

**BEFORE THE REGISTRAR OF CO-OPERATIVE SOCIETIES-CUM-FIRST APPELLATE
AUTHORITY UNDER THE RIGHT TO INFORMATION ACT, 2005**

FA/1/2014

Present: **Thiru T. KARIKALAN,**
Registrar of Co-operative Societies-cum-
First Appellate Authority.

Thiru T. Pravin,
No.25, Kulathu Medu Street,
Thirubuvanai,
Periyapet,
Puducherry – 605 107.

>>>>>

Appellant

Vs.

The Public Information Officer,
Pondicherry State Co-operative Housing Federation Ltd., P.486,
7th Cross, Thanthai Periyar Nagar,
Puducherry – 605 005.

>>>>>

Respondent

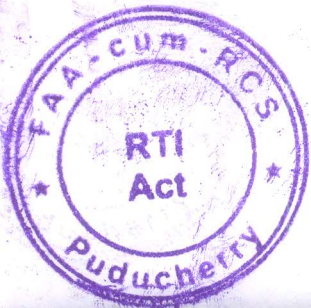
ORDER

(Issued under Section 19 of the Right to Information Act, 2005)

This first appeal, invoking Section 19 of the Right to Information Act, 2005 (for short 'the Act') is directed against the order dated 24.12.2013 of the respondent, in response to the application dated 30.11.2013 of the appellant / applicant.

2. In his application the appellant / applicant sought information pertaining to the employees of the Pondicherry State Co-operative Housing Federation Ltd., Puducherry (hereinafter 'the Federation') and also on the flats proposed in Muthupillaipalayam. While furnishing the information to some queries the respondent agreed to provide documents after inspection by the applicant to queries Nos.3 and 7. Information was denied to question Nos.4 and 14. This was followed by a rejoinder dated 3.1.2014 by the applicant and it appears that the respondent furnished some more information vide his letter dated 10.1.2014.

...2/-



3. Aggrieved by the information provided, a first appeal dated 22.1.2014 was filed alleging that the respondent was trying to conceal the material information. In the annexure enclosed with the first appeal application form, he disputed the information provided to queries Nos.2 to 8, 11 and 14.

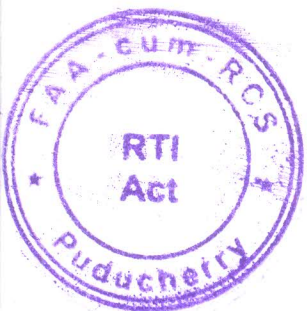
4. The appeal was taken on file and the respondent was directed to file his response. A copy of the response so filed along with the enclosures is forwarded to the appellant. On poring over the grounds of appeal and the response filed by the respondent it is seen that in query No.4 the appellant demanded the letters and petitions filed by the 'Puduvai Maanila Kootturavu Veetu Vasidhi Enaiya Oozhiyargalin Oorimai Padugappu matrum Munnetra Sangam'. To the said query the respondent informed that as the details sought for pertains to employees union the same could not be provided. Even while furnishing the response dated 19.2.2014 the respondent reiterated the stand and stated that as there are two employees union in the Federation and providing information to the appellant would cause unnecessary problem and hence information is denied.

5. It is the consistent view of the Central Information Commission that in order to deny information under the Right to Information Act, the authority concerned would have to show a justification with reference to one of the specific clauses under Section 8 (1) of the Act.

6. In this connection it is pertinent to advert the observations made by Hon'ble High Court of Delhi in *Bhagat Singh vs. CIC and others*, 2008 (2) ID 200:

"The Act is an effectuation of the right to freedom of speech and expression. In an increasingly knowledge based society, information and access to information holds the key to resources, benefits and distribution

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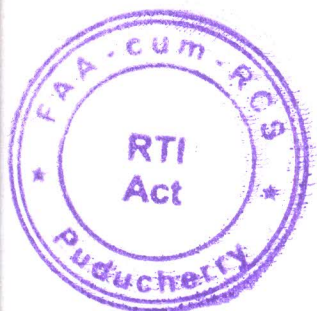
of power. Information, more than any other element, is of critical importance in a participatory democracy. By one fell stroke, under the Act, the maze of procedures and official barriers that had previously impeded information, has been swept aside. The citizen and information seekers have, subject to a few exceptions, an overriding right to be given information on matters in the possession of the State and public agencies that are covered by the Act. As is reflected in its preambular paragraphs, the enactment seeks to promote transparency, arrest corruption and to hold the Government and its instrumentalities accountable to the governed. This spirit of the Act must be borne in mind while construing the provisions contained therein.

Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interrupted in manner as to shadow the very right itself.

A rights based enactment is akin to a welfare measure, like the Act, should receive a liberal interpretation. The contextual background and history of the Act is such that the exemptions, outlined in Section 8, relieving the authorities from the obligation to provide information, constitute restrictions on the exercise of the rights provided by it. Therefore, such exemption provisions have to be construed in their terms; there is some authority supporting this view."

7. The judgment of the learned single Judge was upheld by the Division Bench in *Director of Income Tax (investigation) and another vs. Bhagat Singh and another*, reported in 2008 (2) ID 234.

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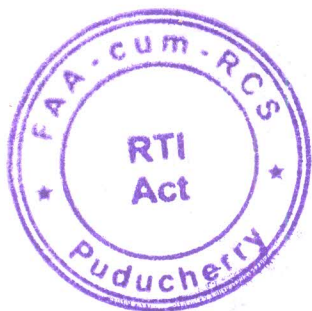
8. This view is echoed in a decision of the Central Information Commission in *R. Anand vs. BSNL, Chandigarh*, CIC/LS/A/2011/004138/BS/0086 dated 30.4.2012:

"It is evident on a perusal of the aims and objects of the Act and its preamble that the Act seeks to promote transparency of functioning in public domain and all information has to be supplied with alacrity and without demure except those which are clearly exempt by the express terms of these statute. It is to be emphasized that in case of doubt or difficulty the deciding authority should lean in favour of the information seeker. This is not to dilute some the provisions of Section 8 of the RTI Act which relate to sovereignty and integrity of India, etc. In view of the combined reading of Section 6 read with Section 8 of the RTI Act the concerned authority is bound in law to provide all information sought by the information seeker without hiding behind technicalities except on terms clearly exempt by different clauses of Section 8 of the RTI Act."

9. In the backdrop of the above, there appears no justified reason to deny the information sought by the appellant. The reason cited by the respondent not to disclose the information is very brittle. The respondent, is therefore, directed to furnish the information within a week from the date of receipt of the order.

10. Another point of dispute is with regard to query No.14. The appellant requested information on the structural design details of estimates, approval received from the Pondicherry Engineering College, etc. To this query the respondent informed that structural design is an intellectual property of the Federation and hence the details could not be provided.

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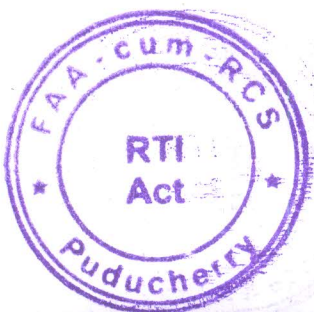
11. Elaborating the reason for the denial in the response dated 19.2.2014 the respondent stated that the structural design has been prepared by engaging a consultant at the cost of Rs.19 lakhs. The details cannot be divulged to any person on payment of photocopy charges. It was added that except the structural design he has furnished other information. I find considerable force in the averment of the respondent to deny the information. The structural design cannot be made public when the Federation has invested quite a huge amount to prepare the design and estimates and it is certainly an intellectual property. The appellant has not established any overwhelming public interest to warrant disclosure of such information. However, the respondent is at fault in not quoting the relevant provision of the Act to seek exemption from disclosure of information.

12. With regard to other grounds of appeal it appears that the respondent has now provided the information. The respondent is also instructed to provide the information while disposing the application itself without driving the appellant to approach by way of first appeal.

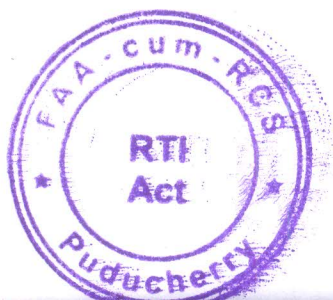
13. Before parting with the order, I feel obliged to mention that the appellant is frequently seeking information on the employees and on the working of the Federation. The appellant should be aware that providing information under the Act is only a part of the obligations of the respondent and cannot be the full time of the respondent. The information sought for should be in accordance with the objective of the Act and cannot have a telling effect on the resources of Federation.

14. I recall and recollect the very pertinent observations made by Hon'ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.* reported in 2011-4-LW-289 : (2011) 7 MLJ 1237 : 2011 129 ID 101 : (2011) 8 SCC 497 : 2011 AIR SCW 4888 in the following paragraphs:

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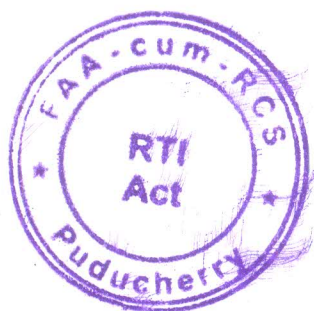


"The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties." [Emphasis added]



15. With the above observations and directions this first appeal stands disposed.
16. A second appeal against the decision shall lie with the Central Information Commission, Room No.305, 2nd Floor, B-Wing, August Kranthi Bhavan, Bhikaji Cama Place, New Delhi – 110 066 within ninety (90) days, as provided in sub-section (3) of Section 19.

Dated at Puducherry, on the 28th February, 2014.



T. Karikalan
(T. KARIKALAN)

REGISTRAR OF CO-OPERATIVE SOCIETIES

Telephone : (0413) 2272007

Fax : (0413) 2272619

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Encl.: As stated.

To

The Parties.