

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

F.A. No. 19 & 21/2015

M. Ramadass
S/o. Thiru Magidasooran
Pondy Main Road
Ariyur & Post
Puducherry – 605 102.

... Appellant in both First Appeals

Vs.

The Public Information Officer
Ariyur Primary Agricultural Co-operative
Credit Society Ltd., No. P. 173
Kandamangalam Post
Puducherry – 605 102.

... Respondent in F.A. No. 19/2015

The Public Information Officer/
Deputy Registrar (Audit)
Co-operative Department
Puducherry – 605 009.

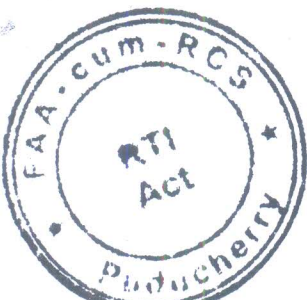
... Respondent in F.A. No. 21/2015

ORDER

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

The appellant herein filed two first appeals under Section 19 of the Right to Information Act, 2005, the first against the Public Information Officer of the Ariyur Primary Agricultural Co-operative Credit Society Ltd., No. P. 173 [for easy reference, hereinafter, the society] alleging that his application for information dated 20.7.2015 did not fetch any reply from the society and the second appeal is against the Public Information Officer/Deputy Registrar (Audit), Co-operative Department, Puducherry on the ground that the second respondent has not provided the desired information to his application.

2. Both the appeals are taken together for disposal as the appellant is the same in these appeals and there is commonality on the issue involved.



F.A. No. 19/2015

3. In his application, the appellant/applicant sought information from the first respondent to 11 queries revolving around the copies of bye-laws of the society, subsidiary regulations governing the service conditions of the employees, subby-laws of the society, documents connected with the disciplinary action taken against the employee, details on payment of gratuity, salary, subsistence allowance etc. Complaining that no information was forthcoming from the society, the first appeal came to be filed.

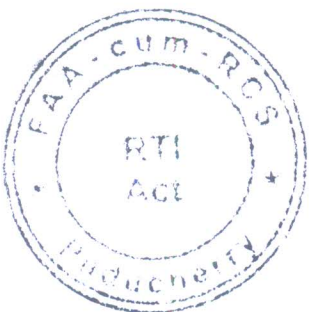
4. When the first respondent was directed to file his response, he submitted that the information to the application was furnished to the applicant by registered post on 18.8.2015. The postal cover came back to the society on 26.8.2015 with a postal endorsement that it was not claimed by the addressee. To fortify the claim, the first respondent furnished the copy of the postal cover with endorsement.

F.A. No. 21/2015

5. The applicant/appellant, vide application dated 20.7.2015, requested information to provide details of the action taken to his letter dated 4.7.2015 and certified copy of note file, copy of the bye-laws of the society, copy of sub-bye-law of the society and the subsidiary regulations governing the service conditions of the employees of the society. This application was forwarded by the second respondent to the Deputy Registrar (Credit) and the reply received from the Deputy Registrar (Credit) was sent to the appellant on 26.8.2015.

6. Aggrieved by the information provided, the first appeal was filed. The copy of the bye-laws of the society was provided to the applicant/appellant. With regard to action taken on his letter dated 4.7.2015, the applicant was informed that it was forwarded to the Administrator of the society for appropriate action. In response to the request for the copy of sub-bye-laws of the society and copy of the subsidiary regulations governing the service conditions of the employees of the society, the Deputy Registrar (Credit) informed that such records were not available in the section.

7. In his response, the second respondent has stated that whatever was furnished by the Deputy Registrar (Credit) was forwarded to the applicant/appellant.



HEARING, DISCUSSION AND DECISION

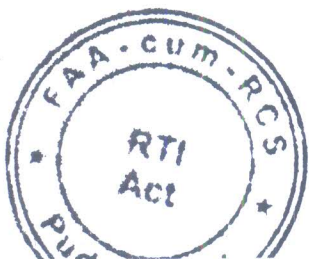
8. Notices were sent to parties to appear before me for hearing on 8th October 2015. The appellant was called absent and both the respondents were present.

9. The first respondent submitted that the appellant was a former employee of the society and was involved in a disciplinary action. He did not take part in the disciplinary proceedings before the enquiry officer, but was sending applications under the Act seeking information in one form or other. He used to send back the letters sent by the society and when the information was sent, in response his application, it was not claimed by the appellant and the cover came back to the society.

10. It is thus seen that there was no default on the part of the first respondent and when the appellant did not claim the registered post sent to him, he has to blame himself for it. When the addressee does not claim the registered letter, the said letter is returned to the sender with an endorsement "Intimated. Not claimed". The question arises whether such an endorsement would amount to refusal by the party. Dealing with this in *K.Bhaskaran vs. Sankaran Vaidhyan Balan* [1999 (III) CTC 358: (1999) 7 SCC 510] in a criminal appeal under Section 138 of the Negotiable Instruments Act, 1881, the Hon'ble Supreme Court held that when the addressee evades the receipt of notice, the presumption of service can be drawn. When the notice is returned as unclaimed and not refused, the Court has not seen any significant difference between the two so far as the presumption of service is concerned. [Emphasis supplied].

11. In view of the above, the claim of the appellant that his application was not responded by the first respondent is devoid of merit and stands dismissed. However, a copy of the reply furnished by the first respondent to the applicant is sent the appellant for information.

12. In respect of the appeal against the second respondent, the second respondent was candid in admitting that whatever information was furnished by the Deputy Registrar (Credit) to the application under the Act was sent to the applicant/appellant. During the hearing, the second respondent stated that there is no sub-bye-law of the society. If it is so, why the Deputy Registrar (Credit) informed that such a record was not available in his section and the second respondent has faithfully forwarded such information to the



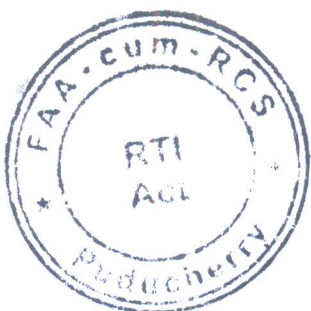
applicant/appellant. The second respondent could have informed the applicant/appellant that no such sub-bye-law is existing for the society.

13. When the applicant sought the copy of the note sheet, it was not provided to the applicant. When the copy of subsidiary regulations governing the service conditions of the employees is not available with the credit section, that part of the query should have been transferred to the society, under Section 6(3) of the Act, under intimation to the applicant. The way in which the application was dealt and disposed by the second respondent was perfunctory, to say the least. The worst part was that the second respondent did not even sign the information provided to the applicant, but what was signed by the Deputy Registrar (Credit) was forwarded to the applicant.

14. In *J.P. Agrawal vs Union Of India & others*, 2012 (1) ID 391, the Hon'ble Delhi High Court held that the office of the PIO cannot be reduced to that of a post office, to receive the RTI query, forward the same to the other officers in the department/administrative unit in possession of the information, and upon receipt thereof furnish the same to the information seeker. The PIO is expected to apply his / her mind, duly analyze the material before him / her and then either disclose the information sought or give grounds for nondisclosure. A responsible officer cannot escape his responsibility by saying that he depends on the work of his subordinates. The PIO has to apply his own mind independently and take the appropriate decision and cannot blindly approve / forward what his subordinates have done.

15. In the light of the above decision, it hoped that the second respondent would perform his role perfect henceforth. He shall furnish the note sheet sought by the applicant and transfer the part of application seeking the copy of the subsidiary regulations governing the service conditions of the employees to the society. This exercise should be done in a week's time from the date of receipt of this order. The first appeal stands disposed on the above terms.

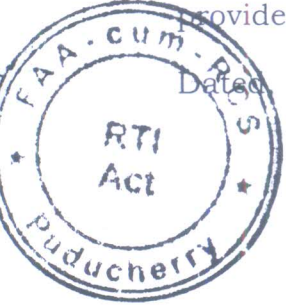
16. The appellant, in spite of notice, has not chosen to appear to canvass his claims against the respondents. In fine, F.A. No. 19/2915 stands dismissed and F.A. No. 21/2015 is disposed as indicated above.



F.A. Nos. 19 & 21/2015

17. A second appeal against this 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 of the Act.

Dated the 15th day of October 2015.




[Dr. A.S. SIVAKUMAR]

REGISTRAR OF CO-OPERATIVE SOCIETIES

Enc: as above

To

The parties