

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

First Appeal No.12 /2023

Present : Thiru. S.YESVANTHAIYAH
Registrar of Cooperative Societies–cum-First Appellate Authority.

G.Kaliyamurthy,
No.54, Decoration Centre,
Room No.101, Market Street,
Karaikal.

> >>>> Appellant

Vs

1] The Deputy Registrar -cum- Public Information Officer,
O/o the Deputy Registrar of Co-operative Societies,
Co-operative Department,
Kamarajar Complex,
Karaikal

2] The President-cum-Public Information Officer,
Karai Kovilpatu Primary Agricultural,
Co-operative Credit Society Ltd.,
Thalatheru,
Karaikal – 609 605.

> >>>> Respondents

ORDER

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

The appellant submitted an application dated 20.06.2023, under Section 6 of the Right to Information Act, 2005, (hereafter “the Act”) to the 1st respondent and sought for certain information. The 1st respondent transferred the application under Section 6(3) of the Act to the President-cum-PIO, Karaikovilpathu PACCS (2nd Respondent) for on 28.06.2023 for directly furnishing the information to the appellant. But, the 2nd respondent bank furnished a reply to the 1st respondent on 07.07.2023 stating that, the respondent bank could not furnish the information sought since the bank is not covered under Right to Information Act, 2005 as per Supreme Court of India's Order SLP [C] No.24291 of 2012, 13796 & 13797 of 2013 dated 7.10.2013 and as per the Circular No.RCS/CLC/SFCS/2014/172 dt. 23.12.2014 of the Registrar of Co-operative Societies, Puducherry and as per clause 8(1)(d)(j) of the Act. This reply of the 2nd respondent is forwarded to the appellant by the 1st respondent vide letter dated 12.07.2023.

2. Aggrieved by the response of the respondent- society, the appellant filed this first appeal dated 17.07.2023.

3. The response of the respondents was called for, vide notice dated 21.07.2023. The 1st Respondent vide letter dated 27.07.2023 has forwarded a copy of the reply dt. 07.07.2023 received from the 2nd respondent and a copy of the letter dt. 12.07.2023 by which the same is forwarded to the appellant. The 2nd respondent society furnished their response vide letter dated 31.07.2023 stating that, the appellant is continuously making applications under RTI Act with ulterior motive to disturb the smooth functioning of the society. There is no irregularity or any violations of law. Further, it is submitted that, the Supreme Court of India as well as High Court of Madras held that Co-operative Societies do not fall within the ambit of RTI Act. The society is not a statutory body but a body created under a statue. As early as 2013 judgement of Supreme Court and Madras High Court, the applicant / appellant is not entitled to get confidential details of office and it is prayed that the relief sought by the appellant is not sustainable in law as well as on facts and the same to be rejected.

4. On perusal, it is observed that, the appellant has sought certain information about the members who have taken loan from the 2nd respondent society and about their loan repayments to the society. At the outset it is found that the information sought by the appellant did not fall under the classification of ‘Confidential Matters’. As such the claim made by the 2nd respondent does not hold good in the eyes of

Law as well as according to the provisions of the Act. Further, it is found that the 2nd respondent has misconstrued the Hon'ble Supreme Court of India order in its judgment, Thalappalam Service Co-operative Bank limited and others Vs State of Kerala and others, case reported in 2013 (12) SCALE 527; 2013 (6) CTC 98; (2013) (4) KLT 232; 2014-1-LW 273. In the said judgement, the issue whether Co-operative Societies registered under the respective State Co-operative Societies Act fall within the definition of Public Authority, it is settled that only those Co-operative Societies which are substantially financed by the appropriate Government will answer under the Right to Information Act 2005. In pursuance to the said judgement, the Registrar of Cooperative Societies, Puducherry vide circular No.RCS/CLC/SFCS/2014/172 dt.23rd December 2014 notified that, only those Co-operative Societies which are substantially financed by the appropriate Government will answer under the Right to Information Act, 2005 and listed the Co operative Societies which are covered under the Act. The respondent society also was listed in the RCS Circular dated 23.12.2014 since the 2nd respondent had received financial assistance from the Government in the form of share capital or subsidy".

5. It is evident that, the 2nd respondent is a Public Authority in view of the Registrar of Co-operative Societies Circular No.RCS/CLC/SFCS/2014/72 dt.23.12.2014 in as much as the society has received financial assistance from the Government. Further, respondent-society relied on the decision of the Hon'ble Apex Court in Thalappalam Service Co-operative Bank Ltd., (Supra). In the said judgment,(2013) the Court ruled that, cooperative societies, registered under the Kerala Cooperative Societies Act, would not be Public authorities in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. Based on the decision of the Hon'ble Apex Court, the Cooperative Department issued a Circular dated 23.12.2014, whereby, 260 cooperative societies, which are substantially funded by the Government, were identified for coverage within the definition of the "Public Authorities" under Section 2(h) of the Act. It is imperative to note that the respondent-society is found to be included in the said circular.

6. Therefore, the 2nd respondent is directed to furnish the available information to the appellant to his application made on 20.06.2023, within 15 days from the date of receipt of this order, at free of cost.

7. Hence, ***the respondent is directed to meticulously adhere the provisions of the said Act, in letter and spirit, and henceforth dispose of the applications under the said Act within the stipulated time limit ; failing which the respondent will be subjected to legal consequences as per the penal provisions of the said Act, including fine at the appropriate rate.***

8. With the above directions, this appeal is disposed of.

9. If aggrieved by this decision, a 2nd Appeal may be filed, under Section 19(3) of the Act, within 90 days, with the 2nd Appellate Authority, whose address is given below:

Central Information Commissioner
Room No.305.II Floor, "B" Wing, August Kranti Bhavan
Bhikaji Cama Place, NEW DELHI-110 066.

Dated at Puducherry on the 8th day of September 2023.




(S.YESVANTHAIYAH)
Registrar of Cooperative Societies-
cum- First Appellate Authority

To:

1. The Appellant
2. The Respondents.
- ✓ 3. The Web Editor, Cooperative Dept., Puducherry.
4. Stock File 2023.