

SUPREME COURT OF INDIA**Bench: Justice Sudhanshu Dhulia****Justice Prasanna Bhalachandra Varale****Date of Decision: 2nd February 2024****Sanjay Majoor Kamgar Sahakari Sanstha Buldana & Anr. ...Petitioner(S)****Versus****State Information Commissioner, Amravati Division & Ors.
...Respondent(S)****Legislation:**

Maharashtra Co-operative Societies Act
Section 2(f), 8(1) of the Right to Information Act, 2005

Subject: Special leave petition challenging the High Court's decision that cooperative societies are not 'public authorities' under the Right to Information Act, but their Assistant Registrars are and are thus bound to provide information as per Maharashtra Cooperative Societies Act.

Headnotes:

Cooperative Societies and Right to Information – The Supreme Court upheld the High Court's decision that cooperative societies themselves are not 'public authorities' under the Right to Information Act, 2005, but their Assistant Registrars are considered public authorities - Consequently, societies under the Maharashtra Co-operative Societies Act are required to provide information through their Assistant Registrars - Importance given to the public's right to access information held by public authorities

Application of Maharashtra Cooperative Societies Act – The Court emphasized the Assistant Registrar's role under the Maharashtra Cooperative Societies Act in accessing information from cooperative societies - Information that can be statutorily accessed by the Registrar under the Act must be supplied to applicants under the Right to Information Act, 2005, subject to restrictions under Section 8(1) of the Act

Jurisdiction of Public Authority – Assistant Registrar identified as the appropriate public authority for requesting information from cooperative societies - Emphasized that information of public importance must be accessible to the general public.

Decision – The Supreme Court dismissed the special leave petition, agreeing with the High Court's reasoning and decision - No merit found in the petitioner's arguments - All pending applications were disposed of

Referred Cases:

- Reserve Bank of India vs. Jayantilal N. Mistry (2016) 3 SCC 525

ORDER

The petitioners before this Court are co-operative societies registered under the Maharashtra Co-operative Societies Act. Being aggrieved by the order passed by respondent No. 1, the petitioner filed a writ petition before the High Court of Bombay, Nagpur Bench. The High Court vide order dated 13.07.2011 dismissed the writ petition. Thereafter, aggrieved by the order dated 13.07.2011, petitioners filed letters patent appeal before the High Court. The Division Bench of the High Court vide order dated 03.09.2021 dismissed the letters patent appeal filed by the petitioner – Society and held that petitioner – society is not a ‘public authority’ but Assistant Registrar is a public authority. Therefore, as per the powers conferred under Maharashtra Cooperative Societies Act, the Assistant Registrar, petitioner – society is bound to furnish the documents.

“... 7. It is seen from the decision in Thalappalam Service Co-operative Bank Ltd. And ors. (supra) that the Registrar of Co-operative Societies is empowered under the Kerala Cooperative Societies Act, 1969 to gather information from a Society on which he has supervisory or administrative control under that Act He is in a position to gather such information from the Co-operative Society to the extent the same is permitted by law. It is found that under Section 79 of the Act of 1960 as well Rule 65 of the Rules of 1961 a Cooperative Society is required to maintain returns, accounts and books as referred to therein. This material can be accessed statutorily by the Registrar under the Act of 1960. Hence, when such information which can be accessed by the Registrar statutorily under the Act of 1960 is sought for by any applicant by invoking the provisions of the Act of 2005, the same would be liable to be supplied by the Society through the Registrar. At the same time if it is found that certain information

falls under the category exempted under Section 8(1) of the Act of 2005 the same can be refused to be supplied by the Registrar.

8. We find that the Information Commissioner has applied similar analogy while directing the Society to supply information to the respondent No.3. The learned Single Judge has held that what was directed to be supplied to the respondent No.3 was information which the Assistant Registrar could statutorily access. It is thus clear that information as contemplated by Section 2 (f) of the Act of 2005 as well as such information which is accessible to the Registrar under the Act of 1960 including that which is required to be maintained under Section 79 and Rule 65 of the Rules of 1961 would be liable to be supplied to the applicant. The same would however be subject to the restrictions imposed in that regard by Section 8 (1) of the Act of 2005.

9. In Jalgaon Jilla Urban Co-operative Banks Associations Ltd. (supra) the association of Urban Co-operative Banks and credit societies sought a declaration that urban co-operative banks, co-operative financial institutions, Patpedhis and other co-operative societies under the Act of 1960 were not "public authority" under Section 2(h) of the Act of 2005. The Division Bench of this Court after referring to the decision in Reserve Bank of India vs. Jayantilal N. Mistry (2016) 3 SCC 525 proceeded to observe that the Co- operative Societies were duly registered under the Act of 1960. The authority under the Act of 1960 could get the audit done and also conduct enquiry into irregularities. Hence when the information was sought from an authority like the Registrar or his subordinates under the Act of 1960 the same was liable to be supplied. The writ petition was accordingly dismissed. It may be noted that in Jayantilal N. Mistry (supra) the Honourable Supreme Court in the context of the provisions of Section 2(f) of the Act of 2005 has observed that it could be inferred from the said provision that the legislature's intent was to make available to the general public such information which could be obtained by the public authorities from the private body.

10. In the light of aforesaid it is held that the appellant is duty bound to supply the information sought by the respondent No.3 in LPA Nos.348/2011 and 350/2011 as well as by respondent Nos.6 and 7 in LPA No.349/2011 through the concerned Assistant Registrar in the light of observations made hereinabove. There is no reason to interfere with the judgment of the learned Single Judge. The Letters Patent Appeals are accordingly dismissed leaving the parties to bear their own costs.”

Heard learned counsel for the parties at length.

We are totally in agreement with the reasoning given by learned Single Judge as well as the Division Bench that the information sought from the petitioner is from the Assistant Registrar, Co-operative Society who is a ‘public authority’ defined under the Act. Moreover, the information being sought is also an information which is of importance to general public. Therefore, we do not find any merit in the arguments of the petitioner. There is absolutely no scope for interference. The special leave petition is dismissed.

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