statutory powers under the respective Act under which he is functioning. He is also duty bound to comply with the obligations under the RTI Act and furnish information to a citizen under the RTI Act. Information which he is expected to provide is the information enumerated in Section 2(f) of the RTI Act subject to the limitations provided under Section 8 of the Act. Registrar can also, to the extent law permits, gather information from a Society, on which he has supervisory or administrative control under the Cooperative Societies Act. Consequently, apart from the information as is available to him, under Section 2(f), he can also gather those information from the Society, to the extent permitted by law. Registrar is also not obliged to disclose those information if those information fall under Section 8(1)(j) of the Act. No provision has been brought to our knowledge indicating that, under the Cooperative Societies Act, a Registrar can call for the details of the bank accounts maintained by the citizens or members in a cooperative bank. Only those information which a Registrar of Cooperative Societies can have access under the Cooperative Societies Act from a Society could be said to be the information which is “held” or “under the control of public authority”. Even those information, Registrar, as already indicated, is not legally obliged to provide if those information falls under the exempted category mentioned in Section 8(j) of the Act. Apart from the Registrar of Co-operative Societies, there may be other public authorities who can access information from a Co-operative Bank of a private account maintained by a member of Society under law, in the event of which, in a given situation, the society will have to part with that information. But the demand should have statutory backing.”

In such circumstances, the present writ petition is allowed
and orders dated 23.12.2015 and 07.01.2016, (Annexures P/4 and P/5)

are quashed. It would be open for the respondent No.2 to implead the petitioner-society in the appeal which is already pending. Thereafter, it will be open for the respondent-commission to issue notice to the petitioner so that it can present its case before the respondent-Commission also.

With the above observations, writ petition is allowed.

[G.S.Sandhawalia]
Judge

24.10.2016

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No