

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15324 of 2015

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Mahendra Singh, son of Late Chulahi Singh, resident of village -Karahana, P.S. -
Keshariya, District - East Champaran at Motihari.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Cooperation,
Government of Bihar, Patna.
2. The Registrar, Co-operative Societies, Bihar, Patna.
3. The State Information Commissioner, through its Secretary, Information
Building, Patna, Bihar.
4. The Branch Manager, Motihari District Central Co-operative Bank, Keshariya,
East Champaran at Motihari.
5. Sri Arvind Kumar Singh, son of Sri Sambhu Sharan Singh resident of village -
Karahana, P.S. - Keshariya, District - East Champaran at Motihari.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent-State	:	Mr. Sanghamitra Ghosh, AC to GP-15
For the Respondent No.4	:	Mr. Bindhyachal Rai, Advocate
For the Respondent-SIC	:	Mr. Vivek Anand Amrithesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-11-2017

The petitioner has prayed for the following reliefs in
the present writ petition:-

- (i) For issuance of Writ in the nature of certiorari
of any other appropriate writ/order/direction for
quashing the order dated 08.08.2015, passed by
the Public Information Officer-cum-Branch
Manager of the Motihari District Central
Co-operative Bank Limited, Keshariya, East
Champaran at Motihari, issued in the name of
the petitioner, whereby a direction was given to



the petitioner to provide information in terms of the order dated 22.06.2015;

- (ii) For quashing the order dated 22.06.2015 issued by the State Information Commission, Bihar, Patna;
- (iii) For restraining the respondents not to issue such direction/order to the petitioner in terms of the law laid down by the Hon'ble Apex Court in the case of Thalappalam Ser. Co-operative Bank vs. State of Kerala and others;
- (iv) For grant of any other relief/reliefs to which the petitioner may be found deemed legally entitled to in the facts and circumstances of the case.

2. The petitioner is a Chairman of the Karahan Primary Agriculture Credit Society Limited, Keshariya, East Champaran at Motihari (for short 'PACS').

3. The respondent no.5 filed an application on 16.05.2012 under Right to Information Act, 2005 (for short 'R.T.I. Act') before the Branch Manager of the Motihari District Central Co-operative Bank Limited, Keshariya, East Champaran at Motihari (for short 'the Bank') whereby he sought information with respect to crop insurance for the session 2007-08. The desired information was not supplied to respondent no.5 whereafter, he approached the State Information Commission, Bihar, Patna and instituted a case being Case No.100985/13-14. The State Chief Information Commissioner,



vide his order dated 22.06.2015, issued a show cause notice to the Branch Manager of the Bank to assign reasons as to why information was not given to the complainant (respondent no.5) and, thereafter, in purported exercise of powers under Section 20(1) of the R.T.I. Act, the Information Commissioner inflicted Rs. 250 per day, totaling Rs. 25,000/- as fine to the Bank and directed it to provide information to respondent no.5 within fortnight. The next date of hearing of the case was fixed on 04.09.2015.

4. The Branch Manager-cum-Public Information Officer of the Bank issued letter bearing letter No.149 dated 08.08.2015 to the petitioner whereby he was directed to furnish the desired information sought by the respondent no.5. On receipt of the aforesaid communication dated 08.08.2015, the petitioner filed the present writ petition contending that the PACS cannot be held responsible for not providing the information under the R.T.I. Act as also that the office bearers of the PACS are not “public authority” within the meaning of Section 2(h) of the R.T.I. Act.

5. While issuing notice to the respondent no.5, vide order dated 01.10.2015, this Court stayed the further proceedings in Case No. 100985/13-14 pending before the State Information Commissioner, Bihar, Patna until further orders.

6. Mr. Sanjay Kumar, learned counsel appearing for



the petitioner submitted that the issue involved in the present case is no more *res integra*. It has already been settled by the Hon'ble Supreme Court in the matter of **Thalappalam Ser. Co-operative Bank Ltd. & Ors. vs. State of Kerala and others [(2013) 16 SCC 82]** that Co-operative societies under the Kerala Co-operative Societies Act do not fall within the definition of "public authority" as defined under Section 2(h) of the R.T.I. Act. He submitted that there is no contribution/share of the State Government in the PACS. The management of the PACS is vested in the duly constituted Managing Committee. It is neither State under the purview of Article 12 of the Constitution nor "public authority" within the purview of Section 2(h) of the R.T.I. Act.

7. Learned counsel appearing for the Bank has supported the contention of the petitioner Mr. Vivek Anand Amritesh, learned counsel appearing for the State Information Commission also admitted that in view of the ratio laid down in **Thalappalam Ser. Co-operative Bank Ltd.** (Supra), the co-operative societies registered under the Bihar Co-operative Societies Ac, would not fall within the definition of "public authority" as defined under Section 2(h) of the R.T.I. Act.

8. Be it noted that despite valid service of notice, respondent no.5 has chosen not to contest the matter.



9. I have heard learned counsel for the parties and perused the materials on record.

10. In view of the provisions made under the R.T.I. Act, the Co-operative Societies are not “public authority” under Section 2(h).

11. Under Section 2(h) of the R.T.I. Act “public authority” means 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 organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

12. There is no dispute to the fact that the issue raised in the present writ petition stands settled by the Hon’ble Supreme Court in **Thalappalam Ser. Co-operative Bank Ltd.** (Supra).

13. Admittedly, the Management of the PACS is vested in the duly constituted private Management Committee. It is not State under the purview of Article 12 of the Constitution of



India. Similarly, since the PACS are neither directly nor indirectly funded by the State Government, the same cannot be said to be “public authority” under Section 2(h) of the R.T.I. Act. The PACS is a body corporate within the meaning of Section 13 of the Bihar Co-operative Societies Act having perpetual succession and it has ample power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all necessary things for the purpose of which it was constituted.

14. In the aforesaid background of the matters, the PACS of the petitioner cannot be held responsible for not providing information under the R.T.I. Act.

15. Accordingly, the order dated 22.06.2015 passed by the State Information Commissioner, Bihar, Patna in Case No.100985 of 2013-14 and the order dated 08.08.2015 passed by the Public Information Officer-cum-Branch Manager of the Bank are set aside.

16. The writ petition stand allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2017
Transmission Date	NA

