



W.P.(MD).No.13329 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **08.06.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **C.V. KARTHIKEYAN**

W.P.(MD).No.13329 of 2023

and

W.M.P.(MD)No.11242 of 2023

Pacode Primary Agricultural Co-operative
Credity Society No.3566,
Rep.by its President,
Melpuram, Pacode-Post,
Vilavancode Taluk,
Kanyakumari District.

... Petitioner

Vs.

1.The Regional Joint Registrar of Co-operative Societies,
Kanyakumari Region,
2nd Floor, Collector Office Extension Building,
Nagercoil, Agestheeswaram Taluk,
Kanyakumari District.

2.Deputy Registrar of Co-operative Societies,
Thuckaly Circle, Palace Road,
Thuckalay-Post,
Kalkulam Taluk,
Kanyakumari District.

3.V.Sobhanakumar

...Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned direction issued by the second respondent in Na.Ka.No. 777/2021/Tho.Ve.Sa(2) dated 20.07.2022 and quash the same as illegal.

For Petitioner : Mr.K.Padmakumar

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1 and R2

ORDER

The writ petition has been filed by Pacode Primary Agricultural Co-operative Credit Society at Vilavancode Taluk at Kanyakumari District, aggrieved by a direction issued by the second respondent / Deputy Registrar of Co-operative Society, Thuckalay, Kalkulam Taluk, Kanyakumari District in Na.Ka.No.777/2021/Tho.Ve.Sa(2) dated 20.07.2022, whereby the said 2nd respondent had directed the petitioner herein to furnish information on Right to Information Act Application filed by the third respondent V.Sobanakumar.



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2. Let me not enter into a discussion on merits primarily because, it has been consistently held by this Court following a judgment of the Hon'ble Supreme Court which is also pointed out by the learned counsel for the petitioner herein that information cannot be directed to be furnished by the Co-operative Society.

3. In this connection, learned counsel for the petitioner has placed reliance on a judgment of the Hon'ble Supreme Court in Civil Appeal No. 9017 of 2013 (Thalappalam Ser. Coop. Bank Ltd., and others Vs State of Kerala and others, wherein by a judgment dated 07.10.2013, after examining the issue elaborately, the Hon'ble Supreme Court has finally held as follows:

"53. Consequently, an information which has been sought for relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, the Registrar of Cooperative Societies, even if he has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing.



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54. 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 and the State Government letter dated 5.5.2006 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."

4. The second respondent would necessarily have to come to a conclusion that furnishing of the information is in the interest of larger public. There is no such finding given in the impugned notice. Eventhough the judgment of the Hon'ble Supreme Court relates to a co-operative Society in Kerala, the principle applies to every co-operative society within the State and in India, since the law laid down by the Hon'ble Supreme Court is the law of the land for the entire country.



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5. The writ petition necessarily has to succeed and therefore it is allowed and the notice issued by the second respondent is interfered with and quashed. This Writ Petition is disposed even without issuing notice to the third respondent, since the notice impugned suffers violation of a fundamental principle of law. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

NCC : Yes / No
Index: Yes/No
Internet: Yes/No

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To

- 1.The Regional Joint Registrar of Co-operative Societies,
Kanyakumari Region,
2nd Floor, Collector Office Extension Building,
Nagercoil, Agestheeswaram Taluk,
Kanyakumari District.
- 2.Deputy Registrar of Co-operative Societies,
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