



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.25112 of 2021

C.C.2355, Nambiyampalayam Primary
Agricultural Co-operative Credit Society,
rep. by its Secretary,
Nambiyampalayam Post,
Avinashi Taluk,
Tiruppur District.

...Petitioner

vs.

1. Tamilnadu Information Commission,
rep. by its Registrar,
No.19, Government Estate,
Nandanam, Chennai 600 035.

2. The Deputy Registrar of Co-operative Societies,
Tiruppur Circle, Tiruppur.

3. A.Karthikeyan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the notice of direction issued by the 1st Respondent in E.Me.Mu.No.SA.12941/A/2021, dated 27.10.2021, quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For 1st Respondent : Mr.C.Vigneswaran,
Standing Counsel

For 2nd Respondent : No appearance

For 3rd Respondent : No appearance

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the impugned Notice dated 27.10.2021 issued by the 1st Respondent vide proceedings in E.Me.Mu.No.SA.12941/A/2021.

2. According to the Petitioner/Society, it is a primary Agricultural Co-operative Credit Society registered under the



Tamilnadu Co-operative Societies Act, 1983 and it is not provided with funds either directly or indirectly by the State Government or Governmental Agencies. It is further stated by the Petitioner that, Respondents 1 and 2 herein have directed the Petitioner/Society to furnish the information sought by the 3rd Respondent. It is the case of the Petitioner/Society that, their Society cannot be brought within the meaning of Section 2 (h) of Right to Information Act, 2005. However, the 3rd Respondent sent a registered letter addressed to the Public Information Officer, Primary Agricultural Co-operative Bank (Credit Society), Nambiyampalayam. It is the contention of the Petitioner/Society that, there is no such Public Information Officer in their Society. Thereafter, the 3rd Respondent filed an Appeal before the District Collector, Tiruppur under the Right to Information Act. Pursuant thereto, the Petitioner/Society has received the impugned Notice dated 27.10.2021 from the 1st Respondent, wherein, it is stated that, the Appeal Petition filed by the 3rd Respondent was considered and the Petitioner/Society did not take proper action to furnish the information.

3. Learned counsel for the Petitioner contended that, the impugned Notice has been issued to the Petitioner/Society without any enquiry and without furnishing the copies of the Appeal Petition. He went on to contend that, the 1st Respondent has no authority or jurisdiction to direct the Petitioner/Society to furnish the information to the 3rd Respondent. According to the learned counsel, the impugned Notice is contrary to the ratio laid down by the Apex Court in a decision rendered in Thallapallam Service Co-operative Bank Ltd. vs. State of Kerala reported in 2013 (7) MLJ 407 (SC). For better appreciation, relevant portion of the said decision is extracted hereunder:

"52. Registrar of Co-operative Societies functioning under the Co-operative 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 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



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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 Co-operative 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 Cooperative Societies, there may be other public authorities who can access information from a Cooperative 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 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 Co-operative 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."

4. Learned Standing Counsel appearing for the 1st Respondent submitted that, this Court may set aside the impugned Notice and remand the matter to the 1st Respondent for fresh consideration as to whether the decision rendered by the Apex Court in Thallapallam Service Co-operative Bank's case (supra) is applicable to the Petitioner/Society or not.



5. The Apex Court in Thallapallam Service Co-operative Bank's case (supra) has clearly held that, the Registrar of Co-operative Societies, is not legally obliged to provide if those information falls under the exempted category mentioned in Section 8(j) of the Act. The Apex Court has further made it clear that, when 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 Co-operative 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.

6. In view of the ratio laid down by the Apex Court in the decision cited supra and taking note of the submissions of the learned counsel on either side, this Court sets aside the impugned Notice dated 27.10.2021 issued by the 1st Respondent herein and remands the matter to the 1st Respondent for fresh consideration as to whether the Petitioner/Society can be brought within the meaning of Section 2(h) of the Right to Information Act, 2005, or not. The 1st Respondent shall consider the case of the Petitioner/Society and pass appropriate orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.Nos.26461 and 26462 of 2021 are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Registrar,
Tamilnadu Information Commission,
No.19, Government Estate,
Nandanam, Chennai 600 035.
2. The Deputy Registrar of Co-operative Societies,
Tiruppur Circle, Tiruppur.

W.P.No.25112 of 2021

SJ(CO)
RGA(13/12/2021)