

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

Present: **Tmt. P. PRIYTARSHNY,**
Registrar of Co-operative Societies-cum-
First Appellate Authority.

FA/26/2012

Thiru K. Sampath,
46, Main Street,
Ramanapuram,
Puducherry – 605 009.

>>>>>

Appellant

Vs.

The Public Information Officer,
Pondicherry Government Teachers' Co-operative
Credit Society Ltd., No.P.676,
No.2, 4th Cross Street,
Anna Nagar,
Puducherry – 605 005.

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Respondent

ORDER

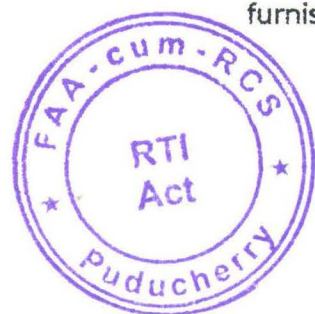
(Issued under Section 19 of the Right to Information Act, 2005)

This is the second round of litigation in the form of first appeal, filed under Section 19 of the Right to Information Act, 2005 (for brevity 'the Act').

2. The appellant has earlier ventilated his grievance that his application dated 4.5.2012 was not responded by the respondent. This appeal was disposed by me order dated 13.7.2012, wherein it was indicated that the respondent has sent the information to the appellant well in time and to give quietus to the matter the copies of the document provided by the respondent, as the reply to his application dated 4.5.2012 were forwarded. The respondent was also advised to respond applications received under the Act by registered post so that the despatch of information will not be disputed.

3. This first appeal is by way of an addendum on the merits of the information furnished by the respondent.

...2/-



4. The appellant took exception to the reply furnished to query No.5, which sought information on the rule which permits the society to refund fixed deposits without the approval of the depositor and without notice. To this question the respondent has stated that it will not fall within the definition of 'information'.

5. Another grievance of the appellant is that he received the information only through the Appellate Authority and did not receive the information within the time specified from the respondent. He is entitled for the copies of the documents at free of cost, as provided under Section 7 (6) of the Act. He sought to refund Rs.62/- remitted by him.

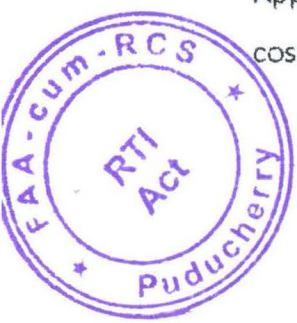
6. By way of response the respondent submitted that the appellant was informed vide letter dated 10.4.2012 as to why the fixed deposit was refunded. Further, the information and copies of the documents were sent to the appellant on 7.6.2012 by ordinary post. To fortify this, the respondent furnished the copies of the despatch register.

7. The appeal came up for hearing on 9th August 2012, the appellant was represented by Thiru S. Neelamegan. The respondent was present.

8. On the question of denial of information as to how the fixed deposit was refunded without the consent of the depositor, the respondent submitted that the appellant was already informed by letter dated 10.4.2012 and beyond this there was no information to be furnished. The appellant was directed to provide a copy of the letter to the appellant, as a response to the query.

9. The representative of the appellant maintained that he has not received the copies of the documents from the respondent for which he paid Rs.62/- as additional fees. As the copies were provided to him only along with the order of the First Appellate Authority on 13.7.2012, he was entitled to get such information at free of cost and hence the respondent should refund Rs.62/- to him.

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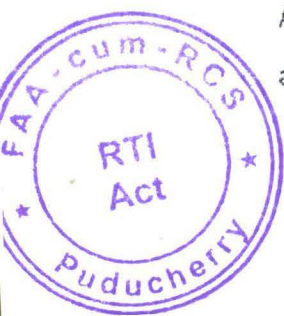
10. The representative of the appellant relied on Section 19(1) of the Act which states that '*any person does not receive within the time specified*'. To this charge the respondent submitted that the copies of the documents were sent to the appellant on 7.6.2012 and there was no delay on the part of the society in providing the documents. According to him the refund of additional fees does not arise at all.

11. I had given anxious consideration to the rival submissions. Section 7(1) mandates that on receipt of a request under Section 6 of the Public Information Officer shall, as expeditiously as possible, and in case within 30 days of the receipt of request, either provide the information on payment of such fees as may be prescribed or reject the request for any reasons specified in Section 8 or 9.

12. Further Section 7(3)(a) provides that the period intervening between the despatch of the intimation and payment of fees shall be excluded for the period of 30 days. In my considered view when the information is provided to the querist within 30 days of the receipt of request, the Public Information Officer is absolved from his responsibility as he has fulfilled the command of Section 7(1). In the instant case, as contended by the respondent and as disclosed by the despatch register, the information and the copies of the document appear to have been provided to the appellant within the time limit.

13. Per contra, the appellant relied on Section 19(1) which states that any person who does not receive a decision within the time specified or is aggrieved by a decision of the Public Information Officer may prefer an appeal. According to him the information should be received by him within 30 days and not thereafter.

14. Unless an information is provided it will not be received. A harmonious interpretation between Sections 7 (1) and 19 (1) would be that the CPIO shall provide the information within 30 days of receipt of request and a person who has not received the information within the time specified may prefer an appeal to the First Appellate Authority. In the instant case, it will be more an academic exercise to adjudicate whether the provisions of Section 7(1) run contrary to Section 19(1).



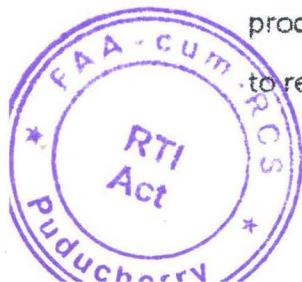
It is worth to recall a decision of the Central Information Commission made in 'Ashok Kumar Sharma vs. Lok Sabha Secretariat, New Delhi, CIC/SM/A/2011/001875 dated 4.6.2012' :

"The RTI application dated 5 May 2011 was received in the office of the CPIO on 10 May. Even if it is argued that it might have been received in the receipt section of the Lok Sabha Secretariat on 7 May, it can be nobody's case that it would be deemed have been received by the CPIO. In every office, it is not likely that the person receiving the RTI application is the CPIO himself or the RTI application can be instantaneously transferred to the CPIO on being received in the receipt section. Therefore, the delay for the purpose of the provisions of the Right to Information Act will have to be counted from the day it is received by the CPIO. In the present case, even if it is assumed that the RTI application had reached the Lok Sabha Secretariat on 7 May, the CPIO had replied on 7 June. By no consideration, it can be said to have been beyond the stipulated period. In any case, the respondent categorically stated during the hearing that it had been delivered to the CPIO by the postal authorities on 10 May 2011 and not earlier."

15. It may be seen from the above that the benefit was given to the PIO in disposing the application. Though in the instant case the facts are different I quote the above decision to buttress my view that to calculate the crucial date in border line cases leniency given to the PIO.

16. I am unable to subscribe the contention of the appellant that he has not received the copies of the documents from the respondent and hence he should be refunded the additional fees of Rs.62/-. It is true that the respondent has no other proof except the despatch register to fortify the letter sent. I cannot doubt the usual procedure followed by the society even though I have instructed in my earlier order to resort to registered post while dealing with applications under the Act.

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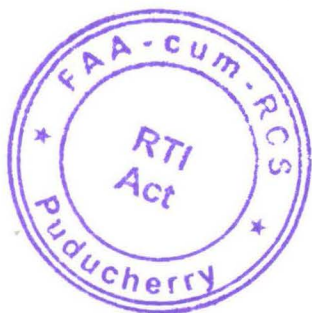
There is a force in the claim of the respondent that the letter addressed to appellant was not received back and hence it should be deemed to be served. In any case, I cannot entertain a complaint from the appellant that a letter addressed to him was not received by him. His remedy is elsewhere and not before me.

17. The appellant's arguments appears to be that by operation of Section 19(1) even where the information is provided within 30 days and when he does not receive it within the time limit he would be entitled to invoke the remedy of first appeal. This is not the bone of contention here. This remedy was exercised by him in first instance and the appeal was disposed by order dated 13.7.2012.

18. But he cannot be heard to contend that even if the information is provided by the PIO within 30 days and if it is not received by the applicant the PIO should be held responsible for the delay in post or lost in transit. It is a farfetched argument and cannot be the intention of the law makers. When the letter is properly addressed and posted to the addressee, is presumed to reach the addressee. Nothing much could be done by the PIO.

19. A fallacy is found in the appellant's contention for refund of Rs.62/- paid as additional fees. Section 7(6) on which reliance is made does not say that if the information has not reached to the applicant within the time limit he would be entitled to be provided the information free of charge. On the contrary it provides that the person making request for information shall be provided the information free of charge where a public authority fails to comply the time limit specified in Section 7(1). Section 7(1) speaks only on providing the information within the time limit and not on receipt of information. The argument of the appellant to claim refund of Rs.62/- can only be on the express provision of Section 7(6) and this does not help the appellant in any way.

...6/-

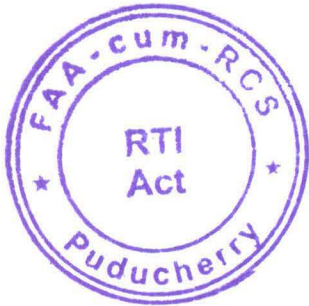


20. The respondent is directed to provide copy of the letter dated 10.4.2012 to the appellant within a week from the date of receipt of this order.

21. This appeal stands disposed on the above terms.

22. 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 this 10th day of August, 2012.




(P. PRIYTARSHNY)
REGISTRAR OF CO-OPERATIVE SOCIETIES

To

The Parties.