



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21800 of 2021

and

W.M.P.Nos.22985 & 22986 of 2021

K.K.168, Naripalli Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Secretary,
Naripalli Post, Harur Taluk,
Dharmapuri District.

...Petitioner

-Vs-

1. The Tamilnadu Information Commission,
Rep. by its Registrar,
Nandanam, Chennai - 35.

2. The Joint Registrar of Co-operative
Societies,
Dharmapuri Region,
Dharmapuri District.

3. C.Gunasekaran

4. Tmt.Vanitha Theerthagiri

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for records of the letter of direction issued by the first respondent in SA.No.6803/A/2021 dated 02.08.2021 and letter of the second respondent in Na.Ka.3582/2021 ve.sa dated 12.07.2021 quash the same holding that the petitioner Co-operative Society registered under the Tamilnadu 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.M.S.Palaniswamy

For R1 & R2 : Mr.S.Arumugam
Government Counsel



ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

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2. This writ petition has been filed on the pretext that the Co-operative Societies are exempted from the provisions of the Right to Information Act, 2005 (hereinafter referred to as 'RTI Act') and therefore, the petitioner is not bound to furnish the information sought for by the applicants.

3. In support of such a contention, reliance was placed on the decision of the Hon'ble Supreme Court in the case of Thalappalam Services Coop. Bank Ltd., and others Vs. State of Kerala and others reported in (2013) 7 MLJ 407, as well as the decision of the Hon'ble Division Bench of this Court reported in (2015) 4 CTC 105 in the case of Public Information Officer Vs. The Registrar, Tamil Nadu Information Commission.

4. The ratio laid in the aforesaid decisions are not in dispute at all in the present case. As per the dictum of the Hon'ble Supreme Court in the case of Thalappalam Services Coop. Bank (supra), as adopted by the Hon'ble Division Bench of this Court in the aforesaid decision, the Co-operative Societies will not fall within the definition of the Public Authority as defined under Section 2(h) of the RTI Act. There is no dispute on this proposition. However, when any person seeks for information from the Registrar of Co-operative Societies, who is a Public Authority under the meaning of Section 2(h) of the RTI Act and such a Registrar in turn directs the Co-operative Society to furnish the information, such a Co-operative Society would be bound to supply the information. This ratio would be subject to the exemption of privileged information under Section 8(1)(j) of the Act or any other information which the Registrar has access under the provisions of the Co-operative Societies Act. This proposition has been held in the case of Thalappalam Services Coop. Bank (supra) in the following manner:

"52. Registrar of Cooperative Societies functioning under the Cooperative Societies Act is a public authority within the meaning of Section 2(h) of the Act. As a public authority, Registrar of Co-operative Societies has been conferred with lot of statutory powers under the respective Act under which he is functioning. He is also duty bound to comply with the obligations under the RTI Act and furnish information to a citizen under the RTI Act. Information which he is expected to provide is the information enumerated in



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Section 2(f) of the RTI Act subject to the limitations provided under Section 8 of the Act. Registrar can also, to the extent law permits, gather information from a Society, on which he has supervisory or administrative control under the Cooperative Societies Act. Consequently, apart from the information as is available to him, under Section 2(f), he can also gather those information from the Society, to the extent permitted by law. Registrar is also not obliged to disclose those information if those information fall under Section 8(1)(j) of the Act. No provision has been brought to our knowledge indicating that, under the Cooperative Societies Act, a Registrar can call for the details of the bank accounts maintained by the citizens or members in a cooperative bank. Only those information which a Registrar of Cooperative Societies can have access under the Cooperative Societies Act from a Society could be said to be the information which is "held" or "under the control of public authority". Even those information, Registrar, as already indicated, is not legally obliged to provide if those information falls under the exempted category mentioned in Section 8(j) of the Act. Apart from the Registrar of Co-operative Societies, there may be other public authorities who can access information from a Co-operative Bank of a private account maintained by a member of Society under law, in the event of which, in a given situation, the society will have to part with that information. But the demand should have statutory backing.

53. Consequently, an information which has been sought for relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, the Registrar of Cooperative Societies, even if he has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing."



5. In this legal background, it is seen that the Joint Registrar of the Co-operative Society has directed the petitioner/Co-operative Society to furnish the information, which was sought for by the applicants from the Joint Registrar. The Registrar is vested with various powers to secure the proper management of the affairs of a Co-operative Society under the provisions of the Act. As such, such a Registrar would be well within his powers to direct the Co-operative Society to furnish any information pursuant to an application made to the Registrar under the provisions of the RTI Act. Such a direction to the Society cannot be deemed as an information sought to that Society under the RTI Act, but can only be construed as a direction issued by an authority under the Act to the Society. Consequently, if such a Co-operative Society abides by the directions of the Registrar and furnishes the information sought for, the same is not deemed to be an information given by that Society under the RTI Act.

6. In this background, when the ratio laid down by the Hon'ble Supreme Court in Thalappalam Services Coop. Bank's case (supra) is applied, such an application before the Joint Registrar under the provisions of the RTI Act, would be maintainable and the consequential action taken by such a Joint Registrar in directing the Society to furnish the information, will be in accordance with the ratio laid in paragraph 52 of the Hon'ble Supreme Court's order.

7. Since the entire grounds raised in the present writ petition is on the pretext that the Co-operative Society is exempted from the provisions of the RTI Act, the same cannot be sustained. As such, I do not find any merits in the present writ petition.

8. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

hvk/ata



To

1. The Registrar,
The Tamilnadu Information Commission,
Nandanam,
Chennai - 35.

2. The Joint Registrar of Co-operative
Societies,
Dharmapuri Region,
Dharmapuri District.

+1CC to Mr.M.S.Palaniswamy, Advocate, Sr.No.52265

+1CC to Mr.Government Pleader, Sr.No.52744

W.P.No.21800 of 2021

and

W.M.P.Nos.22985 & 22986 of 2021

KV (CO)

K.RK. (02.11.2021)