

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5948 of 2015

M/s. E.H.138, Annai Sathya Weavers
Cooperative Production & Sales Society Ltd,
Rep, by its President,
T.V.Appachi,
Thudupathi,
Perundurai Taluk,
Erode District. ... Petitioner

Vs.

- 1) The Textiles Control Officer/
Public Information Officer,
O/o Assistant Director of Handlooms & Textiles,
426, Bhavani Main Road,
Ashokapuram,
Erode District.
- 2) The Managing Director,
Public Information Officer,
E.H.138, Annai Sathya Weavers
Cooperative Production & Sales Society Ltd,
Thudupathi, Perundurai Taluk,
Erode District.
- 3) P.L.Palanisamy .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents 1 and 2 from furnishing any particulars relating to affairs of the petitioner's Society to the 3rd respondent as sought petitioner's for in his representation dated 08.01.2015.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.K.V.Dhanapalan, for R1
Special Government Pleader.
Mr.V.Jayaprakash Narayanan for R2
Mr.Gopinath for R3.

ORDER

Today, when the matter is taken up for hearing, there was no representation for the third respondent. Learned counsel for the other respondents, namely Mr.K.V.Dhanapalan, Special Government Pleader appearing for the first respondent and Mr.V.Jayaprakash Narayanan appearing for the second respondent entered appearance. During the last hearing dated 03.07.2017, this writ petition was posted "for orders" on 04.07.2017. But, today (04.07.2017), when the matter is called for hearing, there was no representation either by the counsel or by the third respondent and hence, the matter is taken up on merits.

2. Learned counsel for the writ petitioner has sought for a relief that the 3rd respondent has no right to seek for the particulars from the writ petitioner based on the representation dated 08.01.2015, as the Cooperative Society is not a "State" under Article 12 of the Constitution of India and that in terms of Section 2(h) of the Right to Information Act, the Cooperative Society cannot be termed as a "public authority" by following the judgment of the Apex Court reported in 2013 (6) CTC 98 in the case of Thalappallam Ser.Co-operative Bank Limited Vs. State of Kerala. Further, a Division Bench of this Court, vide order dated 29.04.2015 in Writ Appeal Nos.2425 to 2428 and 2500 of 2013 batch, held that the Right to Information Act is not applicable to the Co-operative Societies and rejected the contention of the person who is seeking for the details on the ground that when the Government officers are appointed to function as Special Officers, then the details from the Cooperative Society can be sought for. In view of the same, I find that there is no merit in the relief sought for as against the third respondent, seeking for the particulars from the writ petitioner and hence, the writ petition has to be allowed.

3. Further, in view of the decision of a Full Bench of this Court in the case of K.Marappan Vs. The Deputy Registrar of Co-operative Societies, Namakkal and another, reported in 2006 (4) CTC 689 = 2006 (4) LW 495, the writ petition may not lie against a Co-operative Society, except to enforce the statutory/public duty cast upon the Society. Even a Society cannot be termed as an instrumentality of the "State", under the Constitution of India, as there is no due enforcement of statutory right and the writ petition may lie, but there is no case here, as Section 2 (h) of the Right to Information Act has been interpreted by the Apex Court in the said decision, which also held that Section 2 (h) of the Right to Information Act defining 'public authority'

would by no stretch of imagination, be extended to a Cooperative Society. Hence, this petition is allowed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To:

- 1) The Textiles Control Officer/
Public Information Officer,
O/o Assistant Director of Handlooms & Textiles,
426, Bhavani Main Road, Ashokapuram,
Erode District.
- 2) The Managing Director,
Public Information Officer,
E.H.138, Annai Sathya Weavers
Cooperative Production & Sales Society Ltd,
Thudupathi, Perundurai Taluk, Erode District.

+1cc to Mr.I.C.Vasudevan, Advocate in sr.no.46316
+1cc to Mr.V.Jayaprakash Narayanan, in sr.no.46310

Order in
W.P.No.5948 of 2015

MSM(CO)
NR 10/08/2017

सत्यमेव जयते
WEB COPY