

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM:

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.6852 of 2014

and

W.M.P. No.2 of 2014

S.1314, Periyasolipalayam
Primary Agricultural Co-operative
Credit Society Ltd,
Rep. by its President

..Petitioner

Vs.

1. The Registrar of
Co-operative Societies,
No.170, N.V.N Maligai,
Kilpauk, Chennai - 10
2. The Additional Registrar of
Co-operatives (ICDP)
O/o The Registrar of
Co-operative Societies,
No.170, N.V.N Maligai,
Kilpauk, Chennai - 10
3. The Deputy Registrar of
Co-operative Societies,
Tiruchengode Circle,
Tiruchengode,
Namakkal District.
4. K.S.Vivekanandan,
Awareness Committee,
Editor Makkal Pulanaivu
Monthly Magazine,
Kabilarmalai Post,
Namakkal District.

..Respondents

PRAYER: This Writ petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, calling for the records of the 1st respondent in Rc.No.149476/2005 AR, dated 25.11.2005, consequential revised orders passed by the 2nd respondent in Rc.No.66860/2013 AR1, dated 06.09.2013,

Rc.No.66860/2013 AR1, dated 23.10.2013, the revised order passed by the 3rd respondent Na.Ka.No.2631/2013 Pa.Tho dated 12.11.2013 and the subsequent letter issued by the 3rd respondent in Na.Ka.No.234/2014 Pa.Tho dated 04.02.2014 directing to issue copies required to the 4th respondent quash them holding that the co-operative society registered under the Tamilnadu Co-operative Societies Act will not fall within the definition of "public authority" as defined under Section 2(h) of the RTI Act and pass further orders.

For petitioner : Mr.M.S. Palanisamy

For Respondents : Mr.V.Selvaraj
Addl. Government Pleader for R1 to R3
: Mr. A.D. Janarthanan for R4

O R D E R

This Writ Petition has been filed seeking to quash the order of the 1st respondent in Rc.No.149476/2005 AR, dated 25.11.2005, the consequential revised orders passed by the 2nd respondent in RC. No.66860/2013AR1 dated 06.09.2013, Rc.No.66860/2013 AR1 dated 23.10.2013, the revised order passed by the 3rd respondent in Na.Ka.No. 2631/2013 Pa.Tho dated 12.11.2013 and the subsequent letter issued by the 3rd respondent in Na.Ka.No.234/2014 Pa.Tho dated 04.02.2014 directing to issue copies required by the 4th respondent, holding that the co-operative society registered under the Tamilnadu Co-operative Societies Act will not fall within the definition of "public authority" as defined under Section 2(h) of the RTI Act.

2. Learned counsel for the petitioner submitted that the petitioner is the elected President of the Society. By letter dated 12.11.2013, the 3rd respondent sought for certain information and documents regarding appointment of Information Officers in Cooperative Societies. And the 4th respondent also requested for certain copies of documents. It is further submitted that the final authority rests with General Body of its members and not with the Registrar of Co-operative Societies or State Government. According to the petitioner, the Co-operative Society is not a body, which is controlled by the Government and hence does not fall within the definition of Section 2(h) of the Rights to Information Act. In view of the above legal position, this writ petition is filed to set aside the letters of the respondents seeking information and documents.

3. When the matter was taken up for final disposal, learned counsel appearing for both the parties submitted that the relief prayed for, in the present writ petition is squarely covered by the decision of the Hon'ble Supreme Court in the case

of Thalappalam Service Co-operative Bank Ltd. & Ors., vs. State of Kerala & Ors., reported in 2013 (6) CTC 98 (SC) and the judgement of the Division Bench of this Court in the Public Information Officer vs. The Registrar, Tamil Nadu Information Commission reported in 2015 (4) CTC 105.

4. In paragraph 54 of the judgment in (2013) 7 MLJ 407 (SC) in the case of Thalappalam Services Cooperative Bank Ltd. and others Vs. State of Kerala and others, the Hon'ble Supreme Court has held as follows:

"We, therefore, hold that the Cooperative Societies registered under the Kerala Co-operative Societies Act will not fall within the definition of public authority as defined under Section 2(h) of the RTI Act and the State Government letter dated 05.05.2006 and the circular dated 01.06.2006 issued by the Registrar of Co-operative Societies, Kerala, to the extent, made applicable to societies registered under the Kerala Co-operative Societies Act would stand quashed in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. Appeals are, therefore, allowed as above, however, with no order as to costs. "

In Paragraph 9 of the decision in The Public Information Officer Vs. The Registrar, Tamilnadu Information Commission and others etc., reported in 2015 (4) CTC 105, the Hon'ble Division Bench of this Court has held as follows:

"9. In the light of the above, we have no hesitation to hold that the legal issue arising in these Appeals are squarely covered by the decision of the Hon'ble Supreme Court in the case of Thalappalam Ser. Coop. Bank Ltd. And others V. State of Kerala and others, 2013 (6) CTC 98 (SC). The distinction sought to be drawn by the learned counsel for the respondent stating that the provisions of the RTI Act would be applicable to cases where the Government Officers are appointed to function as Special Officers of the society, when there is no elected Board of Directors, could hardly make any difference in the light of the recent pronouncement of the Hon'ble Supreme Court. The learned Counsel appearing for the Appellants submitted that for all the societies, elections were conducted and the societies are managed by the elected members."

5. In view of the aforesaid decisions, I have no hesitation to quash the proceedings passed by the 1st respondent in Rc.No.149476/ 2005 AR, dated 25.11.2005, consequential revised orders passed by the 2nd respondent in Rc.No.66860/2013 AR1, dated 06.09.2013, Rc.No.66860/2013 AR1, dated 23.10.2013, the revised order passed by the 3rd respondent Na.Ka.No.2631/2013 Pa.Tho dated 12.11.2013 and the subsequent letter issued by the 3rd respondent in Na.Ka.No.234/2014 Pa.Tho dated 04.02.2014. Hence, the impugned order is quashed and the writ petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

avr

To

1. The Registrar of Co-operative Societies, No.170, N.V.N Maligai, Kilpauk, Chennai - 10
2. The Additional Registrar of Co-operatives (ICDP) O/o The Registrar of Co-operative Societies, No.170, N.V.N Maligai, Kilpauk, Chennai - 10
3. The Deputy Registrar of Co-operative Societies, Tiruchengode Circle, Tiruchengode, Namakkal District

+1 CC to Mr.A.J. Jananthanam, Advocate sr 44291
+1 Cc to Mr.M.S.Palanisamy, Advocate sr 46410.
+1 CC to Govt. Pleader sr 46767.

W.P.No.6852 of 2014
and
M.P.No.2 of 2014

SJ(CO)
sp(05/09/2017)