



W.P.Nos.12647 & 9357 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12647 & 9357 of 2014 and
M.P.No.2 of 2014

[W.P.No.12647 of 2014]

A.A.188, Perundurai R.S.Primary

Agricultural Coop. Credit Society Ltd.

Rep. by its Secretary G.K.Subashchandran

S/o. T.Karuppannasamy Gounder

Perundurai R.S. & Post

Perundurai Taluk, Erode District.

..

Petitioner

VS

1. The Joint Registrar of Coop. Societies

(Statutory & Training) / Public Information Officer

O/o.Registrar of Coop. Societies

No.170, E.V.R.Periyar High Road

Kilpauk, Chennai – 10.

2. K.K.Subramaniyam

..

Respondents

[W.P.No.9357 of 2014]

KK.159, Chekkarapatty Primary

Agricultural Co-operative Credit Society Ltd.

Rep. by its President A.Sekkarapatti

Adhangapadi Post, Dharmapuri District.

..

Petitioner

VS

1. The Registrar of Cooperative Societies

No.170, N.V.M Maligai

Kilpauk, Chennai – 10.



W.P.Nos.12647 & 9357 of 2014

2. The Additional Registrar of Co-operatives (ICDP)
O/o The Registrar of Co-operative Societies
No.170, N.V.N.Maligai
Kilpauk, Chennai – 10.

3. The Deputy Registrar / Public
Information Officer
O/o Joint Registrar of Co-operative Societies
Dharmapuri Region, Dharmapuri District.

4. R.Govindarajan .. Respondents

Prayer in W.P.No.12647 of 2014: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in her proceedings Na.Ka.95879/2013 Ni.A1, dated 18.01.2014 and quash the same insofar as the petitioner is concerned;

Prayer in W.P.No.9357 of 2014: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the first respondent in Rc.No.149476/2005AR, dated 25.11.2005, consequential revised orders passed by the respondent in Rc.No.66860/2013 AR1, dated 06.09.2013, the third respondent in Na.Ka.150/2011 Tho.Sa(1) dated 21.02.2011 signed on 10.03.2014 directing to furnish the information to the fourth respondent quash them holding that the co-operative society registered under the Tamil Nadu Co-operative Societies Act will not fall within the definition of “public authority” as defined under Section 2(h) of the RTI Act.



WEB COPY



W.P.Nos.12647 & 9357 of 2014

For Petitioner in
W.P.No.12647 of 2014 : Mr.C.Prakasam

For Petitioner in
W.P.No.9357 of 2014 : Mr.M.S.Palanisamy

For Respondents in
W.P.No.12647 of 2014 : Mr.C.Ravichandran
Additional Government Pleader
for R1

Mr.V.Kathirvelu
for R2

For Respondents in
W.P.No.9357 of 2014 : Mr.C.Ravichandran
Additional Government Pleader
for R1 to R3

Mr.P.Thangavelu
for R4

COMMON ORDER

These Writ Petitions are filed seeking to quash the order of the first respondent in W.P.No.12647 of 2014 in the proceedings Na.Ka.95879/2013 Ni.A1, dated 18.01.2014 and the first respondent in W.P.No.9357 of 2014 in Rc.No.149476/2005AR, dated 25.11.2005, consequential revised order passed by the respondent in Rc.No.66860/2013 AR1, dated 06.09.2013, the third respondent in Na.Ka.150/2011 Tho.Sa(1) dated 21.02.2011, signed on 10.03.2014, directing to furnish the information to the fourth respondent, by holding that the Cooperative Societies registered under the Tamil Nadu



Co-operative Societies Act will not fall within the definition of “public authority” as defined under Section 2(h) of the RTI Act.

2. Learned counsel for the petitioners submitted that the petitioners are the elected President / Secretary of the respective Societies. By letters dated 18.01.2014 and 21.02.2011 signed on 10.03.2014, the second respondent in W.P.No.12647 of 2014 and the third respondent in W.P.No.9357 of 2014 sought for certain information and documents regarding appointment of Information Officers in the Cooperative Societies. It is further submitted that the Final Authority rests with General Body of its members and not with the Registrar of Cooperative Societies or the State Government. According to the petitioners, the Cooperative Society is not a body, which is controlled by the Government and hence does not fall within the definition of Section 2(h) of the Right to Information Act. In view of the above legal position, these writ petitions are filed to set aside the letters of the respective respondents seeking information and documents.

3. When the matter was taken up for final disposal, learned counsel appearing for both the parties submitted that the relief prayed for,



in these writ petitions are squarely covered by the decision of the Hon'ble

Supreme Court in the case of ***Thalappalam Service Cooperative Bank***

Ltd and Others vs. State of Kerala and Others [2013 (6) CTC 98 (SC)]

and the judgement of the Division Bench of this Court in the case of

Public Information Officer vs. The Registrar, Tamil Nadu Information

Commission [2015 (4) CTC 105].

4. In paragraph 54 of the judgment in the case of ***Thalappalam Services Cooperative Bank Ltd and Others Vs. State of Kerala and Others [(2013) 7 MLJ 407 (SC)]***, the Hon'ble Supreme Court has held as follows:

"We, therefore, hold that the Cooperative Societies registered under the Kerala Cooperative Societies Act will not fall within the definition of public authority as defined under Section 2(h) of the RTI Act and the State Government letter dated 05.05.2006 and the circular dated 01.06.2006 issued by the Registrar of Co-operative Societies, Kerala, to the extent, made applicable to societies registered under the Kerala Co-operative Societies Act would stand quashed in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. Appeals are, therefore, allowed as above,



however, with no order as to costs."

In Paragraph 9 of the decision in ***The Public Information Officer Vs. The Registrar, Tamilnadu Information Commission and Others etc. [2015***

(4) CTC 105], the Hon'ble Division Bench of this Court has held as follows:

"9. In the light of the above, we have no hesitation to hold that the legal issue arising in these Appeals are squarely covered by the decision of the Hon'ble Supreme Court in the case of Thalappalam Ser. Coop. Bank Ltd. And others Vs. State of Kerala and others, 2013 (6) CTC 98 (SC). The distinction sought to be drawn by the learned counsel for the respondent stating that the provisions of the RTI Act would be applicable to cases where the Government Officers are appointed to function as Special Officers of the society, when there is no elected Board of Directors, could hardly make any difference in the light of the recent pronouncement of the Hon'ble Supreme Court. The learned Counsel appearing for the Appellants submitted that for all the societies, elections were conducted and the societies are managed by the elected members."

5. In view of the aforesaid decisions, I have no hesitation to quash the proceedings in Na.Ka.95879/2013 Ni.A1, dated 18.01.2014 and in Rc.No.149476/2005AR, dated 25.11.2005, consequential revised order



W.P.Nos.12647 & 9357 of 2014

in Rc.No.66860/2013 AR1, dated 06.09.2013 and Na.Ka.150/2011

Tho.Sa(1) dated 21.02.2011, signed on 10.03.2014. Hence, the impugned orders are quashed and the writ petitions are allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No

17.04.2023

Neutral Citation : Yes/No

drm

To:

1. The Joint Registrar of Coop. Societies
(Statutory & Training) / Public Information Officer
O/o.Registrar of Coop. Societies
No.170, E.V.R.Periyar High Road
Kilpauk, Chennai – 10.
2. The Registrar of Cooperative Societies
No.170, N.V.M Maligai
Kilpauk, Chennai – 10.
3. The Additional Registrar of Co-operatives (ICDP)
O/o The Registrar of Co-operative Societies
No.170, N.V.N.Maligai
Kilpauk, Chennai – 10.
4. The Deputy Registrar / Public Information Officer
O/o Joint Registrar of Co-operative Societies
Dharmapuri Region, Dharmapuri District.



WEB COPY



W.P.Nos.12647 & 9357 of 2014

S.M. SUBRAMANIAM, J.

drm

W.P.Nos.12647 & 9357 of 2014

17.04.2023