

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

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

W.P.No.31747 of 2019

&

W.M.P.Nos.31958 & 31961 of 2019

C.H.02, Chennimalai Siragiri Murugan Handloom
Weaver's Co-operative Production and Sale Society,
Rep by its President N.Elangovan. ...Petitioner

..Vs..

- 1.The Appellate Authority/Assistant Director,
O/o.Assistant Director of Handloom & Textiles,
No.426, Bhavani Main Road, Ashokapuram,
Erode.
- 2.The Public Information Officer/Managing Director,
C.H.02, Chennimalai Siragiri Murugan Handloom
Weaver's Co-operative Production and Sale Society,
No.57, East New Street, Chennimalai - 638 051,
Perundurai Taluk, Erode District.

3.M.Sridhar ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings Mae.Mu.Ma.No.13323/2019/G, dated 12.10.2019 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Spl.G.P (for respondents 1 & 2)

Mr.K.V.Sanjeev Kumar
(for third respondent)

ORDER

The order passed by the first respondent in proceedings dated 12.10.2019 directing the Managing Director of the petitioner/society to furnish information to the Assistant Director with reference to the application submitted by the third respondent on 17.08.2019 under Right to Information Act is under challenge in the present writ petition.

2.The petitioner is a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act. The learned counsel appearing on behalf of the petitioner made a submission that the society is not funded by the State or by the instrumentality of the State. The co-operative society is registered under the Co-operative Societies Act and funded by the members of the society. Thus, the petitioner/society cannot be defined as a public authority within definition under the Right to Information Act. The Hon'ble Supreme Court of India in the case of D.A.V.College Trust and Management Society & others Vs. Director of Public Instructions & others reported in 2013 (5) CTC 937 held that a Co-operative Society registered under the Co-operative Societies Act is not a public authority within the meaning of Section 2(h) of the Right to Information Act. Therefore, the impugned letter of the Assistant Director to Managing Director of the petitioner society is liable to be scrapped.

3.The learned counsel appearing on behalf of the third respondent opposed the contentions by stating that admittedly the third respondent submitted an application on 17.08.2019 on Right to Information Act seeking some particulars. Further the impugned letter dated 12.10.2019 states that the writ petitioner has to furnish the details to the Assistant Director and not directly to the third respondent. This apart the Assistant Director is the competent Authority to call for the records or particulars from the writ petitioner/society. Further the third respondent is a member of the writ petitioner society and therefore, he has got every right to seek some information regarding the functioning of the co-operative society.

4.The learned counsel appearing on behalf of the third respondent made a submission that the application submitted under the Right to Information Act may not be maintainable pursuant to the judgment of the Hon'ble Supreme Court of India cited supra. However, as a member of the writ petitioner/society, the third respondent is entitled to get particulars and informations regarding the administration of the writ petitioner/society. Thus, the application is to be treated

as if it is submitted by the third respondent in his capacity as the Member of the writ petitioner/society as well as under the provisions of the Tamil Nadu Co-operative Societies Act.

5.The provisions of the Co-operative Societies Act contemplates that a Member is entitled to submit a complaint to the higher authorities including Registrar of Co-operative Societies. If any member of the co-operative society makes any complaint regarding the irregularities or fraudulent activities of misappropriation etc., then the Registrar, under the Act is empowered to initiate action after conducting an enquiry. Various provisions are available under the Tamil Nadu Co-operative Societies Act to conduct an enquiry and initiate all further actions therefore, the application submitted by the third respondent under the Right to Information Act may not be maintainable. However, the said application can be treated as an application submitted by the member of the society for furnishing details. In other words, the application must be treated under the provisions of the Tamil Nadu Co-operative Societies Act so as to furnish the details enabling the third respondent to find out the manner in which administration is being run by the Authorities concerned.

6.This being the principles to be followed, the respondent Nos.1 & 2 are empowered to receive any complaint or application from the third respondent under the Tamil Nadu Co-operative Societies Act and accordingly deal with the application in accordance with law. However, the applications submitted under the RTI Act need not be entertained as the petitioner/Society is not a public authority within the definition of Section 2(h) of the RTI Act.

7.With these clarifications, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrm
To

1.The Appellate Authority/Assistant Director,
O/o.Assistant Director of Handloom & Textiles,
No.426, Bhavani Main Road, Ashokapuram,
Erode.

2.The Public Information Officer/Managing Director,
C.H.02, Chennimalai Siragiri Murugan Handloom
Weaver's Co-operative Production and Sale Society,
No.57, East New Street, Chennimalai - 638 051,
Perundurai Taluk, Erode District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.97959
+1cc to Mr.C.Prakasam, Advocate SR.97692
+1cc to Mr.K.V.Sanjeev Kumar, Advocate SR.96926
+1cc to Spl Govt. Pleader (CO-OP) SR.97543

W.P.No.31747 of 2019

VD(CO)
CB(19/12/2019)