

No.4-50/2005-Coop. (Estt.)
Directorate of Cooperation
Himachal Pradesh

To

The Appellate Authority-cum-Additional Registrar,
(Monitoring) Cooperative Societies, Himachal Pradesh.

Dated: Shimla-9, the ^{March} 04 th February, 2017.

Subject: - Invoking section 41 of the Cooperative Societies Act, 1968 for providing information under RTI, Act, 2005 to the information seeker under RTI Act, 2005.

Sir/Madam,

On the above noted subject, it is intimated that the State Information Commissioner, H.P. has decided a complaint filed by one Sh. Sansar Chand S/O Sh. Jagir Singh V/S PIO-cum-Assistant Registrar Cooperative Societies Dehra Distt. Kangra H.P. under section 18 of the RTI Act, 2005 vide decision dated 13-12-2016. The Hon'ble State Information Commissioner vide decision dated 13.12.2016 has held inter-alia that ".....Section 41 of the Act cannot be invoked just to provide information to a citizen. Section 41 altogether envisages a different situation. No provision of law has been pointed out which gives power to the Registrar to collect information for providing it to a citizen who is not a member of the Society. In the case of CBSE V/s Adhitya Bandopadhyay, the Hon'ble Supreme Court held that only existing information can be supplied, collection of information from various sources is not permitted. In the case of CBSE, the Hon'ble Supreme Court was directly dealing with RTI Act. In the case of Thalappalam Ser.Coop Bank Ltd., the main issue was about a Cooperative Society being a "public authority". The RTI Act provides a time bound procedure for providing available information. In the matter of "Thalappalam Ser. Coop. Bank Ltd. V/S State of Kerala and others Respondents" the Hon'ble Supreme Court observed as under:-

"53. Consequently, an information which has been sought for relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, the Registrar of Cooperative Societies, even if he has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing." It implies that information may be refused if it is personal information not related to any public activity or interest. Before seeking information from a Cooperative Society the Registrar should pass a reasoned order indicating that it is not personal information and there is larger public interest in supplying the information. Without applying mind and passing a reasoned order, he cannot start the collection of information in a mechanical way as has been done in the present case.

In the reply filed by the respondent reference has been made to a letter dated 12-03-2009 issued by Directorate of Cooperation Himachal Pradesh where a reference has been made to the order of Chief Information Commissioner, Himachal Pradesh in a case titled Rahul Kohli V/S ARCS Una decided on 22-09-2008. In view of the judgment of Hon'ble Supreme Court in the matter of CBSE V/S Aditya Bandopadhyay, quoted above, the order dated 12-03-2009 and the order of Chief Information Commissioner has to be ignored as it is against the law declared by Hon'ble Supreme Court quoted above."

In view of the above, you are directed to implement the decision referred above in letter and spirit. A copy of the decision dated 13-12-2016 passed by the Hon'ble State Information Commissioner is enclosed herewith for ready reference.

B.S. L
ok Registrar Cooperative Societies,
Himachal Pradesh
Dated Shimla-9 the 04th ^{March} February, 2017.

Endst.No. As above
Copy to:-

All the Public Information officers, in Department of Cooperation for information and similar action.

B.S. L
Registrar Cooperative Societies,
Himachal Pradesh

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