

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32351 of 2016

and

WMP.No.28082 of 2016

K.Mani

..Petitioner

vs

1.The Textile Control Officer/Public Information Officer,
O/o. Assistant Director of Handloom & Textiles,
No.426, Bhavani Main Road, Ashokapuram, Erode.

2.The Managing Director/Public Information Officer,
E.H.63, Engur Handloom Weaver's Co-operative,
Production & Sale Society Limited,
No.36, Kathir Avenue, Ellamedu Main Road,
Engur Post, Perundurai-638 058, Erode District.

3.M.Sivasubramaniam ... 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
No.Th.A.U.Sa.7429/2016/G, dated 20.06.2016 and quash the same.

For Petitioner : Mr.C.Prakasam

For R 1 : M/s.A. Sri Jayanthi,
Special Government Pleader

For R2 : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operatives)

For R3 : Mr.K.V.Shanmuganathan

O R D E R

The relief sought for in this writ petition is to quash the order passed by the first respondent / Public Information Officer in proceedings No.Th.A.U.Sa.7429/2016/G, dated 20.06.2016 directing the Managing Director/Public Information Officer of a co-operative society to provide informations as sought for by the third respondent under the provisions of the Right to Information Act.

2. Mr.K.V.Shanmuganathan, the learned counsel appearing on behalf of the third respondent, fairly made a submission that the issue had already been settled by the Hon'ble Division Bench as well as by the Apex Court of India. The judgment of the Hon'ble First Bench of this court dated 29.04.2015 in Writ Appeal No.2425 to 2428 & 2500 of 2013 is cited and the paragraph Nos.7 and 8 of the judgment are extracted hereunder:

"7.On the first issue with regard to Co-operative Societies and Article 12 of the Constitution, the Hon'ble Supreme Court pointed out that a clear distinction can be drawn between a body which is created by a statute and a body much after having come into existence is governed in accordance with the provisions of a statute and the societies which were subject matter of the appeals were held to fall under the later category, i.e., governed by the Kerala Societies Act and not statutory bodies, but only body corporate within the meaning of Section 9 of the Kerala Co-operative Societies Act. After referring to several decisions of the Hon'ble Supreme Court, it was held that the said societies which were subject matter of those appeals will not fall within expression 'State' or 'instrumentally of the State' within the meaning of Article 12 of the Constitution.

8.On the next issue relating to Constitutional provisions and Co-operative autonomy, it was held that co-operative societies are not treated as unit of self Government like Panchayat and Municipalities. The Hon'ble Supreme Court then proceeded to examine the provisions of the Right to Information Act, the effect of words 'substantially financed' and the restrictions and limitations, which could be imposed in the larger public interest and held that the co-operative 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."

3.In view of the legal principles settled in the judgment cited supra, the case of the writ petitioner is to be considered. Accordingly, the applications submitted under the Right to Information Act is to be entertained and the informations in accordance with the provisions are to be provided by the Public Information Officer.

4.Accordingly, the impugned order passed by the first respondent in proceedings No.Tha.A.U.Sa.7429/2016/G, dated 20.06.2016 is quashed and the writ petition stands allowed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1.The Textile Control Officer/Public Information Officer,
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2.The Managing Director/Public Information Officer,
E.H.63, Engur Handloom Weaver's Co-operative,
Production & Sale Society Limited,
No.36, Kathir Avenue, Ellamedu Main Road,
Engur Post, Perundurai-638 058, Erode District.

+1 CC to Govt. Pleader sr 37901.

+1 CC to Mr.K.V. Shanmuganathan, Advocate sr 37386.

+1 CC to Mr.C. Prakasam, Advocate sr 37317.

+1 CC to Mr.L.P. Shanmugasundaram, Advocate sr 37187.

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SV(CO)
SP(25/06/2018)