

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

FA/6/2016

Present: **Dr. A.S. SIVAKUMAR,**
Registrar of Co-operative Societies-cum-
First Appellate Authority.

Thiru D. Gopaldass,
S/o. Danapal,
No.13, Mariamman Koil Street,
Kalmedupet,
Muthirayarpalayam,
Puducherry – 605 009.

>>>>> Appellant

Vs.

The Public Information Officer,
Pondicherry State Co-operative Housing Federation Ltd., No.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 6.1.2016 of the respondent, in response to the application dated 7.12.2015 of the appellant / applicant.

2. In his application the appellant / applicant sought various information pertaining to one Tmt. P. Lakshmi, an employee of the Pondicherry State Co-operative Housing Federation Ltd., Puducherry (hereinafter 'the Federation'). To this the respondent provided information vide letter dated 6.1.2016.

3. Aggrieved by the information provided, a first appeal dated 3.2.2016 was filed by the appellant alleging that the respondent did not furnish information as asked under Sl. No.1, 2 and 9 and information furnished to queries under Sl. No.5,6,7,8 and 10 was insufficient.

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4. The appeal was taken on file and the appellant was directed to file his rejoinder as how he has aggrieved over the information provided to questions under Sl.Nos.5, 6, 7, 8 and 10 as he alleged insufficient. He was given time up to 7.3.2016 to file his rejoinder. Even after receipt of the notice on 2.3.2016, as on date no rejoinder was filed by the appellant.

5. The appellant's queries under Sl. No.1 pertains to the documents / records submitted by Tmt. P. Lakshmi to fortify that she belongs to Puducherry. The second question deals with her attendance details as per biometric machine for the period from 1.1.2014 to 7.12.2015. The information sought under question No.9 is with regard to her registration with the Employment Exchange. To these three queries the PIO has stated that information was not available with the Public Authority.

6. When the information is not available the appellant cannot compel the Public Authority to construct records or create information just because it is needed by him. In this connection it would be appropriate to quote a decision of the Central Information Commission in '*A.D. Sharma vs. North Delhi Municipal Corp., Delhi, CIC/DS/A/2013/001343-YA*' dated 23.6.2014 :

"Under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. If a public authority has any information in the form of 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 a 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."



7. Similar observations was made by the Central Information Commission in 'Asha Agarwal vs. EPFO, Jaipur, CIC/BS/A/2013/000578/4876' dated 4.4.2014:

"Under the provisions of the RTI Act only such information as available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to hypothetical questions. Similarly, redressal of grievance, reasons for non compliance of rules/contesting the actions of the respondent public authority are outside the purview of the Act."

8. The appellant alleged that the respondent has not answered properly to his queries under Sl. No.5, 6, 7, 8 and 10. The appellant was given an opportunity to state how he was aggrieved over the information furnished which according to him insufficient. The appellant has not availed of this opportunity by filing his rejoinder. Without knowing the real cause of complaint no useful purpose would be served by seeking a response from the respondent on filing this first appeal by the appellant.

9. However, I have gone through the queries of the appellant at Sl. No.5, 6, 7, 8 and 10. The appellant has framed certain prepositions in the form of queries and seeks the response of the respondent by way of assertion or denial. I am afraid, that the definition of 'information' under Section 2 (f) of the Act does not encompass such admission or acquittal. The appellant is entitled under the Act to obtain the information subject to exceptions as held by the public authority in the material form.

10. In 'Vinodh Kumar vs. State Bank of India, Kanpur, CIC/MP/A/2014/000165, etc., dated 19.12.2014 the Central Information Commission placing reliance on the decision of the Hon'ble Supreme Court of India in 'CBSE vs. Aditya Bandopahyay' has held that :

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"Only such information can be supplied under the RTI Act that is available and existing and is held by the public authority. The public authority is not supposed to create information that is not a part of the record of the public authority. The public authority is also not required to solve the problems raised by the applicant or to furnish replies to hypothetical questions. The decision of Hon'ble Supreme Court in CBSE vs. Aditya Bandopadhyay wherein it was held that "when the information sought is not part of record of a Public Authority and the information sought is not required to be maintained under any law or rules or regulations of public authority, the Act does not case an obligation upon the public authority to collect or collate such non available information and then furnish it to the applicant."

11. It will be apt to quote the observations of the Commission in its decision dated 17.1.2012 [File No.CIC/SG/A/2011/002909 – S P Goel vs. IOB] holding as under :

"At this juncture, the Commission would like to mention that though the right to information is a fundamental right of the citizens, it cannot be used indiscriminately so as to adversely affect the functioning of a public authority and divert its resources disproportionately to fulfil the demands of one individual. The RTI Act harmonizes the various requirements of democracy. An unreasonable demand by an individual of the resources of the State to pursue his own whims does not sub-serve the requirements of democracy."

12. The Hon'ble Supreme Court in ICAI vs. Shaunak H. Satya, (2011) 8 SCC 781 has held as under:

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"39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources."

13. By and large, I find that the queries of the appellant pertains to the employment of Tmt. P. Lakshmi and even though some information fall under the category of personal information under Section 8 (1) (j) of the Act, the respondent was generous in providing such information to the appellant.

14. The appellant has not demonstrated any overwhelming public interest in seeking such information and in the above circumstances, I see no compelling reasons to interfere with the order of the PIO. The appeal lacks merit and stands dismissed.

15. 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 of the Act.

Dated at Puducherry, on the 6th April, 2016.



(Dr. A.S. SIVAKUMAR)
REGISTRAR OF CO-OP. SOCIETIES

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To

The Parties.