

The Bidar District Central Co-op Bank Limited Represented by Its Managing Director and Public Information Officer Vs. the Karnataka Information Commission Represented by State Chief Information Commissioner and anr.

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Court : Karnataka

Decided On : Jul-03-2008

Reported in : ILR2008KAR3830; 2009(1)KarLJ231:2009(1)AIRKarR481

Judge : K. Bhakthavatsala, J.

Acts : [Right to Information Act \(RTI\), 2005](#) - Sections 2, 5(1), 5(2), 18(1) and 19(1); Co-operative Societies Act

Appeal No. : Writ Petition No. 11713/2006

Appellant : The Bidar District Central Co-op Bank Limited Represented by Its Managing Director and Public Inform

Respondent : The Karnataka Information Commission Represented by State Chief Information Commissioner and anr.

Advocate for Def. : Subramanya, Adv. for Ashok Haranahalli, Adv. for R2 and ;R.B. Sathyanarayan Singh, HCGP for R1

Advocate for Pet/Ap. : Shantesh Gureddy, Adv.

Disposition : Petition allowed

Judgement :

ORDER

K. Bhakthavatsala, J.

1. The petitioner/Co-operative Bank is before this Court praying for quashing the impugned order dated 18.7.2006 on the file of respondent No. 1 at Annexure-D.

2. The brief facts of the case leading to the filing of the Petition may be stated as under:

The respondent No. 2 filed a complaint dated 26.4.2006 (Annexure-A) under Section 18(1) of the Right to Information Act, 2005 (in short, 'the Act') before the Karnataka Information Commission/respondent No. 1 seeking information regarding:

(a) the names of the borrowers, who have opted for one time settlement in the last five years and

(b) the names of he 160 employees appointed during the year 2005-06.

The petitioner/Bank filed objections to the complaint stating that the complainant is neither a Director nor a

Member of the petitioner/Bank and the Bank is not a 'Public Authority' and there was no obligation on the petitioner/Bank to give the information as sought for by respondent No. 2. It is also stated that the Bank had not appointed 160 employees as alleged in the complaint. Notwithstanding the objections filed, the respondent No. 1 directed the petitioner/Co-operative Bank by the impugned order, to furnish the information as sought for by respondent No. 2. Therefore, the petitioner is before this Court praying for quashing the impugned order.

3. The petitioner/Co-operative Bank has produced a memo along with a copy of remittance challan dated 27.5.1993 to the effect that the Government's share capital amount of Rs. 71,00,000/- was remitted back in favour of the Government and thus the petitioner/Bank is not substantially financed by the Government. It is contended that the Notification dated 22.9.2005 issued by the registrar of Co-operative Societies as Annexure-C is not applicable to the petitioner/Society. It is further submitted that merely because the Registrar of Co-operative Societies has supervisory control over the Co-operative Bank, it cannot be said that the petitioner/Co-operative Bank is an authority within the scope Section 2(h)(d) of the Act.

4. Learned Counsel for respondent No. 2 submits that since the Registrar of Co-operative Societies has got control over the Co-operative Bank, though it is not substantially financed, it is an authority within scope of Section 2(h) of the Act. It is further submitted that the petitioner has not challenged the Notification of the Registrar dated 22.9.2005 at Annexure-C and there is no illegality or infirmity in the impugned order made by the respondent No. 1.

5. Learned Government Pleader has not disputed the remittance of share capital amount of Rs. 71,00,000/- on 27.5.1993 by the petitioner/Bank in favour of the Government.

6. Even before the Act came into force, the petitioner/Society has remitted back the share capital received from the Government. Section 2(h) of the Act defines 'public authority'. According to Section 2(h)(d) of the Act, the appropriate Government may include any body owned, controlled or substantially financed by it by issuing Notification. The notification dated 22.9.2005 issued by the registrar of societies can be said one issued under Sub-section (1) and (2) of Section 5 and not under Section 2(h)(d) of the Act. In other words, by issuing the Notification, the Registrar of Co-operative societies has named Public Information Officers and the authority to which appeal shall lie under Section 19(1) of the Act. Consequently, directed the CEO and the Presidents of all Co-operative Institutions in the State to take immediate action to carry out such duties and responsibilities and perform such functions assigned to them under the Act in their designated capacities as per the Notification at Annexure-C. As the Notification dated 22.9.2005 (annexure-C) has not been issued under Section 2(h)(d) of the Act, the petitioner is justified in not challenging the Notification. The supervisory control over the Co-operative societies by the registrar under Co-operative Societies Act, cannot be construed as a control of such nature, so that the petitioner/Co-operative bank can be brought within the definition of Section 2(h)(d)(i) of the Act. The respondent No. 1/Commission has mechanically accepted the complaint and erred in directing the petitioner/Co-operative bank to furnish the details by respondent No. 2 who is just a citizen and he is nothing to do with the petitioner/Bank. Therefore, the impugned order is not sustainable in law.

7. For the reasons stated above, the Petition is allowed and the impugned order dated 18.7.2006 on the file of respondent No. 1 at Annexure-D is quashed no order as to costs.