

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.29677 of 2011
and M.P.No.2 of 2011

Rajamani

.. Petitioner

vs.

1.The Handloom Officer,
Handloom & Textiles
Public Information Officer,
No.23, Bharathi Park 2nd Cross Road,
Saibaba Colony, Coimbatore 11.

2.The Special Officer/Public Information Officer,
C.H.168, Sennampalayam Magaleer,
Handloom Weavers Co-op.Society Ltd.,
Sirumugai Post, Mettupalayam Taluk,
Coimbatore District.

3.R.Ponnammal

.. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.785/2011/C, dated 15.12.2011 and quash the same.

For Petitioner : Mrs.Hemalatha for
Mr.C.Prakasam

For R1 & R2 : Mr.M.Karthikeyan
Addl.Govt.Pleader.

For R3 : Mr.P.Muthukrishnan

O R D E R

The petitioner has filed the Writ Petition praying to issue a writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.785/2011/C, dated 15.12.2011 and quash the same.

2. According to the learned counsel for the petitioner, the

petitioner is one of the member of the second respondent Society and was nominated as President of the said Society in the year 2000-2003. It is further submitted that the third respondent made a representation to the first respondent seeking particulars under the Right to Information Act. The first respondent directed the second respondent to furnish the details to the third respondent. Challenging the said order, the petitioner has filed the present writ petition before this Court.

3. The learned counsel for the petitioner would submit that the subject matter in issue under the Right to Information Act, has been considered by 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). Following the above decision of the Hon'ble Supreme Court, this Court by order dated 29.04.2015 has allowed the appeals in W.A.Nos.2425 to 2428 and 2500 of 2013, The Public Information Officer vs. The Registrar , Tamil Nadu Information Commission, 37, Annasalai, Teynampet, Chennai-18 and two others reported in 2015(4) CTC 105, wherein, at para Nos.6 and 9, this Court has held as follows:

"6. In the case of Thalappalam Ser.Coop.Bank Ltd., and others v.State of Kerala and others, 2013(6) CTC 98 (SC), Appeals were filed by Co-operative Societies and the question which fell for consideration before the Hon'ble Supreme Court was whether a Co-operative Society registered under the Kerala Co-operative Societies Act, 1969, will fall within the definition of " Public Authority" under Section 2(h) of the RTI Act and be bound by the obligations to provide information sought for by a citizen under the RTI Act. On behalf of the Co-operative Societies, it was contended that the Societies are not statutory bodies and are not performing any public functions and will not come within the expression " State" within the meaning under Article 12 of the Constitution of India. The State of Kerala sought to sustain the Circular issued by the Registrar of Co-operative Societies by contending that the Registrar has got all pervasive control over the Societies with power to supersede the management of the Society and to appoint an Administrator and this would indicate that though the Societies are body corporates, they are under the statutory control of Registrar of Co-operative Societies. Before the Hon'ble Supreme Court, the Co-operative Societies registered under the provisions of the Kerala Act, which are owned, controlled or substantially financed by the State or Central Government or formed, established or constituted by law made by

Parliament or State Legislature, were not subject matter of consideration. In other words, the Appeals related to cases pertaining to Co-operative Societies which do not fall in the above mentioned categories.

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.Co-op.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 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."

In the above decision, this Court has held that the Co-operative societies will not fall within the definition of Public Authority as defined under Section 2(h) of the RTI Act, 2005.

4. The learned counsel appearing for the respondent has not disputed the said fact.

5. Therefore, the principles laid down in the above said decisions squarely applicable to the facts of the present case. Hence, the impugned order passed by the first respondent dated 15.12.2011 is liable to be quashed.

6. Accordingly, the impugned order is quashed and consequently, the writ petition is allowed. No cost. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

kkd

To

- 1.The Handloom Officer,
Handloom & Textiles
Public Information Officer,
No.23, Bharathi Park 2nd Cross Road,
Saibaba Colony, Coimbatore 11.
 - 2.The Special Officer/Public Information Officer,
C.H.168, Sennampalayam Magaleer,
Handloom Weavers Co-op.Society Ltd.,
Sirumugai Post, Mettupalayam Taluk,
Coimbatore District.
- +1 CC to Mr.C.Prakasam,Advocate sr 86954.

W.P.No.29677 of 2011
and M.P.No.2 of 2011

RSI (CO)
SP(11/02/2019)