



WEB COPY



W.P.No.16073 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16073 of 2017 and

W.M.P.No.17365 of 2017

E-2570, Sivayam Primary Agriculture

Co-operative Credit Society Ltd.

Rep. by its Secretary

Chidambaram Post

Cuddalore District.

.. Petitioner

vs

1. The Additional Registrar of
Co-operative Societies (ICDP)
No.170, N.V.N Maligai
Kipauk, Chennai -10.

2. The Deputy Registrar of Co-operative Societies
Chidambaram, Cuddalore District.

3. N.Nadanasabapathi .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari, calling for the records of the orders of the first respondent in Rc.No.66860/2013AR1, dated 06.09.2013, Rc.No.66860/2013Ar1, dated 23.10.2013 and subsequent letter issued by the second respondent in Na.Ka.No.1533/2017 Pa dated 10.06.2017 directing the petitioner to provide information required by the third



W.P.No.16073 of 2017

respondent quash them holding that the petitioner 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.

For the Petitioner : Mr.P.K.Shiva Kumar

For the Respondents : Mr.P.Sanjay Gandhi
Government Advocate
for respondents 1 & 2

Mr.A.Muthukumar
for respondent 3

ORDER

The writ petition has been filed by Sivayam Primary Agriculture Co-operative Credit Society Ltd., which is a cooperative society registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983.

2. The petitioner Society is a State within the meaning of Article 12 of the Constitution of India. Thus, the cooperative society has been excluded from the provisions of the Right to Information Act and the Hon'ble Supreme Court also ruled the said principle. This Court has earlier



W.P.No.16073 of 2017

considered a similar issue in W.P.No.31373 of 2010 dated 15.11.2021 and the relevant portion reads as under:

“3. When the matter was taken up for final disposal, learned counsel appearing for both the parties submitted that the relief prayed for, in the present writ petition is 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 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.No.16073 of 2017

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



W.P.No.16073 of 2017

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.””

3. In view of the judgment cited *supra*, the impugned order has no legs to stand. Accordingly, the order impugned passed by the first respondent in proceedings dated 06.09.2013 and the subsequent orders are quashed.

4. Accordingly, the writ petition stands allowed. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

13.03.2023

Index : Yes/No
Neutral Order: Yes/No
drm



W.P.No.16073 of 2017

WEB COPY

To:

1. The Additional Registrar of
Co-operative Societies (ICDP)
No.170, N.V.N Maligai
Kipauk, Chennai -10.
2. The Deputy Registrar of Co-operative Societies
Chidambaram, Cuddalore District.



WEB COPY



W.P.No.16073 of 2017

S.M.SUBRAMANIAM,J.

(drm)

W.P.No.16073 of 2017 and
W.M.P.No.17365 of 2017

13.03.2023