

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

FA/2/2014

Present: **Thiru T. KARIKALAN,**
Registrar of Co-operative Societies-cum-
First Appellate Authority.

Thiru M.S. Jegadeesan,
No.20, Mayor Muthupillai Nagar,
(UCO Bank Street),
Mudaliarpeta,
Puducherry – 605 004.

>>>>>

Appellant

Vs.

The Public Information Officer,
Pondicherry Co-operative Urban Bank Ltd., P.14,
No.197, Jawaharlal Nehru Street,
Puducherry – 605 001.

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Respondent

ORDER

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

Aggrieved by the denial of information invoking Section 8 (1) (d) of the Right to Information Act, 2005 (for short 'the Act'), the appellant preferred this first appeal under Section 19 of the Act.

2. The cause of action arose by his application dated 31.12.2013 seeking information from the respondent on the IBM software used by the Pondicherry Co-operative Urban Bank Ltd., Puducherry (hereinafter 'the Bank'). He requested the details on the price paid for its purchase, copy of the agreement deed and news displayed in the Gazette, if any. To this application the respondent informed that this information is in commercial confidence, trade secrets or intellectual property and cannot be disclosed in terms of Section 8 (1) (d) of the Act. Against this, this first appeal is filed.

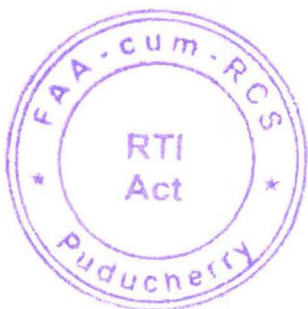
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3. The appeal was taken on file and the respondent was directed to file his response. A copy of the response so filed is forwarded to the appellant. While furnishing response to the first appeal, the respondent submitted that he was given to understand that the Hon'ble Supreme Court of India in '*Thalappalam Service Co-operative Bank Ltd. and others vs. State of Kerala and others*' held that co-operative societies under the Kerala Co-operative Societies Act will not fall under the definition of Public Authority, as defined under Section 2 (h) of the Act. On the strength of the judgment the Bank will fall outside the purview of the Act as the appropriate Government has not financed this Bank. Further it was stated that the Bank has not purchased IBM software and the information sought for by the appellant would fall within the ambit of 'trade secrets' and disclosure of which would harm the competitive position of the third party. Further the appellant has not established any larger public interest warranting disclosure of such information. On the above premises the respondent sought exemption under Section 8 (1) (d) of the Act.

4. At the outset, the maintainability of the first appeal is to be taken up as preliminary issue. It is true that the dictum of the Hon'ble Apex Court in '*Thalappalam Service Co-operative Bank Ltd. and others vs. State of Kerala and others*' reported in CDJ 2013 SC 902 : 2013 (12) SCALE 527 : 2013 (6) CTC 98 : (2013) 7 MLJ 407 : 2013 (4) KLT 232 and relied upon by the respondent has emanated under the Kerala Co-operative Societies Act. The Court held that co-operative societies registered under the Kerala Societies Act will not fall within the definition of 'Public Authority' as defined under Section 2(h) of the Act in the absence of materials to show that they are owned, controlled and substantially financed by the appropriate Government.

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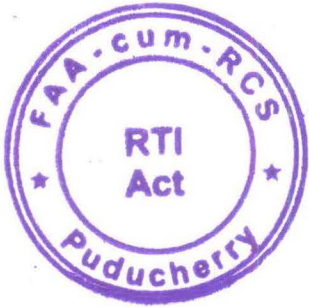
5. On poring over the judgment it is evident that co-operative societies are not owned or controlled by the appropriate Government. The only way by which a co-operative society can be brought under the purview of the Act is when such societies are substantially financed by the Government. In the instant case, as stated by the respondent, no substantial financing was made by the Government to the Bank. In such a case the Bank cannot be characterised as 'Public Authority' to fall within the definition of Section 2 (h) of the Act.

6. The objection made by the respondent that the Act is not applicable to the Bank is sustainable in view of the law laid down by the Hon'ble Supreme Court of India (supra).

7. This first appeal is not maintainable and hence dismissed.

8. 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 5th March, 2014.



(T. KARIKALAN)

REGISTRAR OF CO-OPERATIVE SOCIETIES

Telephone : (0413) 2272007

Fax : (0413) 2272619

Encl.: As stated.

To

The Parties.