

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

First Appeal Nos. 17 to 20 of 2014

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

Thiru N. Ramesh,
No.12, Nadu Theru,
Kallitheerthalkuppam,
Madagadipet Post,
Puducherry - 605 102.

>>>>> Appellant

Vs.

The Public Information Officer,
Pondicherry Co-operative Spinning Mills Ltd., P.396,
Puducherry-Villupuram National High Way,
Thiruvandarkoil P.O., Thirubhuvanal,
Puducherry - 605 102.

>>>>> Respondent

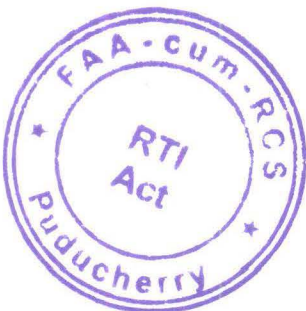
ORDER

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

The expose of facts, the controversy and the proposition of law being founded on a common canvas these first appeals filed under Section 19 the Right to Information Act, 2005 (for brevity 'the Act') by the appellant herein against the same respondent, namely the Public Information Officer of the Pondicherry Co-operative Spinning Mills Ltd., Puducherry (hereinafter 'the Mills'), are dealt analogously and disposed by this common order.

2. A circumspective of facts will reveal that the appellant / applicant sought information from the respondent on the following aspects and in response the respondent furnished information, which can be tabulated as follows:

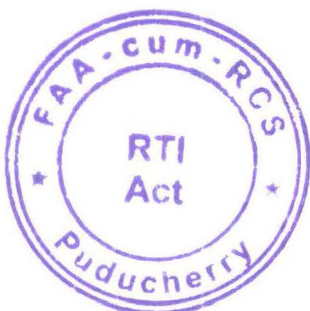
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Sl. No. (1)	First Appeal No. (2)	Information Sought (3)	Information Provided (4)
1.	FA/17/2014	Tour undertaken by the M.D. of the Mills, vehicle used, officers / officials accompanying the M.D., quantum of tour advance.	As enquiry in progress the information sought is exempted under Section 8(h) (sic) of the Act.
2.	FA/18/2014	The amount of advance received by Thiru R.Saravanan, P.A. to M.D., the reasons for the advance.	This will not come within the definition of 'information' under Section 2(f) of the Act.
3.	FA/19/2014	Details of computers / laptops purchased from 1.1.2013 to 31.7.2014, the employees who utilise the laptops, sale of old computers, etc.	As enquiry in progress the information sought is exempted under Section 8(h) (sic) of the Act.
4.	FA/20/2014	Total number of CCTVs purchased, installation of CCTVs, amount spent on accessories, etc.	As enquiry in progress the information sought is exempted under Section 8(h) (sic) of the Act.

3. The appeals were admitted and on direction the respondent filed his response, a copy of which is forwarded to the appellant. The gist of the response in First Appeal Nos.17, 19 and 20 is that the appellant is an ex-employee of the Mills. He sent a petition to the Vigilance Department and the matter is under investigation hence details were denied under Section 8 (h) (sic) of the Act. In respect of First Appeal No.18/2014, the respondent contended that as the appellant requested reasons for the advance sanctioned, a reply was given stating that it would not fall within the definition of 'information' under Section 2 (f) of the Act.

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4. On poring over the Information sought for, reply provided and the response filed it is quite manifest that the respondent is quite unwilling and sceptical to provide Information under the Act. The reply furnished are bereft of reasons, not to speak any convincing reason, and it is extremely curt. The respondent should be aware that he is under legal obligation to provide material Information held by him, unless exempted under the provisions of the Act. The Information sought for cannot be denied sweepingly without rhyme or reason. Whenever Information is denied there must be a justified reason and mere quoting of a Section number will not be effective or efficacious. While denying Information citing pendency of investigation and invoking Section 8 (1) (h) of the Act, the respondent has not ventured to justify how the disclosure of Information would 'Impede' or even on a lesser threshold 'hamper' or 'Interfere' with the investigation.

5. Section 19 (5) of the Act imposes an onus on the respondent to prove that the denial of request is justified. I am afraid that the respondent has failed to discharge this responsibility. Mere statement that the Vigilance Department is investigating the matter cannot by any stretch of imagination, be construed as a justification to invoke Section 8 (1) (h) of the Act and to withhold the Information.

6. In this connection I am persuaded to quote the observations of the Hon'ble High Court of Delhi in *Bhagat Singh Vs. Chief Information Commissioner and others*, reported in 2008 (2) ID 200:

"Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in a manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process

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of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8 (1) (h) and other such provisions would become the haven for dodging demands for information."

7. When the decision of the learned single Judge (supra) was agitated before the Division Bench in *Directorate of Income Tax (Investigation) and another vs. Bhagat Singh and another*, 2008 (2) ID 234, the Division Bench held that it is for the appellant to show how and why investigation will be impeded by disclosing information to the appellant, general statements are not enough. Apprehension should be based on some ground or reasons.

8. In my view this judgment squarely applies to the facts and circumstances of the case and hence the respondent is not justified in denying information, invoking Section 8 (1) (h) of the Act.

9. The respondent is, therefore, directed to provide the information sought for within a week from the date of receipt of this order.

10. In respect of First Appeal No.18/2014 the appellant sought to know the quantum of advance received by an employee for the period from 1.10.2012 to 10.8.2014. He also desires to know the reasons for which such advance was sanctioned and how the advance was adjusted.

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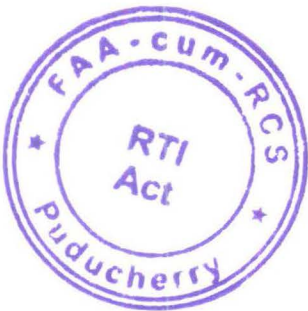


11. I am at a loss to understand as how the respondent can invoke Section 2(f) and contend that what was asked will not fall within the ambit of 'information' under Section 2 (f) of the Act. The appellant has not asked the reasons for action taken like why advance was sanctioned to an employee which alone amounts to justification and need not be provided to the applicant. But what is asked for is the quantum of advance sanctioned to an employee and the reasons for granting such advance. These are all the material information available with the respondent and an employee will not be granted an advance without a valid reason. No law prohibits the respondent from divulging such information. The respondent is duty bound to provide the information in a week's time from the date of receipt of this order.

12. In fine, the appellant has established a cause of action to entertain the first appeals and the reply furnished by the respondent needs to be interfered. The appeals are allowed and the respondent is directed to provide the information as directed above.

13. 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 11th November, 2014.



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

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Encl.: As stated.

To
The Parties.