

By Registered Post with Ack. Due

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

FA/3/2014

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

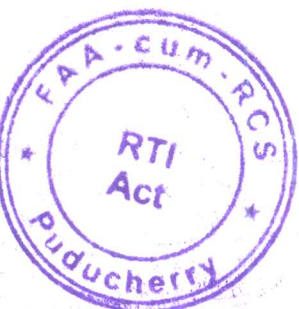
(Issued under Section 19 of the Right to Information Act, 2005)

The grumble of the appellant sought to be redressed through this first appeal, filed under Section 19 of the Right to Information Act, 2005 (for brevity 'the Act') is that the information furnished by the respondent to his application dated 27.12.2013 was inchoate and the respondent was trying to conceal the material answers.

2. In the said application 11 queries were raised and information was furnished by the respondent, vide letter dated 23.1.2014.

3. Contending that inadequate information was furnished the appellant sought intervention by this first appeal to direct the respondent to provide complete information. Taking the appeal on file the respondent was directed to file his response, a copy of which is forwarded to the appellant.

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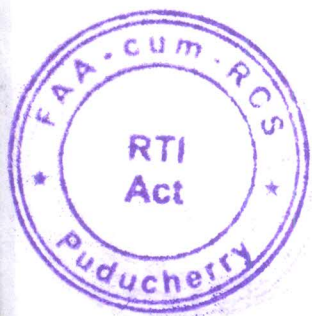


4. I have carefully considered the grounds of appeal and the response filed the respondent. In his response the respondent has provided copies of regulations, copies of note sheets and all the available copies of the office orders. It appears that the appellant was demanding non-existing information also. For instance, in query No.2 the appellant asked for information about the work details of Thiru S. Baskar @ Coumaravel between 14.8.2013 to 27.12.2013. When the respondent admitted that no record was available, nothing could be provided. Similarly, when no action was taken on a representation nothing survives under the Act.

5. In query No.5, the appellant sought the duties and responsibilities allotted to the Administrative Officer of the respondent society. When the PIO gave a reply that no separate responsibilities were allotted to him, it cannot be termed to be as refusal of information.

6. Finally, the appellant raised a query No.11 to know whether there was any Rule under the Act which imposes a duty on the applicant to come in person and collect the information from the PIO. This query was replied by the respondent stating that information would be provided by post to him. Challenging the reply the appellant stated that no reply was received from the respondent till date. There is no provision in the Act which mandates the applicant to visit the PIO and collect information. In the past the respondent has made such an attempt and he was directed in the order dated 17.2.2014 in FA No.41/2013 to send the information by registered post with acknowledgement due. The respondent has only stated that information would be provided by post and it appears that the appellant has taken a view that the reply to query No.11 would be provided to him by post. It is clarified that the respondent shall not make such any direction in future and information would be provided only by post under RPAD.

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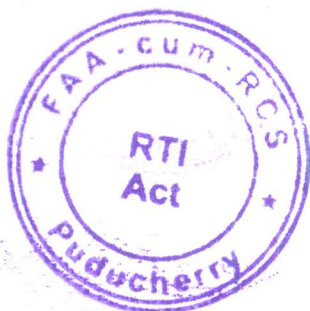
7. The appellant is informed that only such information which is available in material form with the respondent can be made available to him and the respondent is not expected or obliged to collect or collate information just because it was sought by an applicant.

8. It is pertinent to quote a decision of the Full Bench of the Central Information Commission in Shiri Vibhor Dileep Barla Vs. Central Excise and Customs, Nasik (Appeal No.CIC/AT/A/2006/00588 dated 30.11.2006) wherein it was held:

"Right to Information Act confers on all citizens a right to access information and this right has been defined under Section 2 (j) of the said Act. An analysis of this Section would make it clear that the right relates to information that is held by or under the control of any public authority. If the public authority does not hold information or the information cannot be accessed by it under Section 2 (j) or if information is non-est the public authority cannot provide the same under the Act. The Act does not make it obligatory on the part of the public authority to create information for the purpose of dissemination information would mean any material in existence and apparently it cannot mean and include something that is not in existence or has to be created."
[Emphasis added].

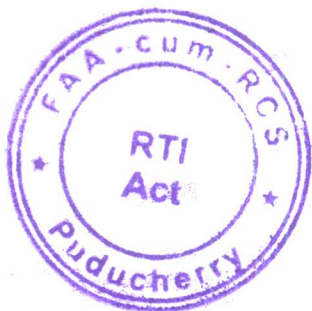
9. The law is well settled by a Judgement of the Hon'ble Apex Court of India in Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors. reported in 2011-4-LW-289 : (2011) 7 MLJ 1237 : 2011 (2) ID 101 : (2011) 8 SCC 497 : 2011 AIR SCW 4888.

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10. The law is crystallised in para 35 of the Judgement thus:

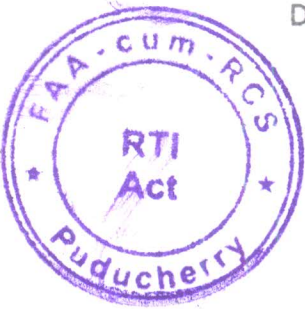
"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in Section 2 (f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act." [underlined to add emphasis].



11. In the light of the decisions cited, I find that the respondent has provided the information even through this first appeal and no further intervention is called for. The first appeal stands disposed accordingly.

12. 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 20th March, 2014.




(T. KARIKALAN)

REGISTRAR OF CO-OPERATIVE SOCIETIES

Telephone : (0413) 2272007

Fax : (0413) 2272619

Encl.: As stated.

To

The Parties.