



WEB COPY



W.P.No.32201 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.32201 of 2016

and

W.M.P.No.27933 of 2016

B.Kandasamy

...Petitioner

-Vs-

1. The Commissioner,
2nd Appellate Authority,
State Commissioner for Information,
Tamil Nadu Information Commissioner,
No.2, Thiyagarayar Salai,
Teynampet, Chennai-18.
2. The Deputy Registrar of Co-operative Societies,
1st Appellate Authority,
Tindivanam Circle, Jayapuram,
Tindivanam, Villupuram District.
3. The General Information Officer/Secretary,
Avanipoor Primary Co-operative Credit Society,
Avanipoor and Post, Tindivanam Taluk,
Villupuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the 1st respondent order in S.A.No. 2359/E/2015 dated 18.12.2015 and quash the same and consequently direct the 3rd



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respondent to furnish the information sought for by the petitioner's representation dated 10.11.2014 to the petitioner.

For Petitioner : Mr.R.Karunakaran

For Respondents :

(for R1) : Mr.Nirangan Rajagopalan
for M/s.G.R.Associates

(for R2) : Mr.Abishek Murthy, Gov. Advocate

(for R3) : Mrs.T.Girija

ORDER

The order passed by the State Information Commission, rejecting the application submitted by the petitioner, on the ground that the cooperative society is not falling within the definition of the public authority under the provisions of the RTI Act, is under challenge in the present writ petition.

2.The learned counsel for the petitioner states that the 3rd respondent/Avanipoor Primary Co-operative Credit Society is a cooperative society registered under the provisions of the Tamil Nadu Cooperative Societies Act and is granting loans to its members and therefore, it is a public authority within the definition of the RTI Act.



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4.Test to be applied is, whether a society is a state within the meaning of Article 12 of the Constitution of India or not. If any cooperative society is funded by the Government then it would fall under the definition of Article 12 of the Constitution of India, and such authorities are to be construed as public authorities for the purpose of the RTI Act. It is a factual dispute which is to be considered on case to case basis and therefore, the person submitting an application under the RTI Act, should establish that its cooperative institution is falling under the public authority within the meaning of the RTI Act, and if it is established, then such authorities are bound to provide information under the provisions of the RTI Act.



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5. In the present case, there is no such pleading and thus, the petitioner is at liberty to approach the authorities with documents and details. If the investment of the Government towards a cooperative society exceeds 50%, then it would fall under the definition of state and this being the broad principle considered by the Courts, the petitioner is at liberty to approach the authorities. If it is not found as a state, then such cooperative societies are exempted from the provisions of the RTI Act.

6. Accordingly, with these clarifications, the writ petition stands **disposed of**. No costs. Consequently, the connected miscellaneous petition is closed.

06.03.2023

Index: Yes
Speaking order
Neutral Citation: Yes
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S.M.SUBRAMANIAM, J.

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