

Kerala High Court  
Kerala High Court  
Abdu Razak vs State Of Kerala on 6 July, 2006  
Equivalent citations: 2006 (3) KLT 696  
Author: K Thankappan  
Bench: K Thankappan  
JUDGMENT

K. Thankappan, J.

1. Petitioner has approached this Court for a direction to respondents 3 and 4 to issue necessary information to the petitioner as prayed for in Exts.P1 and P7 applications. The petitioner is an A class member of the 5th respondent Service Cooperative Bank, which is a Co-operative Society registered under the Kerala Cooperative Societies Act. He submitted an application before the 3rd respondent Society for obtaining certain information by way of copies of documents. Since there was no positive response from the 3rd respondent, the petitioner submitted similar application before the 4th respondent. Thereafter, the petitioner was informed that the required copies of the documents will not be furnished without the consent of the department. Therefore, the petitioner submitted a representation before the Assistant Registrar of Co-operative Societies and the Assistant Registrar directed the 3rd respondent to take steps to issue copies of the documents to the petitioner. According to the petitioner, even after the direction, there was no response from the 3rd respondent. Aggrieved by the inaction on the part of the 3rd respondent, the Writ Petition is filed.

2. The petitioner submits that as per the provisions of the Right to Information Act, 2005 (Act 22 of 2005), hereinafter referred to as 'the Act', he is entitled to obtain necessary information. The petitioner also submits that the inaction on the part of the 3rd respondent is a clear violation of petitioner's right under Section 3 of the Act and also the fundamental right guaranteed under Article 19 of the Constitution of India.

3. In the counter affidavit filed by the 4th respondent it is stated that item 3 related to the copies of minutes of various meetings of the Managing Committee and all the policy decisions relating to the administration of the Society were taken after discussion in the meetings of the committee and the Society was having business rivalry with other commercial banks. It is also stated that under Section 8 (1)(d) of the Act, there was no obligation to give any citizen information including commercial confidence, trade secrets, the disclosure of which would harm the competitive position of a third party. It is further stated that item 4 related to copy of reference file in respect of enquiry ordered and it was only available with the Assistant Registrar, Tirur. It is also stated that all details except items 3 and 4, could be issued on a proper application with prescribed fee.

4. Question to be decided in this Writ Petition is that, as per the provisions of the Act, the petitioner is entitled to obtain the information relates to items 3 and 4 or not.

5. By Ext.P7 the petitioner requested certain documents. Item No. 3 is the copies of minutes of various meetings of the Managing Committee held between 1-12-25 to 31-1-2006 and item No. 4 is the copy of reference file in respect of an enquiry ordered. The objection is that item 3 is the copies of minutes of various meetings of the Managing Committee and it is not conducive for the better interest of the bank to publicise the decisions taken in various meetings of the committee and under S.8(1)(d) of the Act there is no obligation to give any citizen information including commercial confidence, trade secrets, the disclosure of which would harm the competitive position of a third party and, therefore, the details cannot be issued as required for.

6. In order to ensure greater and more effective access to information, the Act was introduced for providing an effective frame work for effectuating the right of information recognized under Article 19 of the Constitution of India. The provisions ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities. Democracy requires informed citizens and transparency of information. The Act provides for setting out

Central Information Commission and State Information Commissions to promote transparency and accountability in the working of every public authority. Section 8 of the Act deals with exemption from disclosure of information. Section 8(1)(d) of the Act reads as follows:-

information including commercial confidence trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

Section 2(f) defines the term "information" which reads as "Information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force." The information sought for under item No. 3 concerns the minutes of the Managing Committee meetings and it is not pertaining to the commercial confidence, trade secrets or intellectual property. Hence, the petitioner is entitled to obtain the information under item No. 3.

7. Item No. 4 is the copy of reference file in respect of an enquiry ordered by the Assistant Registrar of Co-operative Societies, Tirur. As per the counter affidavit filed by the 4th respondent, item No. 4 is available with the Assistant Registrar of Cooperative Societies, Tirur. For obtaining information under item No. 4, the petitioner has to make a request to the Assistant Registrar, Tirur.

8. In the above circumstances, the Writ Petition is allowed directing the 5th respondent bank to issue the information as prayed in Exts.P1 and P7, except item No. 4, to the petitioner on payment of the prescribed fee, as early as possible at any rate within 15 days from the date of receipt of copy of this judgment.

The Writ Petition is allowed as above.