

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

WP.No.26242 of 2014

and

M.P.No.1 of 2014

S.A.46, Puthiragoundanpalayam
Primary Agricultural Co-operative
Credit Society Ltd.,
Rep. by its Secretary,
Puthiragoundanpalayam - 636 119.

....Petitioner

Vs.

1. The Joint Registrar/
Public Information Officer,
O/o. The Joint Registrar
of Co-operative Societies,
Salem Region,
Salem - 1.

2. T.Annathurai

...Respondents

PRAYER: The Writ petition is filed under the Article 226 of the Constitution of India to call for the records relating to the letter dated 18.06.2014 issued by the 1st respondent in Na.Ka.195/2014 SaBa (3) directing to furnish the information to the 2nd respondent and quash the same holding that the co-operative society registered under the Tamil Nadu Co-operative Societies Act will not fall within the definition of "Public authority" as defined under Section 2(h) of the RTI Act.

For Petitioner :Mr.N.Subramanian

For Respondents:Mr.V.Selvaraj

Addl. Government Pleader for R!

:Mr.N.Subramani for R2

ORDER

This Writ Petition has been filed seeking to quash the letter dated 18.06.2014 issued by the 1st respondent in Na.Ka.195/2014 SaBa (3) directing to furnish the information to the 2nd respondent, holding that the co-operative society registered under the Tamil Nadu 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 Secretary of the Society. By letter dated 20.05.2014, the 2nd respondent sought for certain information under Right to Information Act. 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 letter of the respondent seeking information.

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 dated 18.06.2014 passed by the 1st respondent in Na.Ka.195/2014 SaBa (3) 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

The Joint Registrar/
Public Information Officer,
O/o. The Joint Registrar
of Co-operative Societies,
Salem Region, Salem - 1.
+1 CC to Govt. Pleader sr 46566.

WP.No.26242 of 2014
and
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SJ (CO)
sp (05/09/2017)