



W.P.(MD)No.18187 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.18187 of 2023

P.Murugan

... Petitioner

versus

1. The State of Tamil Nadu,
Rep. by the Registrar,
Tamil Nadu State Public Information
Commission,
No.2, Thiyagaraya Salai,
Teynampet,
Chennai – 600 018.
2. The Appellate Authority,
The Registrar,
No.170, N.V.Natarajar Malgai,
Periyar E.V.r. High Road,
Kilpauk, Chennai.
3. The Public Information Officer,
Deputy Registrar,
Co-operative Societies,
Opposite to Government Women's Arts College,
Kanjirangal,
Sivagangai.



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4. The Secretary,
N.N.15, Pillur Primary Agricultural
Co-operative Credit Society,
Pillur,
Sivagangai Taluk,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent No.1 to initiate necessary proceedings against Public Information Officer for having not furnished information on request application dated 30.03.2022, consequently direct the respondent Nos.3 and 4 to provide compensation for the delay in furnishing information in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.Raghuvaran Gopalan

ORDER

The petitioner, with a grievance that the information sought by him has not been provided by the Public Information Officer, has filed this writ petition for a Mandamus, directing the first respondent to initiate necessary proceedings against the Public Information Officer for having not furnished information on the application filed by him on



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30.03.2022 and also for a consequential direction to respondent Nos.3 and 4 to provide compensation for the delay in furnishing information in accordance with law.

2. The learned counsel appearing for the petitioner submits that the petitioner is a member in N.N.15 Pillur Primary Agricultural Co-operative Credit Society. Since there was no proper account details published in respect of loans in the year 2020, 2021 and 2022 and also the discounts provided to the beneficiaries, he preferred an application dated 30.03.2022 under the Right to Information Act to the District Registrar, who in turn forwarded the same to the 3rd respondent. The 3rd respondent/the Public Information Officer has asked the 4th respondent/the Secretary, N.N.15, Pillur Primary Agricultural Co-operative Credit Society, Pillur, Sivagangai Taluk, Sivagangai District. The 4th respondent, by proceedings dated 09.05.2022, refused to provide information. Challenging the same, the petitioner preferred an appeal dated 15.05.2022 before the second respondent. In spite of



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the proceedings of the second respondent dated 23.05.2022, the information sought for by the petitioner has not been provided.

Therefore, he preferred second appeal before the first respondent. The first respondent, by order dated 30.05.2023 directed the Public Information Officer to provide information. Despite the same, the information has not been provided to the petitioner. Hence, the writ petition has been filed.

3. This Court, in W.P.No.11444 of 2011, by order dated 02.12.2020, after taking 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***, has 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



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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.

4. In view of the above decision, the petitioner is not entitled to get any information from the Co-operative Society. Accordingly, this writ petition is dismissed. No costs.

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



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B.PUGALENDHI, J.

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