



W.P.No.14298 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 06.06.2024

CORAM

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.14298 of 2022

and

W.M.P.No.13533 of 2022

The President,  
Z.B.70, Madhanam Primary Agricultural,  
Co-operative Credit Society,  
Office of Co-operative Society,  
Madhanam, Sirkazhi Taluk,  
Mailaduthurai District - 609 104.

... Petitioner

Vs.

1. The State Information Commissioner,  
A-Section, Tamil Nadu Information Commission,  
Block No.19, Government Farm Village,  
Panepet, Nandanam,  
Chennai - 600 035.
2. The Joint Registrar of Co-operative Societies,  
Nagapattinam Circle,  
Nagapattinam District.
3. The Deputy Registrar of Co-operative Societies,  
Mailaduthurai Circle,  
Mailaduthurai District.
4. Mr.K.Jeeva

... Respondents



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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 order dated 04.05.2022 passed in S.A.No.6082/A/2022 by the 1<sup>st</sup> respondent and quash the same.

For Petitioner : Mr.R.Shriram Adhethyen

For R1 : Mr.C.Vigneswaran  
Standing Counsel

For R2 & R3 : Mr.P.Ganesan  
Additional Government Pleader

For R4 : Mr.P.Thangaraj

### **ORDER**

This Writ Petition has been filed challenging the impugned order dated 04.05.2022 passed by the 1<sup>st</sup> respondent in S.A.No.6082/A/2022.

2. The brief facts of the case of the petitioner are as follows :

i) The petitioner is a society registered under the Tamil Nadu Co-operative Societies Act, 1983. The Management of the Tamil Nadu State Apex Co-operative Bank, District Central Co-operative Bank and Primary



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Agricultural Co-operative Credit Societies are vest with the Board constituted in accordance with the provisions of the Tamil Nadu Cooperative Societies Act, 1983. Further, the ultimate authorities vest in the General Body of its members. Petitioner's society is an autonomous body and the petitioner's society is not a public authority within the meaning of Section 2(h) of the Right to Information Act, 2005. The petitioner's society is not a statutory body and is not performing any public function and will not come with the expression of 'State' within the meaning of under Article 12 of the Constitution of India.

ii) On 28.01.2022, the 4<sup>th</sup> respondent had requested the information under Section 6(1) of the Right to Information Act on 6 items including the details of the person who availed loan from the petitioner society, copy of resolutions passed in the petitioner society for the period from 2015 to 2021, details of beneficiaries of the Jewel loan issued by the petitioner's society for the period from 2015 to 2021 and details of Jewel loan waiver to till date and their Patta and Chitta, details of the beneficiaries of the Agricultural Loan issued by the petitioner's society for the period from 2015 to 2021 and their Patta and Chitta and other documents procedure by them. In pursuant to application submitted by



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the 4<sup>th</sup> respondent, the 3<sup>rd</sup> respondent had issued a letter dated 24.02.2022

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to the petitioner's society thereby direct the petitioner's society to give the information sought by the 4<sup>th</sup> respondent. The Hon'ble Supreme Court of India in the case of Thalappalam Services Cooperative Bank Ltd. and others Vs. State of Kerala and others reported in (2013) 7 MLJ 407 (SC) and the Hon'ble Division Bench of this Court in the case of the Public Information Officer Vs. The Registrar, Tamil Nadu Information Commission and others etc., reported in 2015 (4) CTC 105 has held that Co-operative Societies is not a Public Authority under Section 2(h) of the Right to Information Act, 2005.

iii) The Right to Information Act is not applicable to the petitioner's society. They have not furnished the above information requested by the 3<sup>rd</sup> respondent. Hence, the 4<sup>th</sup> respondent had filed an appeal before the 2<sup>nd</sup> respondent under Section 19(1) of the Right to Information Act, 2005 claiming that they are appellate body and requested to furnish the information sought by him on 10.02.2022. Thereafter, the 4<sup>th</sup> respondent had filed second appeal before the 1<sup>st</sup> respondent and requested to furnish the information sought by him under the Right to Information and the same is numbered as S.A.No.6082/A/2022. Further, the 1<sup>st</sup> respondent

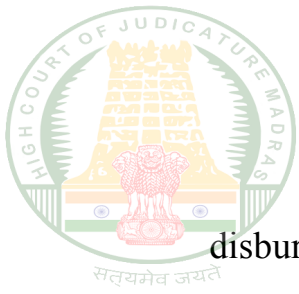


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had passed an order dated 04.05.2022 in S.A.No.6082/A/2022 thereby

direct the petitioner's society to furnish all the information to the 4<sup>th</sup> respondent as he sought under Right to Information Act, 2005. Aggrieved by the said order, the petitioner has filed this Writ Petition.

3. The 4<sup>th</sup> respondent has filed a counter affidavit, wherein, it is stated that the 4<sup>th</sup> respondent is a member of the Co-operative Society for last several years and there are serious allegations raised by various members of the Society against the society administration on allotting the crop loan, jewel loan etc. to the specific persons, who is related with them, based on the forged documents to get waiver from the Government. In the year 2021, the Government of Tamil Nadu implemented many Loan Waiver Schemes to the benefit of deprived section of the society but due to the corrupt practice of some authorities, considerable portion of the funds went into the pockets of riches and non eligible persons. The Government of Tamil Nadu provides 4% interest incentive in addition to the Government of India's 3% interest incentive to the farmers who repay the crop loan on or before the due date. The Government of Tamil Nadu provides 2% interest subsidy to the Co-operatives over and above the interest subvention received from the Government of India for the



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disbursement of crop loans done out of their own funds. In the financial year 2021-22, the total crop loan disbursement to the farmers *via* the Co-operative Societies are Rs.10,292 crores which is disbursed to 14,84,052 farmers across the State. The purpose of the implementation of these schemes is only to the benefit the poor farmers but most of the times these funds are end up with the wrong hands.

4. It is further stated in the counter affidavit that the 4<sup>th</sup> respondent initially filed a RTI application with the 3<sup>rd</sup> respondent on 28.01.2022 under Section 6(1) of the RTI Act, 2005, to know and expose the irregularities committed by the petitioner's society, if any. The 3<sup>rd</sup> respondent forwarded the RTI application to the petitioner society on 07.02.2022 and requested them to send the details as sought for. Shocked by the letter sent by the 3<sup>rd</sup> respondent, the 4<sup>th</sup> respondent immediately filed the first appeal before the Appellate Authority, 2<sup>nd</sup> respondent herein, stating that the 3<sup>rd</sup> respondent is trying to harassing him by forwarding his RTI application to the petitioner society. Therefore, he has requested the 2<sup>nd</sup> respondent to provide all the information by himself as per the order of Tamil Nadu State Information Commissioner in SA/1519/E/2021 dated 30.01.2020. However, the 2<sup>nd</sup> respondent



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forwarded the RTI application to the 3<sup>rd</sup> respondent as he is the competent authority to provide those details as sought for. However, the 3<sup>rd</sup> respondent again forwarded the RTI application filed by the 4<sup>th</sup> respondent to the petitioner's society without obeying the direction given by the first appellate authority, 2<sup>nd</sup> respondent herein. Based upon the said direction, the Information Officer of petitioner society gave information by her reply dated 02.03.2022. In that reply, the Information Officer refused to give information in 5 out of 6 information sought by the 4<sup>th</sup> respondent. Aggrieved by the action of the petitioner society, the 4<sup>th</sup> respondent approached the 1<sup>st</sup> respondent on 31.03.2022 by way of second appeal in S.A.No.6082/A/2022. In that second appeal, the 1<sup>st</sup> respondent passed the impugned order on 04.05.2022 directing the petitioner society to provide all the information as sought by the 4<sup>th</sup> respondent. However, the petitioner society chooses to challenge the order passed by the 1<sup>st</sup> respondent. Hence, this Writ petition.

5. The learned counsel for the petitioner submitted that the impugned order passed by the 1<sup>st</sup> respondent is illegal, arbitrary and unsustainable and the same is liable to be set aside.



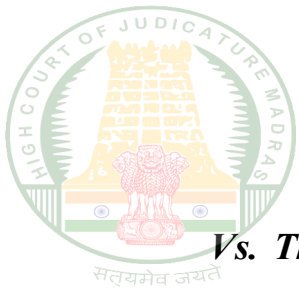
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6. The learned counsel for the petitioner further submitted that the petitioner's society is a registered society under the Tamil Nadu Co-operative Societies Act, 1983 and it is managed by the Elected Board of Directors and Office bearers of the Co-operative Society. The Co-operative Societies are not public authorities as per Section 2(h) of the Right to Information Act 2005, therefore, the petitioner is not liable to provide any information sought by the 4<sup>th</sup> respondent.

7. The learned counsel for the petitioner also submitted that since the definition of public authority is exhaustive of Section 2(h) of the Right to Information Act, 2005 and Co-operative societies will not fall under the above provision, the 1<sup>st</sup> respondent cannot direct the petitioner's society to provide with the information and copies required by the 4<sup>th</sup> respondent.

8. In support of his case, the learned counsel for the petitioner has relied upon 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 [2013 (6) CTC 98 (SC)]*** and the judgment of the Division Bench of this Court in the case of ***Public Information Officer***





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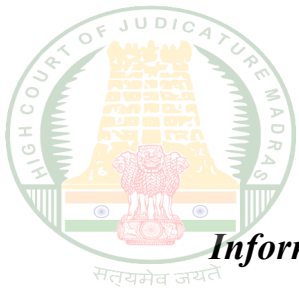
***Vs. The Registrar, Tamil Nadu Information Commission and Others***

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9. In paragraph 54 of the judgment in the case of ***Thalappalam Service Cooperative Bank Ltd. and Others Vs. State of Kerala and Others [2013 (7) MLJ 407 (SC)]***, the Hon'ble Supreme Court has held as follows:

*“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 05.05.2006 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.”*

10. In paragraph 9 of the judgment in the case of ***Public***



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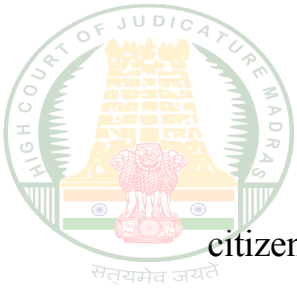
***Information Officer Vs. The Registrar, Tamil Nadu Information***

***Commission and Others [2015 (4) CTC 105]***, The Hon'ble Supreme

Court has held as follows:

*“9. In the light of the above, we have no hesitation to hold that the legal issue arising in these Appeals are squarely covered by the decision of the Hon'ble Supreme Court in the case of Thalappalam Ser. Coop. Bank Ltd. And others Vs. State of Kerala and others, 2013 (6) CTC 98 (SC). The distinction sought to be drawn by the learned counsel for the respondent stating that the provisions of the RTI Act would be applicable to cases where the Government Officers are appointed to function as Special Officers of the society, when there is no elected Board of Directors, could hardly make any difference in the light of the recent pronouncement of the Hon'ble Supreme Court. The learned Counsel appearing for the Appellants submitted that for all the societies, elections were conducted and the societies are managed by the elected members.”*

11. In view of the above decisions, it is made clear that a co-operative society registered under the Tamil Nadu Co-operative Societies Act is not bound by the RTI Act to provide the information requested by a



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citizen and that the co-operative society does not fall within the definition

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of “public authority” as defined under Section 2(h) of the RTI Act.

Therefore, the impugned order passed by the 1<sup>st</sup> respondent in S.A.No.6082/A/2022 dated 04.05.2022 is liable to be quashed.

12. Accordingly, the impugned order is quashed and this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : yes/no

Internet : yes/no

**V.BHAVANI SUBBAROYAN, J.**

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To

1. The State Information Commissioner,  
A-Section, Tamil Nadu Information Commission,  
Block No.19, Government Farm Village,  
Panepet, Nandanam,  
Chennai - 600 035.
2. The Joint Registrar of Co-operative Societies,  
Nagapattinam Circle,  
Nagapattinam District.
3. The Deputy Registrar of Co-operative Societies,



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