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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 30TH DAY OF JULY, 2020

BEFORE

THE HON'BLE MR.JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.60586 OF 2012 (GM-RES)

Between:

Dhanashree Urban Co-Op. Bank,
Near Old T.M.C., Athani,
Tq.: Athani, Dist.: Belgaum,
Rep. by its Manager,
Shri Narashimha S/o.Krishnaji Kulakarni,

... Petitioner

(By Shri R.M.Kulkarni & Shri M.K.Murthy, Advocates)

And:

1. Karnataka State Information Commissioner,
14/3. 1st Floor, Aravind Bhavan,
Nrupathunga Road, Bangalore-560 001.
2. The Public Information Officer and
Co-Operative Development Officer,
A.P.M.C. Yard, Athani,
Tq.: Athani, Dist.: Belgaum,
3. Deepak P.Patil,
Age major, R/o.: CTS No.1299/B,
Main Road, Athani-591 304,
Dist.: Belgaum.

... Respondents

(By Miss Seema Shiva Naik, HCGP for R1 & R2;
Shri Sanjay S.Katageri, Advocate for R3)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 03.01.2012, passed by respondent No.1 herein directing the

petitioner to provide audit reports of balance sheet for the year 2004-2005 to 3rd respondent herein produced as per Annexure-A.

This petition coming on for Preliminary Hearing-B Group, this day, the Court made the following:

ORDER

1. The petitioner – Society is before this Court seeking for declaration that the petitioner – Co-Operative Society is not a public authority within the meaning of Right to Information Act (for short “RTI Act”) and consequence thereof the Right to Information Act is not applicable to the petitioner – Society. Consequently, the petitioner is also seeking for a certiorari to quash the order dated 03.01.2012 in KIC 6404 PTN 2011 passed by respondent No.1 herein directing the petitioner to provide audit reports of balance sheet for the year 2004-2005 to 3rd respondent herein produced as per Annexure-A.
2. The case of the petitioner is that the petitioner is a Co-Operative Society registered under the provisions of Karnataka Co-Operative Society’s Act, 1959 involved in running banking business since

several years at Athani. There being certain disputes which arose between some of the members of the Society. Respondent No.3 had filed an application to the second respondent seeking details of audit report for the year 2004-2005 as per Annexure-B. The same was communicated to the petitioner by the second respondent, which was objected to by contending that the RTI Act is not applicable to the petitioner and that the third respondent was not a member of the Co-Operative Society. Despite which the second respondent allowed the application and directed the petitioner to furnish the documents sought for by respondent No.3.

3. Shri Shivaraj P.Mudhol, learned counsel appearing for the petitioner would contend that such an order passed by respondents No.1 is without any jurisdiction. The RTI Act not being applicable to the petitioner, no such order could be passed and in

this regard, he relies on the decision of this Court in the case of ***Dattaprasad Co-Operative Housing Society Ltd., vs. Karnataka State Chief Information Commission and Another***, reported in ***ILR 2008 KAR 4105*** by contending that the petitioner is not public authority and therefore the RTI Act is not applicable.

4. Shri Sanjay S.Katageri, learned counsel appearing for respondent No.3, who is the applicant under RTI Act would submit that the order passed by the first respondent is proper and correct. The Right to Information Act does not *stricto sensu* make a distinction between the public and private authority. Be that as it may, the petitioner's Society being involved in banking business, being a Co-Operative Society and consisting of several members of the general public is a public authority and the order passed is proper and valid.

5. Heard Shri R.M.Kulkarni, learned advocate for the petitioner, Miss Seema Shiva Naik, learned HCGP for R1 and R2 and Shri Sanjay S.Katageri, learned advocate for respondent No.3. Perused the prayer.
6. Admit.
7. With the consent of the learned counsel appearing for the parties, the matter is taken up for final disposal.
8. This Court is bound by the decision earlier rendered by the Co-ordinate bench of this Court in ***ILR 2008 KAR 4105***, wherein it has been categorically held that the Co-Operative Society would not come under provisions of RTI.
9. Applying the said dicta to the present case, the petition needs to be allowed. The order dated 03.01.2012 in KIC 6404 PTN 2011 passed by respondent No.1 herein directing the petitioner to provide audit reports of balance sheet for the year

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2004-2005 to 3rd respondent herein produced as
per Annexure-A is hereby quashed.

SD/-
JUDGE

Vnp*