IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.01.2026

PRONOUNCED ON : 22.04.2026

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 40146 of 2025

P.Jothibasu

..Petitioner(s)

Vs

1.The Commissioner,
State Information Commission,
No.19, Government Farm House,
Chennai-600 035.

2.The General Manager (Sales)-Cum-Appellate Authority,
Tamil Nadu Co-operative Marketing Federation Limited (TANFED)
No.91, St. Marys' Road,
Chennai-600 018.

3.The Deputy Registrar/Secretary-Cum-Public Information Officer,
Tamil Nadu Co-operative Marketing Federation Limited (TANFED)
No.91, St. Marys' Road,
Chennai-600 018.

..Respondent(s)

Prayer:Writ Petition has been filed under Article 226 of the Constitution of India to issue writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 1st respondent in SA-12510-A-2023 dated

03.10.2025 and quash the same as illegal and consequently direct the 3rd respondent to provide the information sought by the petitioner in his petition dated 02.05.2023 under the Right to Information Act, 2005.

For Petitioner(s):	Mr.M.Purushothaman
For Respondent(s):	Mr.C.Vigneswaran For R1 Mrs.Geetha Thamaraiselvan Special Government Pleader For R2 & R3
Amicus Curiae:	Mr.M.S.Palanisamy

ORDER

The petitioner impugns the order of the 1st respondent, wherein the 1st respondent came to a conclusion that the activities of the Tamil Nadu Co-Operative Marketing Federation Limited [hereinafter referred to as 'TANFED'] do not constitute "public work" at large, and it is not a body or an institution that constitutes a "public authority" within the Right to Information Act, 2005 [hereinafter referred to as 'RTI Act'] and sufficient materials had not been produced before it to establish the degree of control that the State of Tamil Nadu has over TANFED. Consequently, the appeal filed by the writ petitioner invoking Section 19(3) of the RTI Act came to be dismissed.

2. The petitioner filed an application under Section 6 of the RTI Act on 02.05.2023 seeking certain information from the 3rd respondent. The

information that the petitioner sought are as follows:

"(1) I request to give me the details of varieties of fertilizers procured by the Tamil Nadu TANFED Corporation.

(2) I request you to provide me a copy of the list of organizations from which Tamil Nadu TANFED Corporation is procuring fertilizers in a proper format.

(3) I request you to provide me the details as to which organizations/ companies / suppliers the Organic Manure, Bio-stimulant, Plant Growth Regulator, Neem Cake Bio Fertilizer and Nutrient fertilizers were procured by the Tamil Nadu TANFED Corporation from April 2021.

(4) Give me details of the method of tender guidelines for procurement of Organic Manure, Bio-stimulant, Plant Growth Regulator, Neem Cake Bio Fertilizer and Nutrient fertilizers whether fixed contract (or) empanelment tender or in which way were called for.

(5) In case procurement is to be done in empanelment method then give details of the organizations / companies which were approved for empanelment from April 2021 to April 2023.

(6) Are there any fertilizer not covered by the FCO 1985 are procured by Tamil Nadu TANFED Corporation and supplied to

PACCS. What are the fertilizers procured that does not come under the FCO, 1985 regulations. Give details of the name, variety, brand and name of the organization with copies of the same.

(7) How are the prices compared with market price of the fertilizers supplied by such organizations when being granted approval by your Tamil Nadu TANFED Corporation through empanelment while procuring fertilizers from private companies.

(8) Give copies of information pertaining to whether your organization consults with the Agriculture Department while fixing the price for procurement with any price.

(9) Whether the intermediate products like Organic Manure, Bio-stimulant, Plant Growth Regulator, Neem Cake Bio Fertilizer and Nutrient fertilizers are tested batch wise for the products procured by your TANFED Corporation? In case, such quality analysis is it being done in a lab certified under FCO 1985? If so, give information with supportive documents for each organization / supplier and details of the testing labs coming under the Agriculture Department, Universities.

(10) Whether your TANFED Corporation while procuring and supplying fertilizers to the PACCSS between April 2021 to

April 2023, the certificates of private suppliers of Organic Manure, Bio-stimulant, Plant Growth Regulator, Neem Cake Bio Fertilizer and Nutrient fertilizers, manufacturing license submitted by the private organizations of manufacturing certificate issued by the Agriculture Department after obtaining test certificate from State and Central Agricultural Universities (ICAR) such as Agronomy Photo toxicity? Give copies of the details of the Agronomy Photo toxicity submitted by various organizations.

(11) Give tabulation and details of copies of the suppliers of plant growth regulator (bio stimulant) whether they are as per the FCO 1985 regulations. In case fertilizers are coming under the FCO 1985 regulations whether such manufacturing certificates have been issued by the Agricultural Department give details with copies of the same."

3. This query was responded to by the 3rd respondent, stating that in terms of the judgment of this Court in ***The Public Information Officer vs. The Registrar, Tamil Nadu Information Commission and Others (W.A.Nos.2425 to 2428 and 2500 of 2013 dated 29.04.2015),*** reported in ***2015 (4) CTC 105,*** Cooperative Societies do not come within the purview of the RTI Act.

4. Aggrieved by the same, the writ petitioner preferred an appeal to the 2nd respondent on 25.05.2023. The 2nd respondent too, took a view similar as that of the 3rd respondent. Hence, the petitioner preferred a Second Appeal invoking Section 19(3) of the RTI Act. This appeal was presented on 11.07.2023. On account of the pendency of cases before the 1st respondent, the appeal had not been taken up for disposal. Hence, the petitioner filed W.P.No.3975 of 2025 dated 06.02.2025 seeking a direction for disposal of this appeal. This Court, by an order dated 06.02.2025, directed the appeal to be disposed of within a period of three months from the date of receipt of the copy of that order.

5. Pursuant to this order, the 1st respondent fixed the date of hearing as 02.04.2025. The petitioner filed an additional affidavit on that date, stating that the RTI Act applies to entities like TANFED. Hence, he sought for the appeal to be ordered and directions be issued to furnish the informations sought. On 02.04.2025, the Commissioner adjourned the hearing to 08.04.2025 for passing order. According to the petitioner, the purpose of adjournment was to enable TANFED to produce documents to show that there are no substantial investments by the Government of Tamil Nadu, for it to be subjected to the provisions of the RTI Act.

6. On 08.04.2025, when the petitioner, accompanied by his counsel appeared before the Commissioner, the matter was adjourned to 08.05.2025 as there was no sitting. On 08.05.2025 too, there was no hearing. Yet, one typed set of documents was received by the 1st respondent. The petitioner adds that the 1st respondent informed him, that the orders will be passed in the appeal and the same will be sent to him by post.

7. The petitioner states that he was waiting till the end of June for receiving communication. The wait was in vain. Instead, he was later informed by the Registry of the 1st respondent that the matter has been posted for hearing on 11.07.2025. The petitioner states that the TANFED had sent a letter seeking adjournment till 15.07.2025. Feeling aggrieved that the matter was being adjourned, without adhering to the aforesaid time bound directions of this Court, the petitioner issued a contempt notice on 30.07.2025. He followed it up by filing Contempt Petition No.3078 of 2025. Before the contempt petition came up for hearing, the impugned order came to be passed on 03.10.2025, dismissing the appeal. Aggrieved by the said order, the petitioner is before this Court.

8. When the matter came up for admission, Ms.Sri Vadiv took notice on behalf of Mr.C.Vigneshwaran, learned Standing Counsel for the 1st respondent

and Mrs.Geetha Thamaraiselvan, learned Special Government Pleader took notice on behalf of the respondents 2 and 3. Both counsel for the respondents sought time to get instructions to make their submissions. Hence, the matter was adjourned to enable them to get instructions.

9. The 3rd respondent has filed a counter affidavit. The facts leading to the appeal has been admitted. The 3rd respondent sought dismissal of the writ petition on the ground that TANFED is governed by the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred to as 'TNCS Act']. Hence, is entitled to the protection of the order in ***The President, Z.B. 70, Madhanam Primary Agricultural Co-operative Society Vs. The State Information Commissioner and others*** in ***W.P.No.14298 of 2022 dated 06.06.2024***, which held that *"Co-operative Societies"* do not fall within the meaning "Public Authority" under Section 2(h) of the RTI Act.

10. The counter affidavit states that the primary object of TANFED is to promote, sustain and support all around economic development of Federation's Members in agricultural and allied sectors. It relies on the judgment of the Supreme Court in ***Thalappalam Service Co-operative Bank Limited and Others vs. State of Kerala and Others [(2013) 16 SCC 82],*** which held that the expression 'controlled' under Section 2(h)(d)(i) of the RTI Act must be

substantial in nature and since the Government of Tamil Nadu has less than 51% of the share capital of TANFED, the judgment aforesaid applies to it. Hence, it sought dismissal of the writ petition on the ground that it is not an authority controlled by the State of Tamil Nadu.

11. It was further pleaded that while the Government, by order, sanctions interest-free amount of Rs.120 Crores for the procurement of Chemicals to TANFED, such funding is not unique to TANFED alone. The 3rd respondent relies upon the Delhi High Court's judgment in ***Subhash Chandra Agrawal vs. Indian Farmers Fertiliser Cooperative Limited (IFFCO) and Another*** in ***W.P. (C).No.6751 of 2013 dated 02.03.2015***. The Delhi High Court had held that IFFCO is not a public authority merely because it is receiving subsidy from the Central Government and declared IFFCO to not fall within the meaning of the expression "public authority". On these pleadings, the 3rd respondent sought for dismissal of the writ petition.

12. Mr.Vigneshwaran, placing reliance upon the judgment in ***Thalappalam's*** case (cited *supra*), urged that since the Supreme Court has held that Co-operative Societies are not "public authority" within the meaning of the RTI Act, this Court should apply the same judgment to the facts of the present case and dismiss the writ petition.

13. Considering the importance of the issue that was being presented, this Court requested Mr.M.S.Palanisamy, a person well-versed in the field of the Laws of Co-operative Societies, to assist the Court as *Amicus Curiae*. Mr.M.S.Palanisamy stated that the judgment in ***Thalappalam's*** case (cited *supra*) arose under the Kerala Co-operative Societies Act, 1969, and that on account of conflict between the view of two Division Benches of the Kerala High Court, a Full Bench was constituted in ***The Mulloor Rural Co-operative Society Limited, Represented by its Secretary vs. State of Kerala, Represented by the Chief Secretary and Others [AIR 2012 Kerala 124]***.

14. After drawing this Court's attention to the said judgment, the learned *Amicus Curiae* pointed out that the issue before the Supreme Court in ***Thalappalam's*** case (cited *supra*) was whether a rural cooperative society, at the primary level, is a "Public Authority" for it to be obliged to provide information as sought for. It also revolved around the questions that had been asked under the RTI Act and regarding the interpretation of the circular issued by the Registrar of Co-operative Societies, Kerala, dated 01.06.2006. Referring to the TNCS Act, he pointed that the TANFED is an 'Apex Body'. On the basis of the said judgment and the tests evolved therein, this Court could come to a conclusion that ***Thalappalam's*** case might not be applicable to an Apex Body

like TANFED. He left it is for this Court to decide if an Apex Co-operative Society is entitled to the same treatment as a Primary Co-operative Society.

15. I have carefully considered the submissions from all sides. I have gone through the records.

16. Before going into the application of the RTI Act to "co-operative societies", I feel it is necessary to analyze the constitution, managerial, functional and organizational structure of TANFED. Thereafter, I will discuss the applicable provisions of the TNCS Act, 1983 and the rules made thereunder and find out the nature of the society, such as TANFED, and the extent of governmental control over it.

17. TANFED is an Apex Co-operative Society. It was formed in the year 1959. The purpose for creating TANFED was to support farmers by supplying them with fertilizers, seeds, pesticides, and also assisting them in marketing their agricultural produce. In addition, TANFED also produces their highly popular brand of fertilizer known as '*Pamani*'. It cannot be disputed that the products developed and marketed by the TANFED benefit a wide range of agricultural activities and result in improvement of the soil fertility and crop yields.

18. These products are distributed through the Primary Agricultural Cooperative Credit Societies (PACCS), and also through some private agencies. In addition to these primary objects, TANFED also manages the storage of agricultural produces, including cold storage facilities and the distribution of Kerosene. TANFED is mandated to operate throughout the State of Tamil Nadu, except the Districts of Thanjavur and Nilgiris.

19. Let me now turn to the structure and control of TANFED.

Shareholding Pattern and Constitution of the Body of members of TANFED:

20. The membership of TANFED has four categories. They are:

(1) Primary Co-operative Marketing Societies working at Taluk levels;
(2) Thanjavur Co-operative Marketing Federation Limited (TCMF), Tiruvarur;
(3) Tamil Nadu Warehousing Corporation (TNWC); and
(4) The Government of Tamil Nadu.

21. Based on the counter affidavit filed by the 3rd respondent, it is evident that the authorised paid up share capital, working capital and financial details as of 31.03.2025, are as follows:

Share Capital as on 31.03.2025:

Members	***No. of Shares***	***Share Captial (Rs in Lakhs)***
APCMS	*109*	*79,75,000*
Government of Tamil Nadu	*1*	*62,92,000*
Cooperative Institutions	*1*	*46,25,000*
TNSCWHC	*1*	*10,000*
TCMF	*1*	*10,000*
	Total	*1,89,12,000*

Working Capital as on 31.03.2025:

Working Capital (Rupees in Lakhs)	
Share Capital	*79,75,000*
Government of Tamil Nadu	*62,92,000*
TTCMF	*10,000*

Financial details for the last 3 years:

Year	***Turnover (Rs in Lakhs)***	***Profits (Rs in Lakhs)***
2021-2022	*93587.78*	*3065.25*
2022-2023	*108185.05*	*2546.51*
2023-2024	*97132.41*	*2602.65*

22. Among these shareholders, the Primary Co-operative Marketing Societies fall under the category of societies defined in Section 2(2) of the TNCS Act.

23. Among the other shareholders of TANFED, the second category is the Thanjavur Cooperative Marketing Federation Limited (TCMF). This body is under the administrative control of the Department of the Cooperation, Food, and Consumer Protection, Government of Tamil Nadu. The head of TCMF is the Registrar of Cooperative Societies. At the district level, it is the Joint Registrar of the Cooperative Societies, Tiruvarur. He exercises direct supervisory control over TCMF. While there is a Board of Management controlling TCMF, who are chosen from the members of the primary cooperative society, its day-to-day administration is conducted by the Managing Director of the said society. The Managing Director is again an Official of the Government of Tamil Nadu, at the rank of either an Additional Registrar or a Joint Registrar. In order to ensure that such societies, which cater to a crucial need of this State, whenever there is no elected Board, the Government appoints a Special Officer or an Administrator to manage the TCMF's affairs. The TCMF is the lead marketing federation for agricultural societies in the erstwhile united Thanjavur District, and after its trifurcation for the current districts of Thanjavur, Tiruvarur and Nagapattinam.

24. The third category of shareholder is the Tamil Nadu Warehousing Corporation (TNWC). This is an undertaking of the Government of Tamil Nadu. It provides essential storage facilities for agricultural produce in this

State. The corporate composition of TNWC is shared between the Government of Tamil Nadu and Central Government owned Warehousing Corporation, namely, Central Warehousing Corporation (CWC). The TNWC is headed by a Managing Director, who is a senior member of the Indian Administrative Service (IAS) of the Tamil Nadu cadre. Of the remaining members of the Board of Directors, five Directors are nominated by the Government of Tamil Nadu, usually from the Departments of Agriculture, Finance and Civil Supplies. The CWC appoints the directors for the remaining members of the Board, with at least one representing the flagship financial institution of Bharat, namely, the State Bank of India.

25. The shareholding pattern of TANFED has been analysed in detail, in order to point out that apart from the Primary Co-operative Marketing Societies, the other three major shareholders are either managed by the officials appointed by the Government of Tamil Nadu or the Government of Tamil Nadu itself as a direct shareholder. The Government holds share capital to an extent of Rs.62,92,000.00.

26. Looking at the financial figures set-forth above from a bird's eye point of view, one might be persuaded to reach a conclusion that the Government of Tamil Nadu is merely a shareholder without exercising

substantial control over TANFED. Yet, the institutional composition of the TCMF and TNWC would indicate that the policy mandates are necessarily to be informed by officers, belonging to the IAS, of Tamil Nadu cadre.

27. I do not want to rest the conclusion regarding control, based only on these statistical data. Hence, I will refer to certain provisions of the TNCS Act and the Rules made thereunder.

Structure of a Co-operative Society as per the TNCS Act:

28. In Tamil Nadu, the co-operatives operate under a three-tier system, namely, the apex body at the State level, the District/Central body at the District level, and primary level co-operative societies at the grass roots or at the Village level. All the primary level co-operatives of all types get federated into their respective district level co-operative bodies. The district ones get federated into their respective State level unions and federations. An Apex Society is defined under Section 2(5) of the Act as follows:

> *"2(5)* ***Apex Society"*** *means a state level registered society whose area of operation extends to the whole of the State of Tamil Nadu and which has as its principal object, the promotion of the principal objects of, and the provision of facilities for the operations of, other registered societies affiliated to it and classified as an apex society by the Registrar;"*

29. TANFED is a society, which comes under this definition, which refers to a co-operative society that stands at the top of a particular co-operative structure in the State. Under Section 33(1) of the TNCS Act, the management of every registered society vests with a board. Explanation (1) to Section 33(1) holds that a "*functional director*", for the purposes of clause (c) of Sub-Section (2), means a paid officer of the society or an officer of the Government department or representative of central or an apex society, etc., having relation with functioning of the Registered Society.

30. The TNCS Act itself makes a difference between Apex, Central, and Primary Societies.

(a)**Apex Society:** A society whose area of operations extends to the whole of the State. Examples of such bodies are Tamil Nadu State Apex Co-operative Bank Limited (TNSC Bank), Tamil Nadu Co-operative Milk Producers Federation Limited (Aavin), etc.

(b)**Central Society:** A central society is one which caters to the needs in a district.

(c)**Primary Society:** A primary society is one which is at the grass root level of a Cooperative Structure. The area of operation of such a cooperative society is fixed by the Registrar under Section 16 of the TNCS Act.

31. At this juncture, in order to determine whether or not an Apex Co-operative Society such as TANFED is a body owned, controlled as substantially financed by the Government, it is pertinent to delve into the managerial, regulatory, administrative and financial control of an apex co-operative society, including the relevant provisions enacted under the TNCS Act and Rules made thereunder.

32. Insofar as the provisions dealing with management is concerned,

(a) ***Section 33(3)(a)*** of the TNCS Act declares that the Board of an Apex Society and a Central Society will consist of not less than eleven, but not more than twenty-one members.

(b) The power to appoint a **Managing Director** to an Apex Society **vests** exclusively with the **Government of Tamil Nadu**. This is in terms of ***Section 33(7)*** of the Act.

(c) Under ***Section 33(8),*** notwithstanding anything contained under Section 33(1), the Government, if it has taken shares in an Apex Body, (as in the case of TANFED), is entitled to nominate two Functional Directors of the Board.

(d) As per ***Section 33(9)***, in case, the Functional Director nominated by the Government is of the view that any resolution passed by the Apex Body is not in accordance with the Act, Rules, or bylaws of the society or is against the interests of an Apex Society or any other Society, he/she is bound to refer the said resolution to the Government. Upon receipt of a report from the Functional Director, the Government is given the power to take such action as it deems necessary on the same.

Financial Participation and Capital Control:

33. A separate Chapter in the TNCS Act is titled as "State aid to the Registered Societies". This is found under Chapter VI.

(a)***Section 52***, entitles the Government to subscribe directly to share capital of any registered society in the State.

(b)Insofar as the Apex Societies are concerned, ***Section 53*** empowers the Government to provide funds to an Apex Society for the purchase shares in other registered societies. This fund is called “Principal State Partnership Fund” (PSPF).

(c)This deals with the statutory funds governed under ***Section 54(1).*** As to how an Apex Society should utilise this PSPF fund is specified under ***Section 54(2)***.

(d)The funds, which the central societies (as defined under Section 2(9)) receive from the PSPF of an apex society, should deploy the same as mandated under ***Section 55*** of the Act. It establishes a fund called the Subsidiary State Partnership Fund (SSPF).

(e)The liability of the Government and that of the Apex Society to deploy moneys from PSPF and SSPF is governed by ***Section 57***, which prescribes liability is to be limited to the amount paid in respect of shares.

(f)Under ***Section 59***, the Apex Society is granted indemnity in the event of a registered society, in which the funds have been invested from the PSPF funds, is wound-up or dissolved. However, proviso to ***Section 59(1)*** makes it clear that whatever funds an Apex Society is to receive on account of winding up of the co-operative society should be remitted directly to the Government.

(g)Under ***Section 60***, all monies received by an Apex Society on account of the purchase of the shares of the other registered societies utilising the PSPF, on redemption, is to be credited to the PSPF. The same applies to the funds which have been invested in the SSPF fund under ***Section 60(2)***. Even though the shares stand in the name of the Apex Society, all monies and dividends received therefrom has to be paid to the Government. The manner of disposal of PFPS and SSPF, in the event of winding up of an apex society is covered under ***Section 61***. Furthermore, PSPF and SSPF funds do not form part of the assets of an Apex Society as per **Section 62**. The agreements entered into between the Government and the Apex Society too, is subject to the aforesaid provisions as given under ***Section 63***.

Administrative Powers and Control Over Functioning and Governance of Apex Societies:

34. A crucial aspect of control of an Apex Society is found under Chapter IX. This chapter relates to audit, inquiry, inspection and investigation, surcharge and supersession of societies. While other societies undergo a mere audit, when it comes to an audit of an Apex Society, under **Section 80(9)** the same must be placed before the Legislative Assembly of the State of Tamil Nadu in the manner prescribed.

35. The TANFED is not a Bank, so we need not concern ourselves with the restrictions on the powers of the Government incorporated under Chapter XIV-A, which deals with special provisions to short term cooperative credit structure societies. That Chapter is exclusively reserved for State Apex Cooperative Banks and Central Apex Cooperative Banks.

36. TANFED is specifically included in the schedule to the Act. It falls under Item 4 of Part A of the Schedule. This schedule has to be read along with Section 2(25) of the TNCS Act. The purpose of incorporating TANFED in the schedule is to make certain provisions of the Cooperative Societies Act applicable. The relevant provision is Section 75, which enables the Government

to create a common cadre in service for such institutions and also for operation of Section 33 of the TNCS Act. An analysis of the Act shows that the Government not only appoints the Managing Director of an Apex Cooperative Society like TANFED, but is also empowered to bring forth a common cadre, since TANFED falls under Part A of the schedule to the Act.

37. The provisions of the Act discussed so far shows that the Government exercises a wide control over an apex society, which is not merely regulatory or supervisory, but is direct, structural and determinative, amounting to substantial control.

38. Let us now look at the TNCS Rules, 1988, which have been framed by the Government to implement the TNCS Act.

(a)***Rule 25-A*** mandates the manner in which an audit report of an Apex Society should be placed before the Legislative Assembly. This corresponds to ***Section 80(9)*** of the Act.

(b)Insofar as the refund for the value of the share is concerned, this is governed by ***Rule 29***.

(c)The expenditure of societies, including Apex Societies is fixed by this Rule. It contemplates the creation of "Common Good Fund" under ***Rule 98***. In case, an apex society seeks to spend more than Rs.25,000 towards the common goods fund, it cannot be incurred, without the prior approval, of the Registrar of Co-operative Societies.

(d) If an apex society wants to utilise the funds, even for the purpose of assisting an employee who has died in harness, it can do so only after obtaining the previous approval of the Government under ***Rule 99(2)***.

(e)***Rule 145*** fixes the qualification for appointment of the Managing Directors by the Government under Section 33(7). TANFED is found in Serial No.4 of the Table appended to Rule 145. The qualification to be appointed as a Managing Director of TANFED, as provided under the table appended to Rule 145, is as follows:

(1)*A member of the Indian Administrative Service (IAS); or*

(2)*An Officer of a Cooperative Department not below the rank of the Joint Registrar of Cooperative Society; or*

(3)*An Officer of the Reserve Bank of India (RBI) not below the rank of a Joint Chief Officer; or*

(4)*An Officer of the National Bank for Agricultural and Rural Development (NABARD) not below the rank of the Deputy Director.*

39. Rule 146 states that the Managing Director would have to carry out the resolution of the Board, only if they are in accordance with the Act, Rules, bye-laws, and when they are not against the interest of the society. In case they

are not so in accordance with the aforesaid parameters, the Managing Director is mandated to refer the resolution to the Government.

40. Rule 146(2) holds that the Managing Director appointed by the Government shall have the overall control of the day-to-day administration in the society.

41. The Recruitment Bureau established under Section 74 is called upon to recruit all the paid officers and servants in the category of a Junior Assistant and above, in respect of all the categories of Apex Societies. Paid officers, and servants below the rank of Junior Assistant, and all technical posts in an Apex Body can be recruited, only by the Recruitment Bureau of a Revenue District.

42. Under Rule 151, an Apex Society should inform the Recruitment Bureau of the State or Recruitment Bureau for the Revenue District with respect to such vacancies as falling under their scope of recruitment.

43. The Members of Board of Director for TANFED too, is stipulated under Rule 59 read with Schedule II. Of the 21 Directors of the Board, 4 belonging to Schedule Caste /Schedule Tribe community are to be elected from the boards of the affiliated societies, including 6 women candidates.

44. Similarly, the Functional Directors of TANFED, in terms of Schedule II Clause 4(3), should be drawn from the Tamil Nadu Apex Cooperative Bank, TNWC, and Additional Registrar of Cooperative Societies (Marketing, Planning and Development), and the Managing Director of the Federation.

45. Finally, the Registrar's powers to enforce the performance of duties is provided under Section 166 of the Act. Under this Section, the Registrar is vested with the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864, to take necessary action for recovering expenses, as if they were arrears of land revenue.

46. A detailed survey of the Act and Rules show that they contemplate the managerial, administrative and financial control of the Government and its officials over Apex bodies like TANFED. None of these aspect have been gone into by the 1st respondent in its impugned order. It has merely referred to the investments made by the Government and placed it against the loans, which has been incurred by the TANFED and has come to a conclusion that the Government does not have control over TANFED.

Discussion of Authorities:

47. I shall now turn to the case law relied upon by both sides. The petitioner, respondents, and the learned *Amicus Curiae* read extensively from ***Thalappalam's*** case (cited *supra*). Hence, let me now analyse the history of both the cases and how it went up to the Supreme Court and what were the issues decided by the Supreme Court.

48. ***Thalappalam's*** case arose out of a Writ Petition filed by the Co-operative Bank before the High Court of Kerala at Ernakulam. The Registrar of Co-operative Societies had issued a Circular in No.23/2006 dated 01.06.2006. It was issued to all Co-operative Societies including the writ petitioner. The Circular stated that all Co-operative Societies under the control of the Registrar of Co-operative Societies are "public authorities" under the RTI Act. All the Societies were informed that they are liable to furnish information to all applicants under the RTI Act. The Information Officer in the Co-operative Departments were instructed that, if any application is received by them seeking information regarding any Co-operative Society, such application should be forwarded to the said Co-operative Society, so as to enable that Society to furnish the information to the applicant.

49. One of the members of the Thalappalam Society, named, Mr.K.T.Thomas, submitted an application to the Assistant Registrar (General), Pala, requesting certain information. The Assistant Registrar, who is the Public Information Officer under the Co-operation Department, forwarded this application to Thalappalam Society and called upon it to furnish the details as sought for by Mr.K.T.Thomas. This was as per the proceedings dated 05.04.2006. The Assistant Registrar also called upon the Thalappalam Society to appoint a Public Information Officer to handle the petition filed by Mr.K.T.Thomas. Challenging the Circular of the Registrar of Co-operative Societies dated 01.06.2006 and the direction given by the Assistant Registrar, this Writ Petition came to be filed. The Writ Petition also sought a declaration that Thalappalam Society is not a 'public authority' as defined under Section 2(h) of the RTI Act.

50. The learned Single Judge (Thottathil B.Radhakrishnan, J., as he then was) clubbed this Writ Petition with another Writ Petition and pronounced an order on 03.04.2009. He dismissed the Writ Petitions, holding that Co-operative Societies are 'public authorities' for the purpose of RTI Act and that all information accessible through the mechanism of the Kerala Co-operative Societies Act and Rules made thereunder, become “information” for the purpose of RTI Act.

51. Aggrieved by the same, the Societies preferred a Writ Appeal before a Division Bench. This appeal was heard by K.Balakrishnan Nair and CT.Ravikumar, JJ. (as he then was). The Division Bench held that the definition of a 'Public Authority' under Section 2(h) includes bodies owned, controlled or substantially financed, directly or indirectly, by the funds provided by the State Government.

52. After analysing the role of the State of Kerala in financing and controlling the primary agricultural co-operative credit societies, including past essential contributions and the Registrar's statutory control, the Bench concluded that, though the Registrar exercises pervasive control, this is distinct from the control by the State Government itself. Consequently, it held, the words, "owned" or "controlled" are not qualified by "directly or indirectly, by funds provided by the State Government", which only quantifies "substantially financed". They also held that the Circular of the Registrar dated 01.06.2006 is only an opinion without legal authority and obedience to it is only optional. They concluded, whether or not the Co-operative Society is a "public authority", is a disputed question of fact and that must be decided by the competent authority under the RTI Act, based on whether the said Society is substantially financed by the State.

53. Since financing and control vary amongst co-operative societies, the Bench concluded, no general decision can be made. It directed the competent authority to decide the status of each society on a case-by-case basis when the matter arises before him. Having come to these findings, the Writ Appellate Court vacated the findings of the learned Single Judge that Co-operative Societies are 'public authorities' under Section 2(h) of the RTI Act. It also directed that no coercive action can be taken against Societies for non-compliance of the Circular of the Registrar dated 01.06.2006, unless a determination that the Society is the public authority under the RTI Act is made.

54. In the meantime, one Sunilkumar, a member of the Mulloor Co-operative Society filed an application under the RTI Act, seeking personal loan information of other members of the Mulloor Society. The Society did not respond. Mr.Sunilkumar filed an application before the Kerala State Information Commission (KSIC) seeking for a direction to furnish the information. Relying upon the Circular issued by the Registrar of Co-operative Societies dated 01.06.2006, the KSIC directed the Society to furnish the information. Thereafter, Mulloor Society informed Mr.Sunilkumar that the information sought was "*confidential in nature*" and one warranting "*commercial confidence*". It further stated that the information had no relevance to the public activity carried on by the Society. Consequently, it refused

disclosure. The KSIC passed an order on 16.01.2008, imposing penalties on the Mulloor Society. The Society challenged this order by way of a Writ Petition. It argued that it is an autonomous body and not a public authority and that the financial data of its members are confidential and are incapable of being disclosed.

55. A learned Single Judge of the Kerala High Court dismissed the Writ Petition filed by the Mulloor Society. He also, like Thottathil Radhakrishnan, J. (as he then was), held that Co-operative Society is a “public authority” under Section 2(h) of the RTI Act. Having come to this conclusion, he held, Societies are obligated to comply with RTI queries under the regulatory framework.

56. Aggrieved by the order of the learned Single Judge, appeals were preferred before the Division Bench. The matter came up before a Division Bench consisting of C.N.Ramachandran Nair and B.P.Ray, JJ. The judgment of the Division Bench in ***Thalappalam's*** case was cited before them. After going through the judgment of the Division Bench in ***Thalappalam's*** case, the learned Division Bench in ***Mulloor's*** case disagreed with the same and referred the matter to a Full Bench.

57. The issues presented before the Full Bench was whether a Co-operative Society registered under the Kerala Co-operative Societies Act is a “public authority” within the meaning of Section 2(h) of the RTI Act and whether such societies are required to comply with the provisions of the RTI Act, including appointing Information Officers and furnishing information as mandated. The Full Bench, yet again, analysed the statutory scheme of the Kerala Co-operative Societies Act and the Rules made thereunder. It also analysed the Right to Information Act, in particular, the definitions of 'information' and 'public authority'. The Court, after analysing, concluded that the view of the Single Judge declaring Co-operative Societies registered under the Kerala Co-operative Societies Act as “public authorities” within the meaning of Section 2(h) of the RTI Act, is correct. It confirmed the applicability of the RTI Act to Co-operative Societies Act. It also upheld the Circular of the Registrar dated 01.06.2006, directing the Societies to implement the RTI provisions, including appointing Public Information Officers and furnishing information. The Full Bench relied upon the principles of transparency and accountability in Co-operative Societies as a bed rock for their functioning and held that if such information is given public access, it will prevent mismanagement. It was in this scenario that the matter reached the Supreme Court.

58. The Supreme Court was called upon to determine the issue, whether cooperative societies registered under the Kerala Co-operatives Societies Act, 1969, be termed as 'public authorities' within the meaning of Section 2(h) of the RTI Act.

59. The Supreme Court, in defining 'public authority', held as follows:

(1) The definition of 'public authority' under Section 2(h) is exhaustive, and cooperative societies typically do not fall under this category;

(2) Merely because the Registrar of Co-operative Societies exercise regulatory and oversight mechanism over all the co-operative societies in the State, it cannot be held that there is 'deep and pervasive' government control;

(3) The societies are managed by elected bodies from and out of the members of the society;

(4) The criteria to come to a conclusion that an authority is a 'public authority' should be "substantial funding from the Government", that is to say, significant funding essential for keeping up the societies' operations must be provided by the appropriate Government.

60. Furthermore, the Court held that the information sought were personal data of the members of the society, and hence, they are entitled for protection under Article 21 of the Constitution of India – Right to Privacy, and are exempt from disclosure by virtue of Section 8(1)(j) of the RTI Act. It found that, there being no substantial public interest in the information sought for, the question of disclosure does not arise at all.

61. An analysis of this judgment shows that the Supreme Court, after surveying the provisions under the Kerala Co-operative Societies Act, Article 12 and Article 21 of the Constitution of India, held that the autonomy of the cooperative societies should be respected. Only those authorities, over which the Government has a substantial control, would come within the scope of the RTI Act. I am entirely in agreement with the view expressed by Mr.M.S.Palanisamy, the learned *Amicus Curiae*, that this judgment is a precedent for societies which are primary in nature. However, it cannot be a precedent for societies like TANFED, which is an Apex Society, where the managerial, financial and regulatory control, including audit oversight, are held by the Government of Tamil Nadu and are reported to the State Legislative Assembly.

62. Turning to the judgment of the Delhi High Court in ***Subhash Chandra Agarwal vs IFFCO,*** cited supra, an analysis of the judgment is necessary. The writ petitioner was one Subhash Chandra Agarwal. He filed an RTI application with IFFCO on 20.01.2011. IFFCO rejected the application holding that it is not a "public authority" under the RTI Act. The first and second appeals preferred therefrom, were also dismissed. It was held by all the authorities under the RTI Act that IFFCO is not a "public authority" under Section 2(h) of the Act. They held so since IFFCO was not substantially financed or controlled by the appropriate Government. Challenging the same, a writ petition came before the Delhi High Court.

63. The Court found IFFCO is a society formed under the Multi-State Cooperative Societies Act. It was not in dispute, the Central Government had established IFFCO in 1967. At IFFCO's inception, the Union Government had nominated Board Members of IFFCO and had substantially funded it. However, by 2004, the equity of the Central Government had been repaid in full. On the date on which the information was sought for under the RTI, the Union Government no longer held any equity in IFFCO.

64. As per the bye-law 34(3) of the IFFCO's Constitution, upto three nominees, depending upon equity share captial percentage threshold, could be

appointed. The Court found, with no Government equity, the Central Government had no entitlement to nominate Directors.

65. Insofar as the claim that IFFCO gets substantial subsidy from the Central Government, the Court pointed out that the huge amount of subsidy that IFFCO receives do not constitute “substantial financing.” This is because, subsidies were viewed as a mechanism to keep fertilisers’ prices low for farmers by covering the difference, between production cost and sale prices. This was not a grant to IFFCO itself.

66. The Court also found that subsidies were paid to all qualifying manufacturers and importers including IFFCO, proportionate to their sale. These entities merely acted as transmission mechanism from the Central Government to the farmers. Hence, the Court held subsidies allotted cannot be considered as direct financing to IFFCO itself.

67. I have narrated the discussion of the Delhi High Court only in order to point out that the nature, function and financing of IFFCO is fundamentally different from TANFED. The TNCS Act and the Rules made thereunder contemplate, as analysed earlier, administrative, managerial as well as financial control by the State Government, together with audit oversight. Hence,

TANFED can no way be compared with IFFCO. Thus, this judgment does not come to the rescue of TANFED.

68. I now turn to the judgment in ***The Public Information Officer vs. The Registrar, Tamil Nadu Information Commission and Others, 2015 (4) CTC 105.*** The appeals arose before the Division Bench out of the common orders passed by the learned Single Judge in W.P.No.9713 of 2012 etc., batch dated 25.04.2012. All the appellants before the Division Bench were Co-operative Banks at the primary level. The question they presented before the Single Judge was whether a Co-operative Society registered under the TNCS Act of 1983 is a "public authority" within the meaning of Section 2(h) of the RTI Act. All the Writ Petitions were dismissed. Hence, the Writ Appeals.

69. It was argued by the appellants that the issue is covered by the judgment of the Supreme Court in ***Thalappalam's*** case, cited supra. The Division Bench concluded that the ***Thalappalam's*** case applies to the facts of the case and consequently, the appeals were allowed. Before the Division Bench, it had been conceded by the counsel for the State Information Commission that the judgment in ***Thalappalam's*** case applies. However, he had contended that as the society is manned by a Special Officer appointed by the Government, the judgment is distinguishable.

70. The Division Bench held that Co-operative Societies, which are merely under the regulatory control of the Registrar of Societies, are not public bodies. The Division Bench pointed out that Co-operative Societies, which are owned, controlled or substantially financed directly or indirectly by the State or Central Governments or formed, established or constituted by law made by the Parliament or such legislature, would not be covered by ***Thalappalam's*** judgment. The Bench also pointed out that the appeals pertain to Co-operative Societies, which do not fall under any of the aforesaid categories. It found that the appellant Societies before it do not fall under the classification of 'owned, controlled or substantially financed by the State or Central Government' and consequently, following ***Thalappalam's*** case, it allowed the appeals and the writ petitions.

71. After analysis of the TNCS Act and the Rules made thereunder, I have concluded that the State of Tamil Nadu, not merely finances TANFED, but has managerial, financial, regulatory control, including a legislative audit oversight over Apex bodies like TANFED. Hence, the judgment in ***The Public Information Officer vs. The Registrar, Tamil Nadu Information Commission and Others, 2015 (4) CTC 105,*** cannot be applied to the facts of the present case.

72. Similarly, in ***The President, Z.B. 70, Madhanam Primary Agricultural Co-operative Society Vs. The State Information Commissioner and others*** in ***W.P.No.14298 of 2022 dated 06.06.2024,*** the writ petitioner was an autonomous body controlled by the general body of its members. It was a primary agricultural co-operative credit society. The learned Single Judge concluded that it is a Society, which falls under the category covered in ***Thalappalam's*** case and as the appellant in ***The Public Information Officer vs. The Registrar, Tamil Nadu Information Commission and Others, 2015 (4) CTC 105*** and consequently, came to a conclusion that it is not a public authority under Section 2(h) of the RTI Act.

73. In fine, the judgment of the Supreme Court in ***Thalappalam's*** case and that of the Division Bench and the learned Single Judge referred above, all deal with Primary Co-operative Societies, which are managed and controlled by its independent Board of Directors, only under the regulatory control of the Registrar of Co-operative Societies. In none of those cases, the petitioners were able to demonstrate that the Society is controlled by the Government as in the case of TANFED. The TNCS Act and the Rules themselves distinguish between several kinds of co-operative bodies. One cannot compare an Apex body with a Primary Society. Especially, a Society like TANFED, where the Government has serious stakes and control. Therefore, those judgments are not applicable in

the case of an Apex Co-operative Society, as defined under Section 2(5) of the TNCS Act.

74. At this stage, I shall refer to a judgment of the Supreme Court in ***Reserve Bank of India (RBI) vs. Jayantilal N. Mistry [(2016) 3 SCC 525].*** This case arose from the writ petitions filed by the Reserve Bank of India (RBI) and regulators like NABARD, challenging the orders passed by the Central Information Commission (CIC). The CIC had ordered the disclosure of list of defaulters, advisory notes, inspection reports, and penalty orders to anyone who had applied under the RTI Act. On a petition filed before the Supreme Court, all the cases were transferred to that Court to resolve the issue, whether RBI and others banks can refuse to disclose supervisory and inspection information by invoking Sections 8(1)(a), 8(1)(d), and 8(1)(e) of the RTI Act. The Court analysed each of the aforesaid Sections and rejected the plea of the banks.

(a) Insofar as fiduciary relationship under Section 8(1)(e) is concerned, the Supreme Court held that the information obtained by the RBI from banks and financial institutions, were on the basis of statutory inspections and are not voluntary in nature. Hence, the information collected by authority of law do not fall under fiduciary duty and therefore, rejected the plea.

(b) On the plea of Section 8(1)(d), the Court held that where a larger public interest exists, like safeguarding funds of the depositors or incidents of mismanagement, they far outweigh the private interest of the competitive concerns. Consequently, disclosure should be made with respect to economic interest plea invoking Section 8(1)(a).

(c) The Supreme Court further held that transparency of regulatory actions bolsters public confidence, whereas withholding information, which is an aspect of secrecy, only grows suspicion in the minds of the people. The Court held that citizens of this Country are the ultimate sovereign owners of the information. It pointed out that disclosure of inspection reports, penalty reports, lists of large defaulters, etc., would enable the populace to hold the regulators and banks accountable, and this will have a direct impact on curbing fraudulent activities too. As Louis Brandeis, J. expressed, sunlight is said to be the best of disinfectants; electric light, the most efficient policeman (*Other People's Money: And How Bankers use it* (1914) Harper's Weekly Vol.58 No.2974 Pg.10), implying disclosure of corruption or hidden action to public scrutiny has a tendency to naturally purify them.

75. ***RBI's*** judgment was applied by the Bombay High Court in the case of ***Jalgaon Jillha Urban Co-operative Banks Association Limited vs. State of***

Maharashtra and Others [2017 (4) Mh.L.J 301]. In that case, writ petitions were filed before the Bombay High Court by the Jalgaon Jillha Urban Co-operative Banks Association Limited, and other financial institutions registered under the Maharashtra Co-operative Societies Act, 1960. It was contended by the petitioners that co-operative institutions registered under the Cooperative Societies Act are not public authorities and therefore, not subject to the provisions of the RTI Act. The petitioners relied upon Section 34-A of the Banking Regulation Act, 1949, to urge that information held by them is confidential and not subject to disclosure. It was further urged that the petitioners' institutions do not receive any Governmental financial aid, either directly or indirectly. The cause of action for the writ petitioner was that the authorities created under the Maharashtra Cooperative Societies Act were being insisted upon for disclosure of information under the RTI Act. Hence, the writ petition for a declaration that they are not bound to do so.

76. A Division Bench of the Bombay High Court, relying upon ***Jayantilal N. Mistry's*** case (cited *supra*), observed that cooperative institutions are subject to the pervasive control of the authorities created under the Co-operative Societies Act and held that the writ petitions, if granted, would run contrary to the observations of the Supreme Court of the aforesaid judgment in paragraphs 58, 59, 60, 62 to 68 of ***Jayantilal N. Mistry's*** case and dismissed the

said writ petition. I should point out that the attention of the Division Bench in ***Jayantilal N. Mistry's*** case was not drawn to the attention of the Court in ***Thalappalam's*** case.

77. It would now be relevant to take note of the judgment of the Supreme Court in ***S.S.Rana vs. Registrar, Co-operative Societies and another [(2006) 11 SCC 634].*** The Court held that a Co-operative Society is not controlled in its day-to-day functions by the State. Regulatory control by Statutory Authorities cannot be used to consider them as a 'State' within the meaning of Article 12 of the Constitution of India. This judgment was relied upon in ***Thalappalam's*** case to come to a conclusion.

78. The aforesaid analysis of the Act and the Rules made thereunder shows that TANFED is under the managerial, regulatory, financial and audit control of the State of Tamil Nadu and the person managing the day-to-day affairs of the society is appointed by the State Government. The monies that the TANFED gets for its activities are not only from the admission fee of its members, which are extremely nominal, but also from the share contribution made by its members. Three out of four of whom are controlled by the State Government. Thus, even if this Court were to apply the tests in ***Thalappalam's*** case, TANFED would be covered under RTI Act. An apex society like

TANFED, over which the Government has such a control, cannot be compared with a primary level co-operative society. Such a comparison is akin to the classic "chalk and cheese" equivalence. Hence, the judgment rendered in the context of primary level co-operative societies cannot be applied to Apex Societies.

79. The policy note issued by the Ministry of Cooperation, Food and Consumer Protection, Government of Tamil Nadu for the year 2024-2025, discloses that TANFED has been appointed by the State of Tamil Nadu as the Tamil Nadu Nodal Agent with respect to the activities carried out by the National Agricultural Co-operative Marketing Federation (NAFED). In that capacity, it sponsors and undertakes Price Support Scheme (PSS) to protect farmers from price declines. Furthermore, whenever the prices of essential commodities undergo an unreasonable hike, TANFED intervenes and stabilises the prices of the essential items. All these show that TANFED acts as an implementing arm of the State Government for its agricultural policies.

80. I should point out that the Government of Tamil Nadu itself, recognizing that TANFED is an important branch of its governance, issued G.O. (Ms).No.235, Cooperation Food and Consumer Protection (4E1) Department, dated 22.11.2007, appointing Public Information Officers (PIOs) with respect to

all matters relating to TANFED and PCMS-NCDC schemes. When the Government is clear that the information held by TANFED should be disclosed under RTI Act, I am unable to appreciate the stand of the respondents 2 and 3, that the RTI Act does not cover them.

81. In light of the above discussion, as the 1st respondent merely applied ***Thalappalam's*** case (cited *supra*) and matched the share capital against the loans, it has fell in error. No effort has been taken by the 1st respondent to see the extensive control that the State of Tamil Nadu exercises over TANFED through the Department of Cooperation and its Audit Department. Hence, I am constrained to interfere.

82. In addition, I should point out the informations that have been sought by the writ petitioner do not fall under any of the exemptions provided under Section 8 of the RTI Act.

83. Accordingly, this Writ Petition stands allowed. The impugned order passed by the 1st respondent in SA-12510-A-2023 dated 03.10.2025 and thereby confirming the orders of the lower Authorities are quashed. There shall be a direction to the 3rd respondent to provide the information as sought by the petitioner in the application dated 02.05.2023 under the RTI Act, within a

period of four weeks from the date of uploading of this order. This Court places on record its appreciation for the assistance rendered by the learned *Amicus Curiae*. There shall be no order as to costs.

22-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Jeni/Lm

To

1.The Commissioner,
State Information Commission,
No.19, Government Farm House, Chennai-600 035.

2.The General Manager (Sales) Cum
Appellate Authority,
Tamil Nadu Co-operative Marketing
Federation Limited (TANFED)
No.91, St. Marys Road, Chennai-600 018.

3.The Deputy Registrar / Secretary Cum
Public Information Officer,
Tamilnadu Co-operative Marketing
Federation Limited (TANFED)
No.91, St. Marys Road, Chennai-600 018.

V.LAKSHMINARAYANAN, J.

Jeni/Lm

WP No. 40146 of 2025

22-04-2026