



W.P(MD)No.15424 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.15424 of 2023

and

W.M.P(MD).No. 13020 of 2023

Y-285 Kalkulam Vilavancode Taluk Co-operative,
Marketing Society,
Main Rod, Marthandam,
Kanyakumari District.
represented by its Managing Director

... Petitioner

Vs.

1.State Information Commissioner,
Tamilnadu Information Commission,
No.19, Arasu Pannai Gramum,
Peran Pettai, Nandanam,
Chennai- 600 035.

2.A.David

... Respondents

PRAYER :-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records relating to the impugned order issued by the 1st respondent in S.A.No.20739/A/2022 dated 20.04.2023 and quash the same as illegal.



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For Petitioner : Mr.V.H.S.Prathap
Advocate.
For R1 : Mr.Raguvaran Gopalan
Standing Counsel

ORDER

The writ petition has been filed by Kalkulam Vilavancode Taluk Co-operative, Marketing Society, at Marthandam at Kanyakumari District, aggrieved by a direction issued by the first respondent in S.A.No.20739/A/2022 dated 20.04.2023, whereby the said first respondent had directed the petitioner herein to furnish information on Right to Information Act Application filed by the second respondent A.David.

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



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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.

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 first respondent would necessarily have to come to a conclusion that furnishing of the information is in the interest of larger public. There is no



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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.

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

28.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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C.V.KARTHIKEYAN, J.

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To

1.1.State Information Commissioner,
Tamilnadu Information Commission,
No.19, Arasu Pannai Gramam,
Peran Pettai, Nandanam,
Chennai- 600 035.

ORDER

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