



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 2028 of 2023

And

W.M.P.No. 2118 of 2023

The President
Z 309, Peruncherry Primary Agricultural
Co-operative Credit Society
Peruncherry,
Kuthalam Taluk
Tiruvarur District

... Petitioner

..Vs..

1. The State Information Commissioner
A-Section, Tamil Nadu Information Commission
Block No.19, Government Farm Village,
Panepet, Nandanam, Chennai -600 035.
2. The Deputy Registrar of Co-operative Societies
Mailaduthurai Circle
Mailaduthurai District.
3. M.Karthikeyan

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certioari to call for the records relating to the



impugned order dated 06.09.2021 in Case No. SA 8648/A/2021 passed by the first respondent and the impugned proceeding Na.Ka.3253/2022/Pa.tho. Dated 07.12.2022 passed by the second respondent and quash the same.

For Petitioners :: Mr. R.Balaramesh

For 1st Respondent :: Mr. C.Vigneswaran

For 2nd Respondent :: Mr.T.Seenivasan
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner.

2. Notice had been directed to the 3rd respondent. It is stated that the 3rd respondent had refused to receive the notice.

3. Mr.C.Vigneswaran, learned Standing Counsel takes notice on behalf of R1.



4. Mr.T.Seenivasan,learned Special Government Pleader, takes notice on behalf of R2.

5. The Writ Petition has been filed in the nature of a Writ of Certiorari, seeking records relating to the impugned order dated 06.09.2021 in Case No. SA/8648/A/2021 passed by the first respondent and the impugned proceeding Na.Ka.No. 3253/2022/Pa.tho. Dated 07.12.2022 passed by the second respondent and quash the same.

6. The petitioner is the President of Z309 Peruncherry Primary Agricultural Cooperative Credit Society at Peruncherry, Kuthalam Taluk in Tiruvarur District. The 3rd respondent had made an application to the 2nd respondent namely the Deputy Registrar of the Co-operative Society at Mailaduthurai Circle in Mailaduthurai District seeking information under Section 6(1) of the Right to Information Act, 2005 on details of the agricultural persons who had availed interest free loans from the petitioner Society and details of the beneficiaries of the persons whose loans were waived under the Scheme.



7. The 2nd respondent had declined to give such information.

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8. The 3rd respondent then filed an Appeal under Section 19 (1) of the Right to Information Act, 2005 and holding that the information related to a Co-operative Society, the Appeal was rejected.

9. The 3rd respondent had then filed Second Appeal before the 1st respondent namely the State Information Commissioner at Chennai. The petitioner was not a party in the Second Appeal. Notice had not been served on the petitioner.

10. The 1st respondent had passed an order on 07.12.2022, directing the petitioner herein to divulge such information.

11. Aggrieved by the said order, the present Writ Petition has been filed.



12. It is no longer res integra that under the Right to Information Act, 2005, a Cooperative Society cannot be directed or forced to divulge information of either the names of the persons who had obtained loan or the names of the beneficiaries.

13. A Division Bench of this Court reported in **2015 4 CTC 105 [the Public Information Officer vs. the Registrar, Tamil Nadu Information Commission]** had examined the issue whether a Cooperative Society under the Tamil Nadu Cooperative Societies Act, 1983 is a public authority under the meaning of Section 2 (h) of the Right to Information Act.

14. The Division Bench had relied on a Judgment of the Hon'ble Supreme Court reported in **2013 6 CTC 98 [Thalappalam Service Cooperative Bank Limited and Others vs. State of Kerala and Others]**, wherein the Hon'ble Supreme Court had made a clear distinction between a body which is created by a statute and a body coming into existence and governed under the provisions of a statute.



15. In that particular case under the Kerala Societies Registration Act, 1860, it was held that a Society was not a statutory body but only a body corporate. It was therefore held that the provisions of the Right to Information Act, 2005 would not be applicable to a Cooperative Society.

16. The said judgment of the Division Bench is binding on this Court. The Division Bench had held that the Judgment of the Supreme Court is binding on the Division Bench of this Court. Both the Judgments are binding on this Court. The petitioner Society, being a Cooperative Society is not a statutory body but a body created under a statute. Therefore, the Right to Information Act, 2005 is not applicable to the petitioner Society.

17. The Writ Petition stands allowed. The Impugned order passed by the 1st respondent dated 07.12.2022 in Case No. SA 8648/A/2021 and Na.Ka.No. 3253/2022/Pa.Tho., dated 07.12.2022 passed by the second respondent are quashed and is set aside. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2023

vsg

Index : Yes/No

Internet : Yes/No

Speaking / Non Speaking Order



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To

1. The State Information Commissioner
A-Section, Tamil Nadu Information Commission
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Panepet, Nandanam, Chennai -600 035.
2. The Deputy Registrar of Co-operative Societies
Mailaduthurai Circle
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C.V.KARTHIKEYAN, J.,

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