

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

FA/26/2015

M. Premadasan
No. 7-8, Moovendar Street
Mullai Nagar
Puducherry - 605 005

>>>>>

Appellant

vs.

The Public Information Officer
Puducherry Co-operative Wholesale Stores
Ltd., No. P. 44
No. 288, Mahatma Gandhi Road
Puducherry - 605 001.

>>>>>

Respondent

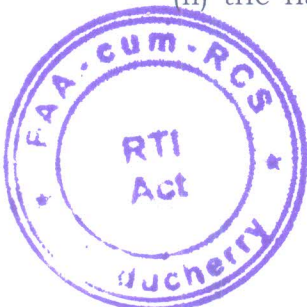
ORDER

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

The interference sought by the appellant, through filing this first appeal under Section 19 of the Right to Information Act, 2005, is to redress his grievance over the denial of information to a part of his application addressed to the respondent.

2. Before demarcating the disputed arena over the respondent's alleged denial of divulgence of information, a bird eye's view over the factual scenario is to be adverted first. The appellant/applicant, vide his application dated 11.9.2015, requested information in respect of seven questions, of which question No. 5 contained three sub-questions, revolving around the employees of the Pondicherry Co-operative Wholesale Stores Ltd., No. P. 44 [for brief the 'stores'] and the commercial transaction between the stores and some private dealers. The respondent provided information through letter dated 5.10.2015 to all the queries except to question Nos. 5 and 7 for which he took shelter under Section 8 (1) of the Act.

3. It is, therefore, imperative to delineate these two queries and the reply furnished by the respondent. In question No. 5, the appellant sought to know (i) from when on the respondent purchases cycle brand and Sridevi brand toor dhall, name of the dealers, their addresses and the rate quoted by them; and (ii) the name of the dealer, his address and rate quoted by him per kilo gram



from whom toor dhaal is purchased from 1.8.2005. The second query which was denied by the respondent relates to name, educational qualification and date of birth of employees of ECR branch, who were regularised as multi task employees.

4. To the first query the respondent stated that such information falls under commercial confidence and entitled exemption under Section 8(1) of the Act and the latter question seeks third party information and hence saved from disclosure. The claim of exemption is inveighed and impugned in this first appeal.

5. The appeal was admitted and the respondent was directed to file his response. A copy of his response is forwarded to the appellant. In his response, the respondent submitted that information to question No. 5 purely relates to commercial confidence and trade secrets and the supply of the information would definitely harm the competitive position of the suppliers. Providing personal information to question No. 7 would cause unwarranted invasion of the privacy of the individuals and hence the information was denied invoking S. 8(d) and (j) [sic] of the Act. The respondent sought to dismiss the first appeal.

6. Now the question before me is whether the respondent is entitled to claim exemption to provide the required information and such claim is justified. At the outset I must mention that while denying information through letter dated 5.10.2015, the respondent has not dealt the case objectively and the denial was curt and sketchy. For question No. 5, the respondent quoted Section 8 (1) and for question No. 7, no provision of the Act was stated.

7. It is imperative on the part of the respondent to pass a speaking order when it comes to denial of information. He should state specifically under which part of Section 8(1) such exemption is sought and how such exemption will fit in the facts and circumstances of the case. Had the respondent been vivid and eloquent in his reply, there would be little scope to complain and this first appeal as well. To some extent, he filled the gap while furnishing the response. The respondent shall keep in mind this observation, while dealing with the applications under the Act, in the days to come.

8. Coming back to the issue on hand, the details asked by the appellant through question No. 5 undoubtedly fall within the expression of the commercial confidence and trade secrets, the disclosure of which would harm the competitive position of a third party, as provided under Section 8(1)(d). The respondent stores is admittedly a commercial organisation and would be



dealing with various dealers for variety of products. The stores will enjoy some concession and privilege from the dealers and if the respondent is compelled to divulge such commercial details it would harm the competitive position. The respondent has to play his cards close to his chest and no commercial organisation can survive the stiff contest and competition by making its purchase/sale policy open to sky. Further what public interest prompts the appellant to seek such information is in dark.

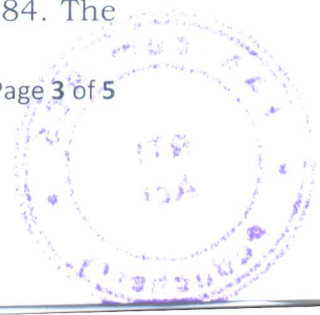
9. I am persuaded to quote the decision of the Central Information Commission in *Anant Singhania vs. National Aluminium Company, Bhubaneswar*, CIC/SM/A/2012/001471 & 1643 dated 4.3.2013, wherein the Commission observed thus:

Normally, all public authorities must place in the public domain much of the information they hold. However, it cannot be denied that the NALCO is both a manufacturer and seller of aluminum and aluminum products. As a public sector undertaking, it is expected of the company that it would maximise its profits in public interest. If it discloses the details of its traders under RTI, it would be giving away confidential information about its commercial transactions and, thereby, jeopardise its commercial interests. Therefore, there is some merit in the argument that this information should not be disclosed in terms of the provisions of subsection 1(d) of section 8 of the Act. In any case, the appellant has not been able to show how any larger public interest would be served in disclosing such commercial confidence. [Emphasis added]

10. The facts of the case fit in all four to the issue on hand. Guided by the above decision and in the absence of any overwhelming public interest demonstrated by the appellant, I see no case is made out to interfere with the decision of the respondent on this score.

11. The next issue is on the denial of information of the names of the employees, their educational qualification and date of birth who were regularised in the ECR branch. The respondent justified his stand stating that it is personal information of the employees and would cause unwarranted invasion of the privacy.

12. To answer this issue, I seek assistance from another decision of the Central Information Commission in *Mohan Singh Bist vs. Uttrakhand Gramin Bank, Haldwani*, CIC/SH/A/2014/000649 dated 10.4.2015. The contention of the respondents was that the appellant wanted information in regard to the educational qualification of the officers recruited in the bank during 1984. The



same was denied by them under Section 8 (1) (j) of the RTI Act. When it was taken on appeal before the Central Information Commission, it was held :

We note that in its judgment dated 6.8.2013 in *Union Public Service Commission vs. Gourhari Kamila* [Civil Appeal No. 6362 of 2013], the Supreme Court had noted the following observations made by the Apex Court in the *Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others*:

".....if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer."

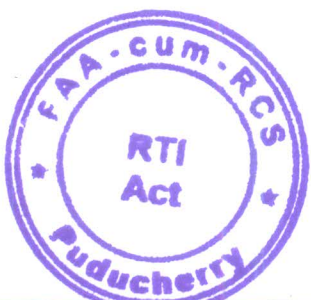
In view of the foregoing, we uphold the decision of the respondents to deny the information in this case.

13. The Hon'ble Supreme Court in its decision dated 13.12.2012 [Civil Appeal No. 9052 of 2012 *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizvi and another*] has, inter alia, held as under:

"Certain matters, particularly in relation to appointment are required to be dealt with great confidentiality. The information may come to knowledge of the authority as a result of disclosure by others who give that information in confidence and with complete faith, integrity and fidelity. Secrecy of such information shall be maintained, thus, bringing it within the ambit of fiduciary capacity".

14. The Hon'ble Delhi High Court in its decision dated 31.10.2013 [WP (C) No. 677/2013 & CM No. 1293 of 2013 - *Union of India vs. Anita Singh*] has held as under:-

"4. The passport of Mr. Ajeet Singh would have his personal information such as the address, date of birth and the name of his parents. The information such as date of birth and residential address of the passport holder would constitute personal information within the meaning of Section 8(1)(j) of the Act, which cannot be disclosed to the respondents. Since neither the respondent sought disclosure of the said documents in special circumstances such as existence of any public interest nor the Commission recording finding



that the larger public interest required disclosure of the said information to him, the said information would be exempt from disclosure under Section 8(1)(j) of the Act.....” [Emphasis added]

15. In view of the authoritative pronouncement, as stated supra, the denial of information by the respondent on the educational qualification and date of birth of the employees is in order and does not warrant interference. However, there is no justification to decline to provide the names of such employees. The respondent shall provide the names of the 22 employees, forthwith, in any case within a week from the date of receipt of the order.

16. The appeal stands disposed on the above terms.

17. A second appeal against the decision shall lie with the Central Information Commission, Room No.305, 2nd Floor, B-Wing, August Kranti 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 23rd November, 2015.




[Dr. A.S. SIVAKUMAR]

REGISTRAR OF CO-OPERATIVE SOCIETIES

Enc: as above

To

The parties