



W.P.No.216 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.216 of 2023

and

W.M.P.No.208 of 2023

The President,
TT.1453 Paravakkottai Primary Agricultural
Co-operative Credit Society,
Paravakkottai,
Mannargudi Taluk,
Tiruvarur District – 614 015.

... Petitioner

Versus

1. The State Information Commission,
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,
Mannargudi Circle,
Thiruvavur District – 614 001.

3. Mr.K.Nedunchezhiyan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari to call for the records relating to the
impugned order dated 27.10.2022 in Case No.SA/11837 and



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17622/A/2021 by the 1st respondent and quash the same.

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For Petitioner : Mr.R.Balaramesh

For R1 : Mr.C.Vigneswaran (RTI)

For R2 : Mrs.Geetha Thamarai Selvan,
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner.

2. Notice had been directed to the 3rd respondent, however an affidavit of service had been filed that the 3rd respondent had refused to receive the notice.

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

4. Mrs.Geetha Thamarai Selvan, learned Special Government Pleader takes notice on behalf of R2.

5. The Writ Petition has been filed in the nature of a Writ of



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Certiorari, seeking records relating to the order dated 27.10.2022 in Case No.SA/11837 and 17622/A/2021 passed by the 1st respondent/the State Information Commissioner at Chennai and set aside the same.

6. The petitioner is the President of Paravakkottai Primary Agricultural Cooperative Society at Mannargudi in Tiruvarur District. The 3rd respondent had made an application to the 2nd respondent namely the Deputy Registrar of the Co-operative Society at Mannargudi Circle in Thiruvarur 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.

8. The 3rd respondent then filed an Appeal under Section 19 (1) of the Right to Information Act, 2005 before the District Collector at Thiruvarur. Since the information related to a Co-operative Society, the District Collector had rejected the said Appeal.



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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 27.10.2022, 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



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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 Right to Information Act, 2005 was not 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



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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 is not applicable to the petitioner Society.

17. The Writ Petition stands allowed. The Impugned order passed by the 1st respondent dated 27.10.2022 in Case No.SA/11837 and 17622/A/2021 is quashed and is set aside. No order as to costs.

31.01.2023
(1/2)

ssi

Index : Yes/No

Internet : Yes/No

To:

1. The State Information Commission,
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,
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C. V. KARTHIKEYAN, J.
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