

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5416 OF 2018

(NAGPUR DISTRICT CENTRAL COOP. BANK..VS.. NIRAJKUMAR HARIRAM AGRAWAL & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.S.Ghate, Advocate for Petitioner.
Shri M.R.Joharapurkar, Advocate for Respondent Nos.1 (a) to 1(c).
Ms Shamsi Haider, A.G.P. for Responent No.2.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 14, 2023.

1. Heard.
2. The directions issued by the Divisional Joint Registrar, Cooperative Societies under Section 79 of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "the Act of 1960") to the petitioner Cooperative Bank to provide certain information relating to respondent No.1, is under challenge in this writ petition.
3. The short issue involved in this writ petition pertains to the information sought by the Respondent No.1 from the Petitioner Bank. The request seeking information was rejected and the matter went up to Second Appeal before the State Commissioner on the ground that the Cooperative Banks are not covered under the Right to Information Act, 2005.

4. In the present matter, while dismissing the second appeal, preferred by the respondent No.1, the State Commissioner, however, permitted the respondent No.1 to approach the Authorities having control over the petitioner-Bank for such information. Accordingly, the respondent No.1 approached the Divisional Joint Registrar, who asked the petitioner-Bank to submit the information referred in the impugned order.

5. After going through the provisions of Section 79 of the Act of 1960, I have no hesitation to hold that the Registrar possesses such powers to call information from the petitioner Bank and there is no illegality committed by him. This view is supported by the Division Bench of this Court in the case of *Rajeshwar Majoor Kamgar Sahakari Sanstha Ltd...vs.. State Information Commissioner, Amravati*, reported in **2022(2) Mh.L.J. 291**. Paragraph Nos.5 and 6 of the said judgment are relevant, which read thus:

“5. We have heard the learned counsel for the parties and we have given due consideration to their respective submissions. The information sought by respondent No.3 from the Society was not supplied to it by the Society on the ground that the provisions of the Act of 2005 were not applicable to it. The State Information Commissioner however has noted that it was permissible for the Assistant Registrar to obtain information with regard to matters provided for by the Act of 1960 from the Society and such

information was liable to be supplied to the respondent No.3. In this regard it is to be noted that the appellant is a Co-operative Society duly registered under the Act of 1960. As per provisions of Section 79 of the Act of 1960 the Society is obliged to file returns and statements with regard to matters stipulated in Section 79(1A) thereof. The Registrar is empowered by Section 79(2) to take action to ensure compliance with the order made under Section 79(1) and (1A). Rule 65 of the Rules of 1961 requires every Society to maintain accounts and books as detailed therein. From these provisions it becomes clear that it is the duty of a Society duly registered under the Act of 1960 to file returns and statements as per Section 79 and also to maintain account books as per Rule 65. Failure to maintain aforesaid returns, accounts and books empowers the Registrar to ensure compliance in that regard. In other words, the material referred to in Section 79 and Rule 65 is statutorily accessible to the Registrar under the Act of 1960. He can 209-LPA-348-11 8/11 compel the Co-operative Society to furnish this information under the Act of 1960.

6. In this regard reference can be made to the observations in Thalappalam Service Co-operative Bank Ltd. and ors. (supra). While considering the question as to whether a Co-operative Society registered under the Kerala Co-operative Societies Act, 1969 would fall within the definition of "public authority" under Section 2(h) of the Act of 2005 and be bound by the obligations to provide information sought by a citizen under the Act of 2005, it was held that a Co-operative Society which

was not a "public authority" as defined by Section 2(h) of the Act of 2005 was nevertheless bound to supply information to the Registrar of Co-operative Societies under the Act governing such Co-operative Society. The Registrar functioning under the Co-operative Societies Act was a "public authority" within the meaning of Section 2(h) of the Act of 2005 and hence as a public authority he could in exercise of statutory powers under the Kerala Co-operative Societies Act, 1969 gather information from a Society on which he had supervisory or administrative control. The Registrar however is not obliged to disclose such information which falls within the purview of Section 8(1)(j) of the Act of 2005. Similarly, if the Registrar is of the view that information sought is in relation to personal information he is not bound to furnish the same unless he is satisfied that larger public interest justifies the disclosure of such information for reasons to be recorded in writing. We find that the aforesaid observations are applicable to the cases in hand."

6. In the circumstances, as there is no illegality committed by the Divisional Joint Registrar, Cooperative Societies, no interference is called for by this Court in this matter.

The Writ Petition is **dismissed**. The parties to bear their own costs.