



W.P.(MD)No.15860 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.15860 of 2023

and

W.M.P.(MD)No.13274 of 2023

The President,
Z.826, Devananchery Primary
Agriculture Co-operative Credit Society,
Kumbakonam,
Thanjavur District.

... Petitioner

versus

1. The State Information Commissioner,
A-Section, Tamil Nadu Information
Commission,
Block No.19, Government Farm Village,
Panepet, Nandanam,
Chennai.

2. The Deputy Registrar of Co-operative
Societies,
Kumbakonam Circle,
Thanjavur.

3. Stalin

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned notice issued by the first respondent vide his proceedings in ந.க.1238/2023/ப.ம dated 30.03.2023 and quash the same as illegal.

For Petitioner : Mr.RL.Dhilipan Pandian
For R1 : Mr.Raguvaran Gopalan,
Standing Counsel
For R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the notice dated 30.03.2023 issued by the first respondent, in and by which, the petitioner Society was directed to furnish information sought by the 3rd respondent under the Right to Information Act.

2. The learned counsel appearing for the petitioner Society submits that the issue involved in the present Writ Petition has been substantially discussed by the learned Single Judge of this Court in W.P.No.11444 of 2011 through an order dated 02.12.2020, wherein,



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the learned Single Judge took into consideration the Judgment of the Hon'ble Supreme Court in the case of ***Thalappalam Service Cooperative Bank Ltd., and others vs. State of Kerala and others*** reported in ***2013 (16) SCC 82*** and also the Judgment of the Hon'ble Division Bench of this Court made in ***W.A.Nos.2425 to 2428 and 2500 of 2013, dated 29.04.2015*** and it was held as follows:

15. On perusal of the aforesaid judgments they have made it abundantly clear that, the Co-operative Society established by the provisions of the concerned Co-operative Societies Act, unless it is established that, a particular Society is substantially financed directly or indirectly by an appropriate Government, it cannot be brought under the provisions of the Right to Information Act, in other words, it is not amenable to the said Act. In this Context, merely because, the Cooperative Society is administered by the Special Officer, that would also not alter the situation. It has also been held that, as to whether the particular Society is substantially financed by an appropriate Government is to be established only by the Information Seeker, as the burden of proof to come such conclusion that, it has been substantially



financed, only rest with the Information Seeker and not on the Society, from whom such information is sought for. Therefore, in view of the aforesaid legal proposition as has been envisaged by the Honble Supreme Court in Thalappalam case followed by the Division Bench judgment cited supra of this Court, the point raised by the learned counsel appearing for the petitioner and in fact supported, by way of assistance to the Court made by the learned Standing Counsel for the first respondent, can very well be accepted.

16. In view of the settled legal position, that the Co-operative Society would not be amenable to the provisions of the Right to Information Act, the information sought for by the third respondent need not given by the second respondent / Society. Therefore, consequently such a direction ought not have been made by the first respondent / Information Commission through the impugned order dated 31.03.2011. Therefore, this Court feels that, the impugned order cannot be sustained, and it is liable to be interfered with.

3. In view of the settled position that a Society registered under the Co-operative Societies Act does not come under the purview of the



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Right to Information Act, this writ petition is allowed by setting aside the impugned notice dated 30.03.2023 issued by the first respondent.

No costs. Consequently, connected miscellaneous petition is closed.

03.07.2023

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

To

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B.PUGALENDHI, J.

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