

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

* * *

**Appeal No.Nil, dated 14.03.2008
F.No.7918/PA/FAA/RTI/2007-08**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru Nallam Srinivasa Rao,
UDC, Electricity Department,
Yanam.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent,
Office of the Regional Administrator,
Yanam.

The case was taken up for hearing on 30.04.2008 at 4:00 p.m.
as decided in the interim order dated 22.04.2008.

The appellant was not present. The Public Information Officer,
office of the Regional Administrator, Yanam was present and informed that
the grievances of the appellant were examined and a speaking order has
been issued. He has submitted a copy of the speaking order.

Decision

It is reiterated that the redressal of the grievances in service
matters is not covered under RTI Act and hence the appellant can't take this
recourse for settling his grievances.

However, as directed the Public Information Officer has
examined all his grievances and issued a speaking order. If the appellant is
not satisfied, he may seek remedy as per the conduct rules.

With the above observations, the appeal is disposed off.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Nallam Srinivasa Rao,
UDC, Electricity Department,
Yanam.
2. Shri M.Rajeswara Rao,
Superintendent,
Office of the Regional Administrator,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 31.03.2008
F.No.7918/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan, No.2,
132/11 KV Sub Station Quarters
Mettacur, Yanam.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o the Regional Administrator,
Yanam.

The appellant has filed an application seeking information in Form-I under RTI Act, 2005 with the Public Information Officer, Tourism Department, Puducherry on 18.02.2008.

The contention of the applicant is that the PIO of Tourism Department has supplied partly information. Therefore, he was contemplating to file an appeal before the FAA of the Tourism Department.

However, in the meanwhile he received reply from the PIO of the office of Regional Administrator, Yanam for the same matter. Therefore, the appellant preferred this appeal before the FAA of the office of Regional Administrator.

The appellant contends that the PIO of Tourism Department has not transferred the part of application till date to the Regional Administrator, Yanam. Therefore, he has requested to verify the following.

i) Who transferred that application to the PIO of Regional Administrator office, Yanam under Section 6(3) of RTI Act, 2005 and date of transfer of application.

ii) How and when the application has been received by the PIO of Regional Administrator office, Yanam.

iii) On what basis the PIO of Regional Administrator office, Yanam is responsible for the supply of information to the appellant and on what basis the PIO has sent reply to the appellant.

iv) Date of RTI application of the appellant and his method of requests for information.

v) Last date for the supply of information by the PIO to the appellant as per the time limit specified in the RTI At 2005.

vi) Date of reply of PIO of Regional Administrator office to the appellant and his method of supply of information as decided by him.

Personal hearing was fixed on 22.04.2008. The PIO of the office of the Regional Administrator was present. However, the appellant was not present. Therefore, another chance was given fixing 30.04.2008 as the date of hearing. On 30.04.2008 both the appellant as well as respondent were present.

The respondent has submitted that the PIO of Tourism Department, Puducherry has transferred the application to the PIO of the office of Regional Administrator, Yanam on 25.02.2008, which was received on 28.02.2008. Based on the application the PIO has furnished the information to the appellant on 27.03.2008.

Further, the grounds for appeal of the appellant are mentioned below:

1. The order of PIO was totally against to the RTI Act, 2005 since he has informed that all the information were readily available in his office file and asked the appellant to go through the same and collect the information as the appellant wants after making Rs.2/- per page, which was not at all the intention of the appellant in his RTI application.

2. The appellant asked the PIO to furnish the information to his requests only and he was not requested the PIO to grant necessary permission to access the records and files pertaining to his requests in RTI application.

Therefore he alleges that the PIO has no intention to obey the RTI Act and supply the information to the appellant and also that the PIO has knowingly and willfully refused to supply the information to the appellant.

Therefore, the appellant has sought the following relief.

"Please admit this appeal and pass necessary orders to the PIO to supply the correct and full information free of cost to my all requests at an early date without any further delay".

Decision

I have perused the records. The appellant has filed an application dated 18.02.2008 to the PIO of Tourism Department, Puducherry and the same was received in the Tourism Department on 21.02.2008. A part of the application was transferred to the PIO of the office of Regional Administrator on 25.02.2008 by speed post and the same was received in the office of Regional Administrator on 28.02.2008.

Therefore, the PIO has furnished the information to the appellant on 27.03.2008. As per the RTI Act, the last date for supply of information by PIO of Regional Administrator office will be 30 days from the date of receipt of the application and the PIO has furnished the information well within the time. This is clearly according to the RTI Act and answers the grounds mentioned in the Annexure from 1 to 6.

Further, grounds raised such as the method of request for information and method of supply of information are discussed below.

The contention of the appellant is that the PIO has informed that all the information were readily available in his office file and ask the appellant to go through the same and collect the information as the appellant wants after making Rs.2/- per page, which was not at all the intention of the appellant. The intention of the appellant is that the information sought by him should be supplied to him as he desired and secondly at free of cost.

The second contention raised by the appellant is that he has asked the PIO to furnish the information to his requests only and he has not requested the PIO to grant necessary permission to access the records and files.

Under Section 2(j) of the Act, the definition given for right to information is as follows:

“Right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

- (a) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of materials;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

Further, under Section 3 of the Act, all citizens shall have the right to information.

So, the combined reading of these Sections put responsibility on the requester to collect the information required by him either by inspection of documents/records or by taking notes/extracts etc.

The PIO has to ensure that proper form of access is given to the information.

Further, under Section 7(3) of the said Act, where as decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving

Information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

As such, the decision taken by the PIO to provide complete access to the records available in his office is correct. The PIO has made it clear in his replies that it is reiterated that full and complete access to all the records pertaining to information sought by you as available in this office would be given to you. You may collect the details as desired by you from these records.

Further, the Central Information Commission in Appeal No.20/IC(A)/2006, File No.11/97/2006-CIC, dated 29.03.2006 has decided that information sought is to be provided in the form in which it exists. It does not have to be created afresh by the public authority to supply the requester.

The decision of the PIO to provide information as is available is in tune with the decision of the Commission.

Therefore, there is no denial of information. As such, I do not agree with the contentions raised by the appellant.

As both the contentions fail, the allegation that the PIO has no intention to obey the RTI Act and supply the information to the appellant and also that the PIO has knowingly and willfully refused to supply the information to the appellant has no merit.

..4..

The contention of appellant that correct and full information was not provided also fails because of the above reasons.

At the time of hearing the appellant has taken an objection to the paragraphs in the reply which says that the same information has been disseminated through internet on official website of Yanam. The dissemination of the information is in tune with the Section 4(2), 4(3), 4(4) of the RTI Act. Therefore, there is not merit in the contention of the appellant.

The appellant has taken a peculiar plea to provide the information free of cost, which can't be agreed to, as the appellant under Section 7(5) of the RTI Act shall pay the prescribed fee for obtaining the information. However, Section 7(6) says that notwithstanding anything contained in sub Section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub Section (1).

In this particular case, the time limits were adhered by the PIO against whom appeals are filed. Therefore, exemption for payment of prescribed fee doesn't arise.

With the above observations the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru P.Veerappan,
No.2, 132/11 KV Sub Station Quarters,
Mettacur, Yanam.

2. Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o the Regional Administrator,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

* * *

**Appeal No.1, dated 05.04.2008
F.No.185/PA/FAA/RTI/2008-09**

**Appeal No.2, dated 05.04.2008
F.No.186/PA/FAA/RTI/2008-09**

**Appeal No.3, dated 05.04.2008
F.No.187/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan, No.2,
132/11 KV Sub Station Quarters
Mettacur, Yanam.

Name of the Public Information Officer : Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue)
O/o the Deputy Collector (Rev.),
Yanam.

The appellant mentioned above has filed three first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above. As all the three appeals are of similar nature, the same are disposed off with this common order.

The appellant has submitted three applications in Form-I, dated 15.12.2006 to the Public Information Officer, office of the Additional Secretary (Revenue), Department of Revenue & Disaster Management, Puduchery seeking information on various matters relating to excise, assignment of fee pattas, land acquisition details, details of land tax, details of Government paramboke lands etc.

The Public Information Officer of the Office of Additional Secretary (Revenue) has forwarded these applications to the Deputy Collector (Revenue), Yanam with a direction to furnish the reply to the applicant within 15 days vide letter No.13744/DRDM/RTI/2007, dated 17.03.2008. Based on the said communication, the Deputy Tahsildar (Revenue)-cum-Public Information Officer, office of the Deputy Collector (Revenue) has disposed off the said applications. Against this, these appeals are filed.

The case of the appellant is that he has filed the applications before the Public Information Officer, office of the Additional Secretary (Revenue). As the PIO has refused to receive the applications and returned the money order, he has filed complaint under Section 18 of the Right to Information Act before the Central Information Commission. The complaints are still pending before the Central Information Commission. While this is so, the Public Information Officer, office of the Additional Secretary (Revenue) has directed the Public Information Officer, office of the Deputy Collector (Revenue) to dispose off these applications.

As such, he has filed the first appeal before this First Appellate Authority without any prejudice to the complaints pending before the Central Information Commission.

The main grounds for appeal as mentioned by the appellant are as follows:

1. The order of PIO was totally against to the RTI Act, 2005 since he has informed that all the information were readily available in his office file and asked the appellant to go through the same and collect the information as the appellant wants after making Rs.2/- per page, which was not at all the intention of the appellant in his RTI application.

2. The appellant asked the PIO to furnish the information to his requests only and he has not requested the PIO to grant necessary permission to access the records and files pertaining to his requests in RTI application.

Therefore he alleges that the PIO has no intention to obey the RTI Act and supply the information to the appellant and also that the PIO has knowingly and willfully refused to supply the information to the appellant. The relief sought by the appellant is to admit this appeal and pass necessary orders to the PIO to supply the correct and full information free of cost to all his requests at an early date without any further delay.

The Respondent has submitted that in all these cases a detailed reply has been furnished to him. Further, in these replies it was also mentioned that full and complete access to all records pertaining to information sought by him as available in the office would be given to him. He may collect the details as desired by him from these records.

The Respondent further submitted that the appellant is insisting collection of various particulars. If the particulars are to be collected from the concerned files, it causes hindrance to the working of the office as it would divert the resources.

Further, the Respondent has stated that the appellant should also understand that it is not the intention of the RTI Act that in collection and providing information, the working of the concerned office should come to a grinding halt. He should have rather asked for inspection of the documents in the first instance and requested to supply copies of only those documents which were absolutely necessary for his purpose.

Therefore, it is clear that the appellant had merely asked for such voluminous information only to cause trouble to the departmental officials and hindrance to the normal functioning of the office.

The appellant was informed that all the records are available for collection of information which he requires. Hence, the department has not refused willfully and knowingly to supply the information to the appellant. As the information is already furnished within the stipulated time, it is not correct that there is no intention to obey the RTI Act.

Therefore, he requested to dismiss the appeal.

Decision

I have perused various concerned records connected to this matter.

The contention of the appellant is that the PIO has informed that all the information were readily available in his office file and ask the appellant to go through the same and collect the information as the appellant wants after making Rs.2/- per page, which was not at all the intention of the appellant. The intention of the appellant is that the information sought by him should be supplied to him as he desired and secondly at free of cost.

The second contention raised by the appellant is that he has asked the PIO to furnish the information to his requests only and he has not requested the PIO to grant necessary permission to access the records and files.

Under Section 2(j) of the Act, the definition given for right to information is as follows:

“Right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of materials;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

Further, under Section 3 of the Act, all citizens shall have the right to information.

So, the combined reading of these Sections put responsibility on the requester to collect the information required by him either by inspection of documents/records or by taking notes/extracts etc.

The PIO has to ensure that proper form of access is given to the information.

Further, under Section 7(3) of the said Act, where as decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving

Information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

As such, the decision taken by the PIO to provide complete access to the records available in his office is correct. The PIO has made it clear in his replies that it is reiterated that full and complete access to all the records pertaining to information sought by you as available in this office would be given to you. You may collect the details as desired by you from these records.

Further, the Central Information Commission in Appeal No.20/IC(A)/2006, File No.11/97/2006-CIC, dated 29.03.2006 has decided that information sought is to be provided in the form in which is exists. It does not have to be created afresh by the public authority to supply the requester.

The decision of the PIO to provide information as is available is in tune with the decision of the Commission.

..4..

Therefore, there is no denial of information. As such, I do not agree with the contentions raised by the appellant.

As both the contentions fail, the allegation that the PIO has no intention to obey the RTI Act and supply the information to the appellant and also that the PIO has knowingly and willfully refused to supply the information to the appellant has no merit.

The contention of appellant that correct and full information was not provided also fails because of the above reasons.

At the time of hearing the appellant has taken an objection to the paragraphs in the reply which says that the same information has been disseminated through internet on official website of Yanam. The dissemination of the information is in tune with the Section 4(2), 4(3), 4(4) of the RTI Act. Therefore, there is not merit in the contention of the appellant.

The appellant has taken a peculiar plea to provide the information free of cost, which can't be agreed to, as the appellant under Section 7(5) of the RTI Act shall pay the prescribed fee for obtaining the information. However, Section 7(6) says that notwithstanding anything contained in sub Section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub Section (1).

In this particular case, the time limits were adhered by the PIO against whom appeals are filed. Therefore, exemption for payment of prescribed fee doesn't arise.

For all the reasons mentioned above, all the three appeals are dismissed.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru P.Veerappan,
No.2, 132/11 KV Sub Station Quarters,
Mettacur, Yanam.

2. Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue),
O/o the Deputy Collector (Rev.),
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.1, dated 21.04.2008
F.No.486/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru Kondamuri Srihari Kusuma
Kumar
Joint Secretary, Yanam Origin
Peoples Welfare Association, Yanam
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent,
Office of the Regional Administrator,
Yanam.

The matter was taken up for hearing on 30.04.2008 at 4:00 pm.

The appellant was not present. However, he has submitted a letter date 28.04.2008 expressing his inability to attend the personal hearing because of preoccupied urgent and unavoidable works.

Further, in the said letter he has stated that the appeal was filed against the Nil action of PIO even though the specified time limit got lapsed. Hence, the personal hearing for this case is basically unnecessary and unwanted one and requested to dispose off the appeal without his appearance.

The Respondent was present and he has submitted the written brief.

The appellant has filed an application on 14.01.2008 before the PIO of DP&AR(PW), Puducherry seeking the information relating to recruitment of various posts in Yanam from 1990 to till date. The PIO of DP&AR(PW) has transferred the said application under Section 6(3) of the RTI Act to the PIO of the office of Regional Administrator, Yanam on 21.01.2008.

On 19.02.2008 the PIO of the office of Regional Administrator, Yanam has returned the said application to the PIO of DP&AR(PW) as the information is not available in this office. A copy of the same was also marked to the appellant.

Further, on 6.03.2008 the appellant has requested to supply the information based on the I.D.Note for transfer of application by DP&Ar(PW) dated 21.01.2008. For this, the PIO has replied to the appellant that the application which was transferred was returned to the PIO of DP&AR(PW) as the information was not available in this office. It was also informed to the appellant that the information sought would be provided by PIO of DP&AR(PW) and the reply of the PIO was acknowledged by the appellant on 19.03.2008.

..2..

The appellant has an appeal on 21.04.2008 before this First Appellate Authority. The grounds for appeal are as follows:

1. The PIO has knowingly and willfully refused to supply the information under the RTI Act, 2005.

2. The Nil actions/response of the PIO was totally against to the RTI Act, 2005.

Decision

The appellant has filed the application before the PIO of DP&AR(PW). On examination and on the brief submitted by the PIO of the office of Regional Administrator, Yanam, it is clear that the application was transferred to the PIO of the office of Regional Administrator, Yanam erroneously, which was returned to the PIO of DP&AR(PW) by the PIO of the office of Regional Administrator, Yanam. The fact has been intimated to the appellant and the appellant has acknowledged the reply of the PIO of the office of Regional Administrator, Yanam on 19.03.2008.

Under these circumstances, the appeal against the decision of the PIO of the office of Regional Administrator, Yanam doesn't arise. The appellant may file if necessary an appeal before the First Appellate Authority for PIO of DP&AR(PW).

A copy of the order may also be sent to PIO of DP&AR (PW) for appropriate action as deemed fit.

With the above observations, the appeal is disposed off.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Kondamuri Srihari Kusuma Kumar,
Joint Secretary, Yanam Origin Peoples Welfare Association, Yanam
No.7-1-009, Pydikondala Street, Yanam – 533 464.

2. Shri M.Rajeswara Rao,
Superintendent,
Office of the Regional Administrator,
Yanam.

3. The Public Information Officer,
Department of Personnel & Administrative Reforms
(Personnel Wing), Chief Secretariat,
Puducherry.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

* * *

**Appeal No.2, dated 21.04.2008
F.No.487/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru Kondamuri Srihari Kusuma
Kumar
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o Regional Administrator,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

The matter was taken up for hearing on 30.04.2008 at 4:00 p.m.

The appellant was not present. However, he has submitted a letter dated 28.04.2008 expressing his inability to attend the personal hearing because of his preoccupied urgent and unavoidable works.

Further, in the said letter he has stated that the appeal was filed against the Nil action of PIO even though the specified time limit got lapsed. Hence, the personal hearing for this case is basically unnecessary and unwanted one and requested to dispose off the appeal without his appearance.

Further, in the said letter he has stated that after filing the appeal by the appellant, the PIO has prepared and signed the reply on 22.04.2008 and the same was dispatched on 23.04.2008. But the order has been issued with ante date i.e. 18.04.2008.

The appellant has filed an application in Form-I on 17.03.2008 before the Public Information Officer, office of the Regional Administrator seeking the information relating to grant of financial assistance to religious institutions in Yanam for development of tourism from the tourism funds. He has also sought for the copies of sanction memos and copies of the rules/act and or Government instructions under which the financial assistance was granted.

The appellant has filed an appeal under Section 19 of the RTI Act dated 21.04.2008 which was received in this office on 22.04.2008. The grounds for appeal is that no response was received within 30 days of submission of Form-I. He has prayed for the following relief.

"Please pass necessary orders to the PIO to supply the information at an early date."

The respondent was present at the time of hearing and submitted his written brief stating that the reply has already been sent to the applicant on 22.04.2008 and he has produced a copy of the reply sent to the appellant.

Decision

I have perused the records placed before me. The appellant has admitted in his letter dated 28.04.2008 that the reply was prepared and signed on 22.04.2008 and it has been dispatched on 23.04.2008. This tallies with the written brief furnished by the respondent.

The relief sought by the appellant is to supply the information, which has been acknowledged by him vide his letter dated 28.04.2008. Therefore this appeal becomes infructuous.

Hence the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Kondamuri Srihari Kusuma Kumar,
No.7-1-009,
Pydikondala Street,
Yanam-533 464.

2. Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o Regional Administrator,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

* * *

**Appeal No.3, dated 21.04.2008
F.No.488/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru Kondamuri Srihari Kusuma
Kumar
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o Regional Administrator,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

The matter was taken up for hearing on 30.04.2008 at 4:00 p.m.

The appellant was not present. However, he has submitted a letter dated 28.04.2008 expressing his inability to attend the personal hearing because of his preoccupied urgent and unavoidable works.

Further, in the said letter he has stated that the appeal was filed against the Nil action of PIO even though the specified time limit got lapsed. Hence, the personal hearing for this case is basically unnecessary and unwanted one and requested to dispose off the appeal without his appearance.

The appellant has filed an application in Form-I on 28.02.2008 before the Public Information Officer, Administrative Reforms Wing, Chief Secretariat, Puducherry requesting the details of action taken on his complaint dated 18.06.2007 addressed to the Chief Secretary.

The application was forwarded by the PIO of Administrative Reforms Wing vide his letter No.F.No.F.12013/22/08/A2ARW, dated 13.03.2008 to the PIO, office of the Regional Administrator, Yanam with a copy marked to the appellant.

However, the appellant until date of filing his appeal on 21.04.2008 has not received the reply from the PIO of office of the Regional Administrator. The relief sought by the appellant is to pass necessary order to the PIO to supply the information at an early date.

The respondent was present and he has submitted the written brief. The PIO has submitted that the PIO of ARW has sent the application vide I.D.Note.No.F.12013/22/08/A2ARW, dated 13.03.2008 to the Regional Administrator, Yanam. However, he was not aware of the matter, as he has taken charge only during the last week of March. Further, he has submitted that he does not have any intention not to supply the information and he is ready to supply the information.

Decision

The PIO should have adhered to the time limits specified in the RTI Act. Prior to joining during the last week of March, the PIO was holding additional charge. As such, he can not contend that he is not aware of the matter.

The relief sought for is to supply the information at an early date. The PIO has also expressed his willingness to supply the information. The PIO is directed to supply the information within 15 days from the date of receipt of this order. The information shall be supplied to the appellant free of cost.

With the above observations, the appeal is disposed off.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Kondamuri Srihari Kusuma Kumar,
No.7-1-009,
Pydikondala Street,
Yanam-533 464.

2. Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o Regional Administrator,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.1, dated 21.04.2008
F.No.485/PA/FAA/RTI/2008-09**

Dated, the 30th April, 2008

ORDER

Name of the Appellant : Thiru Kondamuri Srihari Kusuma Kumar
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

Name of the Public Information Officer : Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue)-cum-PIO,
Hindu Religious Institution,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

The matter was taken up for hearing on 30.04.2008 at 4:00 p.m.

The appellant was not present. However, he has submitted a letter dated 28.04.2008 expressing his inability to attend the personal hearing because of his preoccupied urgent and unavoidable works.

Further, in the said letter he has stated that the appeal was filed against the Nil action of PIO even though the specified time limit got lapsed. Hence, the personal hearing for this case is basically unnecessary and unwanted one and requested to dispose off the appeal without his appearance.

The appellant has filed an application in Form-I on 17.03.2008 before the Public Information Officer, Hindu Religious Institutions seeking the information relating to grant of financial assistance to the Devasthanam committee by the Yanam Municipality.

The PIO has transferred the application on 15.04.2008 to the Commissioner, Yanam Municipality requesting to provide the said information to the appellant as per the provisions of the RTI Act. The appellant has filed an appeal contending that the PIO has willfully delayed the transfer of the application. The PIO has to transfer the application within 5 days, whereas the PIO has taken 30 days to transfer the said application. He has requested for the following relief.

“Please pass orders to the PIO to do his duties according to the RTI Act, 2005 atleast in future and to compensate the loss to me, if anything will occur in connection with getting the information from the PIO of Yanam Municipality due to delay in transfer of application under the Section 6(3) of the RTI Act, 2005”

The respondent has submitted his written brief. The respondent has submitted that the said information relates to Yanam Municipality. The appellant has been advised to seek the information directly from the Yanam Municipality. The appellant has informed that he would approach Yanam Municipality for obtaining the information and the application made to this office may be treated as withdrawn. Therefore, the application was not forwarded to Yanam Municipality. Subsequently, it has come to the notice that he has not approached Municipality for seeking information and awaiting reply from this office. Under these circumstances, there was delay in transferring the application to the Yanam Municipality.

Further, he contended that the appellant requested the copy of the Sanction Memo No.0021/YM/2008, dated 22.02.2008 issued by Yanam Municipality. Therefore, he clearly knows that the matter relates to Yanam Municipality. He has furnished the Memo number itself. He should have either a copy of the sanction memo or he might have inspected the records at Municipality. Even then he approached this office. Similarly, he knows that the other information with regard to

proposal made by Devastanam committee seeking funds and approval letter issued by Commissioner pertains to Yanam Municipality. Even then, the applicant had asked the information not related to this office. It is his intention to cause trouble to the departmental officials.

Decision

I have perused the records placed before me. The appellant has sought for information which is not available in the office of the PIO, Hindu Religious Institutions. If that is so, the PIO should have properly advised the applicant before making the application itself.

As per Section 2(c) of the Act, "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

As per Section 2(m) of the Act, "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;

As per Section 2(h) of the Act, "public authority" means any authority or body or institution of self-government established or constituted –

- (b) by or under the Constitution;
- (c) by any other law made by Parliament;
- (d) by any other law made by State legislature;
- (e) by notification issued or order made by the appropriate Government, and includes any –
 - (i) body owned, controlled or substantially financed;
 - (ii) non-government organization substantially financed, directly or indirectly by funds provided by the appropriate government."

As per Section 2(a) of the Act, "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly-

- i). by the Central Government or the Union Territory administration, the Central Government;
- ii). By the State Government, the State Government'

The combined reading of the above provisions in the Act clearly distinguishes between the PIO and public authority.

As per Section 6 of the RTI Act, a person, who desires to obtain any information under the Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to

a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her.

As per Section 6(3), where an application is made to a public authority requesting for an information:

- (i) which is held by another public authority; or
- (ii) the subject matter of which is more closely connected with the functions of another public authority,

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the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer.

Provided that the transfer of an application pursuant to this sub-Section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

Therefore, I am of the opinion that transfer of the application under Section 6(3) of the RTI Act is applicable only to the public authority but not the PIOs designated under Section 5(1) or 5(2) of the RTI Act.

However, many PIOs of various offices/administrative units of Government of Puducherry have been transferring the applications under Section 6(3) of the Act. Therefore, the matter has to be referred to the Government of Puducherry for appropriate decision and instructions in this regard.

The provisions for disposal of the request under RTI Act are given in Section 7 which are as follows:

Section 7(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under Section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9.

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty eight hours of the receipt of the request.

Section 7(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

Thus, when a request is received by the PIO, the three possible courses of disposal are

- 1) Provide the information on payment of such fee as necessary.
- 2) Reject the request under Section 8 or 9 of the Act.
- 3) The request shall be deemed to have been refused under Section 7 (2) if the request is not disposed of under Section 7(1).

Under Section 19, any person who does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority.

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Section 6 of the Act clearly specifies that the person who desires to obtain any information shall make a request to the PIO of concerned public authority.

On examination of the above provisions, I am of the opinion that where an application is made to the PIO of a particular office in which the information is not available or does not pertain to his office, the PIO has to inform the applicant that the information is not available in his office or does not pertain to his office at the time of making application itself if he is present. Otherwise the PIO can also intimate the applicant subsequently that information sought for does not pertain to his office or that is not available in his office. If the PIO does not intimate as mentioned above within 30 days, it can be construed as that the PIO has refused the request under Section 7(2) of the Act.

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In the above cases, the appeal can be filed only to contend that the information is available in the office or that the information sought for pertains to the office. Appeal on the ground that the information is not provided or that application is not transferred does not lie. However, this matter is also required to be referred to the Government of Puducherry for appropriate decision and instructions in this regard.

However, without going into the legality of the provisions of the Act mentioned above, on which clarification can be obtained subsequently, I intend to dispose of this application.

The applicant should have taken due care to present the application in the office in which the information is available. If the PIO is not having the information, he should accordingly reply the same to the applicant or if the PIO is of the opinion that the information is available in some other office, he should have intimated it to the applicant at the time of making the application or should have sent it to the concerned office immediately on receipt of such application informing the applicant of the action taken by him.

The PIO has taken nearly 30 days to send the application to the concerned PIO which should be avoided in future.

The respondent has contended that the applicant is aware that the information is available in the Yanam Municipality. To support his contention he says that the applicant has furnished the sanction memo number of Yanam Municipality and contends that the applicant should have either a copy of the sanction memo or he might have inspected the records at Municipality.

I do not want to go into the merits of allegations. However, if the applicant is already having the information for which he is making an application, he should avoid doing so in future lest it should be detrimental to the functioning of the Government offices.

The applicant has also sought the relief for getting the information free of cost, as it has been delayed beyond 30 days. The contention has merit only in case where the information is sought for from the PIO of the concerned office where the information is available. If the applicant seeks the information from the PIO with whom the information is not available and requested to provide the information freely, since the information has not been provided within 30 days, is unacceptable.

His application has been sent to PIO of the Yanam Municipality. The PIO of Yanam Municipality should dispose of the application as per provisions of RTI Act.

With the above observations, the appeal is disposed off.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Kondamuri Srihari Kusuma Kumar,
No.7-1-009, Pydikondala Street, Yanam – 533 464.

2. Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue)-cum-PIO,
Hindu Religious Institution,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM
* * ***

**Appeal No.Nil, dated 31.03.2008
F.No.755/PA/FAA/RTI/2008-09**

Dated, the 14th May, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan, No.2,
132/11 KV Sub Station Quarters
Mettacur, Yanam.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o the Regional Administrator,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 12.05.2008 at 4:00 p.m. Both the appellant and respondent were present. The matter was taken up for hearing on 12.5.2008 at 4:00 p.m., as scheduled.

The appellant has filed an application in Form-I, dated 23.04.2008 before the PIO of the office of the Regional Administrator seeking the following information:

Please confirm the validity of Ex-Officio membership of the following Government servants and Executive of Local Body and State with the Yanam Old Age Home (NGO), Yanam.

1. *Shri Malladi Krishna Rao, Tourism Minister-cum-MLA (Yanam Constituency).*
2. *Shri Gidla Chandra Rao, Chairman, Yanam Municipality.*
3. *Shri Y.Lakshminarayana Reddy, Regional Administrator, Yanam.*
4. *Shri N.Appa Rao, Commissioner, Yanam Municipality, Yanam*
5. *Shri Dr.Lakra, Deputy Director, Govt. General Hospital, Yanam.*
6. *Shri Er.S.C.B.Mohan, Executive Engineer, PWD, Yanam.*
7. *Shiru Er.G.Kaniamuthan, AE, Electricity Department, Yanam.*

The period for which the information asked for is date of execution of lease deed to till date.

The respondent has sent the reply vide letter No. 158/A2/RAY/RTI/2007-08, dated 30.04.2008 informing the applicant that no such information is available.

Aggrieved by the response received within the prescribed period, the appellant has filed this first appeal on the following grounds.

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1. *The PIO has no intention to obey the RTI Act and to supply the information to the appellant pertaining to office of the Regional Administrator i.e. validity of Ex-Officio membership of Shri Y.Lakshminarayana Reddy, Regional Administrator, Yanam.*

2. *The PIO has not transferred the application to the concerned public authority i.e. M/s.Yanam Old Age Home (NGO) u/s 6(3) of the RTI Act to get information.*

3. *The PIO has not transferred my each part of application to the concerned public authority of each officer mentioned in my application u/s6(3) of the RTI Act to get information.*

4. *The reply of PIO i.e. simply furnishing of "information is not available" is totally against to the RTI Act, 2005 and its amounts to that the PIO is knowingly and willfully refused to supply the information to me (or) transfer the application to the concerned public authority who is actually having that required information with their custody, under the section 6(3) of RTI Act.*

The relief prayed by the appellant is to admit this appeal and pass necessary orders to the PIO to

- i) Supply the correct and full information to all the requests at an early date.
- ii) Transfer the application to the concerned public authority of NGO under Section 6(3) of the RTI Act.
- iii) Transfer each part of the application to the concerned public authority of each office mentioned in the application under Section 6(3) of the RTI Act.

The respondent has submitted in his reply as follows:

1. *The PIO is a honest and integrity in obeying the Act and Rules and every information pertaining to this office is transparency to ready to supply. In this case, there is no recorded evidence on the validity of Ex-Officio membership of Shri Y.Lakshminarayana Reddy (by name or designation) Regional Administrator, Yanam with the Old Age Home (NGO), Yanam.*

2. *The PIO has not transferred the application to the concerned public authority i.e. M/s.Yanam Old Age Home (NGO), since the said NGO is not public authority. It is a private organization.*

3. *The PIO has not transferred this part of application to the concerned public authority of each officer mentioned in his application, since he is not aware of the fact whether they are members of the said Old Age Home. On perusal of the copy of the Rules and Regulations furnished by the applicant, it is understood that the said officials are members in the Old Age Home. Now, the part of the application will be communicated to the official concerned. Further, it contains the designation only but not in the specific name of the official.*

5. *The actual fact is mentioned as the information is not available, which is not against to the RTC Act 2005, he is not having willfully refused to supply the information, since he is not related in any way to the applicant and he is not custodian to all these papers pertaining to Old Age Home.*

Therefore, the appeal in this regard is seems to be in creating unnecessary troubles/problems to the officers and in smooth functioning of office.

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Decision

I have perused the records placed before me.

The coordinator of Yanam Old Age Home was asked to appear before me and produce relevant records pertaining to the Yanam Old Age Home.

Yanam Old Age Home is an NGO registered with Registrar of Companies in the year 1997. As per their by-laws their aims and objective are as follows:

- a. To render service to poor and needy people.
- b. To start and run home for aged and handicapped persons.
- c. To render social service to needy people.

The provisions governing the membership to the said organization are as follows:

4. MEMBERS:

A) The membership of the Association shall be open to all above 18 years of age residing within the limits of Yanam region. The Association shall have the following categories of members.

- a. Founder members/permanent members.
- b. Ex-Officio members belonging to Government and Private organization as specified hereunder.

1. Member of Legislative Assembly, Yanam.
2. Chairman, Yanam Municipality.
3. Regional Executive Officer, Yanam.
4. Commissioner, Yanam Municipality.
5. Deputy Director (Health), Govt. Hospital, Yanam.
6. Executive Engineer, PWD, Yanam.
7. Assistant Engineer, Electricity Dept., Yanam.

B) The Managing Committee shall have the powers to admit members.

5. A) Every member shall pay Rs.100/- per year as annual subscription at the time of joining. The subsequent subscription should be paid before 31st March.

B) Membership of those members who fail to pay subscription for two years shall be treated as cancelled. But if he wants to get it renewed, he should pay the subscription arrears.

Further, it was informed by the coordinator that the organization is not dependent on the Government for its activities. It has got its own resources mobilization with which they are carrying out their activities. It conducts Yanam Peoples Festival in the month of January for a period of six days with a grant in aid received from the Government as well as pooling other donations. Excepting this activity, for other activities the resources are mobilized on their own. Therefore, it is not dependent on the Government for its maintenance.

Further, he has informed that the Ex-Officio membership extended by the organization to Regional Administrator, Yanam, Commissioner, Yanam Municipality, Deputy Director (Health), Govt. General Hospital, Yanam, Executive Engineer, PWD, Yanam, Assistant Engineer, Electricity Dept., Yanam was not utilized by them at any time since its inception.

Shri Malladi Krishna Rao, Hon'ble Tourism Minister-cum-MLA, Yanam is one of the founder member of the organization as informed by the coordinator.

Shri Gidla Chandra Rao who is the Chairman of Yanam Municipality has also not utilized the Ex-Officio membership extended to him as informed by the coordinator.

This answers the information sought by the applicant.

However, it is necessary to examine i) whether information sought by the applicant will be available in any Government office, ii) whether it is necessary to part with such information.

According to Rule 15 of the Central Civil Services (Conduct) Rules, 1964 no previous sanction of the Government is required for a Central Government servant to undertake honorary work of a social or charitable nature.

As such, the information will not be available in any office even if any Government servant is taking part in such activities. Therefore, the information asked by the applicant can not be provided as it will not be available in any Government offices.

Secondly, the Government servant may undertake any such activity in his own personal capacity. As such, it is purely a private information which does not have any relation to his public activity or his office. As such, this is a third party information and even if it is available it need not be parted with.

Now coming to the relief sought by the applicant.

i). To supply correct and full information to all his requests.

Firstly, the information will not be available in the Govt. offices. Secondly, even if it is available it need not be parted with as it is third party information. Thirdly, as stated by the coordinator of the said NGO that none of the Government officials mentioned in his application have utilized the Ex-Officio membership extended to them.

ii) Transfer the application to the concerned public authority of NGO under Section 6(3) of the RTI Act.

As the said NGO is a private organization is running on its own funds, it is not covered by the RTI Act. As such, the application can not be transferred.

Further, transfer of each part of the application to the concerned public authority does not arise for the reasons mentioned above.

Before disposing of the case, it is necessary to record the following observations.

The appellant has enclosed a copy of the Rules and Regulations of Yanam Old Age Home, an NGO along with his appeal. The applicant should have enclosed a copy of the Rules & Regulations at the time of seeking the information with the PIO so that the PIO will be in a better position to understand what the appellant wants. However, he has not chosen to do so.

According to PIO, he is not aware of the Rules and Regulations/by laws of the said Old Age Home, as no such record is available/maintained in his office. As this is a private organization, it is not necessary to maintain the records pertaining to the said organization. Also a Government office can not be a repository of all information under the sky. It maintains only such records as necessary for its functioning.

Further, the Regional Administrator, who is the First Appellate Authority in this appeal is also not aware that the said organization has extended Ex-Officio membership to him.

Therefore, it is not known whether he is seeking any information or trying to establish that he has more information with him than the PIO of Regional Administrator office.

This application, being frivolous in nature diverted the resources of the administration considerably towards unfruitful work and obstructed indirectly the public servants in discharge of their normal duties.

This act of the appellant appears to be mischievous and needs to be condemned.

With the above observations the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru P.Veerappan,
No.2, 132/11 KV Sub Station Quarters,
Mettacur,
Yanam.

2. Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o Regional Administrator,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

* * *

**Appeal No.Nil, dated 06.05.2008
F.No.756/PA/FAA/RTI/2008-09**

Dated, the 12th May, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan,
No.2, 132/11 KV Sub Station
Quarters, Mettacur,
Yanam – 533 464.

Name of the Public Information Officer : Shri R.Sreeramulu,
Sub-Registrar-cum-PIO,
Registration Department,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 12.05.2008 at 4:00 p.m. Both the appellant and respondent were present. The matter was taken up for hearing on 12.5.2008 at 4:00 p.m., as scheduled.

The appellant has filed an application in Form-I, dated 14.03.2008 before the PIO of the office of the Regional Administrator seeking the information relating to Government servants who have participated in the strike during the month of March 2008 in Yanam region.

As the information was available only with each department/office, the PIO of office of the Regional Administrator transferred the application under Section 6(3) of the RTI Act to all the PIOs on 25.03.2008. The same was also transferred to PIO, office of Sub-Registrar, Yanam.

The contention of the appellant is that he has not received any response within 30 days. The relief sought by the appellant is to admit this appeal and pass necessary orders to the PIO to supply the correct and full information free of cost to his all requests at an early date without any further delay.

The respondent has submitted that he has received the application from the PIO of the office of Regional Administrator on 26.03.2008. The reply was prepared and was sent to the applicant vide letter No.01/SRY/RIA/2008-09, dated 02.04.2008. Further, he has submitted that he has received a copy of the first appeal to attend the hearing on 12.05.2008 at 4:00 p.m. Assuming that the reply posted is not reached the individual, a copy of the reply was sent to the applicant again on 07.05.2008 vide letter No.01/SRY/RIA/2008-09.

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Decision

I have perused the records placed before me. The dispatch register of the office of Sub Registrar was verified. It is noted that the respondent has sent the reply as submitted by him on 02.04.2008. Probably this might have not reached the applicant. However, again on 07.05.2008 a copy of the reply was sent to the applicant. The applicant confirms receipt of the same.

The information has been given to the applicant as prayed by him. Therefore this appeal becomes infructuous.

With the above observations, the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru Thiru P.Veerappan,
No.2, 132/11 KV Sub Station Quarters,
Mettacur, Yanam – 533 464.

2. Shri R.Sreeramulu,
Sub-Registrar-cum-PIO,
Registration Department,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 31.03.2008
F.No.755/PA/FAA/RTI/2008-09**

Dated, the 14th May, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan, No.2,
132/11 KV Sub Station Quarters
Mettacur, Yanam.

Name of the Public Information Officer : Shri M.Rajeswara Rao,
Superintendent-cum-PIO,
O/o the Regional Administrator,
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 12.05.2008 at 4:00 p.m. Both the appellant and respondent were present. The matter was taken up for hearing on 12.5.2008 at 4:00 p.m., as scheduled.

The appellant has filed an application in Form-I, dated 23.04.2008 before the PIO of the office of the Regional Administrator seeking the following information:

Please confirm the validity of Ex-Officio membership of the following Government servants and Executive of Local Body and State with the Yanam Old Age Home (NGO), Yanam.

- 8. Shri Malladi Krishna Rao, Tourism Minister-cum-MLA (Yanam Constituency).*
- 9. Shri Gidla Chandra Rao, Chairman, Yanam Municipality.*
- 10. Shri Y.Lakshminarayana Reddy, Regional Administrator, Yanam.*
- 11. Shri N.Appa Rao, Commissioner, Yanam Municipality, Yanam*
- 12. Shri Dr.Lakra, Deputy Director, Govt. General Hospital, Yanam.*
- 13. Shri Er.S.C.B.Mohan, Executive Engineer, PWD, Yanam.*
- 14. Shiru Er.G.Kaniamuthan, AE, Electricity Department, Yanam.*

The period for which the information asked for is date of execution of lease deed to till date.

The respondent has sent the reply vide letter No. 158/A2/RAY/RTI/2007-08, dated 30.04.2008 informing the applicant that no such information is available.

Aggrieved by the response received within the prescribed period, the appellant has filed this first appeal on the following grounds.

1. The PIO has no intention to obey the RTI Act and to supply the information to the appellant pertaining to office of the Regional Administrator i.e. validity of Ex-Officio membership of Shri Y.Lakshminarayana Reddy, Regional Administrator, Yanam.

2. The PIO has not transferred the application to the concerned public authority i.e. M/s.Yanam Old Age Home (NGO) u/s 6(3) of the RTI Act to get information.

3. *The PIO has not transferred my each part of application to the concerned public authority of each officer mentioned in my application u/s6(3) of the RTI Act to get information.*

4. *The reply of PIO i.e. simply furnishing of "information is not available" is totally against to the RTI Act, 2005 and its amounts to that the PIO is knowingly and willfully refused to supply the information to me (or) transfer the application to the concerned public authority who is actually having that required information with their custody, under the section 6(3) of RTI Act.*

The relief prayed by the appellant is to admit this appeal and pass necessary orders to the PIO to

- iv) Supply the correct and full information to all the requests at an early date.
- v) Transfer the application to the concerned public authority of NGO under Section 6(3) of the RTI Act.
- vi) Transfer each part of the application to the concerned public authority of each office mentioned in the application under Section 6(3) of the RTI Act.

The respondent has submitted in his reply as follows:

1. *The PIO is a honest and integrity in obeying the Act and Rules and every information pertaining to this office is transparency to ready to supply. In this case, there is no recorded evidence on the validity of Ex-Officio membership of Shri Y.Lakshminarayana Reddy (by name or designation) Regional Administrator, Yanam with the Old Age Home (NGO), Yanam.*

2. *The PIO has not transferred the application to the concerned public authority i.e. M/s.Yanam Old Age Home (NGO), since the said NGO is not public authority. It is a private organization.*

3. *The PIO has not transferred this part of application to the concerned public authority of each officer mentioned in his application, since he is not aware of the fact whether they are members of the said Old Age Home. On perusal of the copy of the Rules and Regulations furnished by the applicant, it is understood that the said officials are members in the Old Age Home. Now, the part of the application will be communicated to the official concerned. Further, it contains the designation only but not in the specific name of the official.*

5. *The actual fact is mentioned as the information is not available, which is not against to the RTC Act 2005, he is not having willfully refused to supply the information, since he is not related in any way to the applicant and he is not custodian to all these papers pertaining to Old Age Home.*

Therefore, the appeal in this regard is seems to be in creating unnecessary troubles/problems to the officers and in smooth functioning of office.

Decision

I have perused the records placed before me.

The coordinator of Yanam Old Age Home was asked to appear before me and produce relevant records pertaining to the Yanam Old Age Home.

Yanam Old Age Home is an NGO registered with Registrar of Companies in the year 1997. As per their by-laws their aims and objective are as follows:

- a. To render service to poor and needy people.
- b. To start and run home for aged and handicapped persons.
- c. To render social service to needy people.

The provisions governing the membership to the said organization are as follows:

4. MEMBERS:

B) The membership of the Association shall be open to all above 18 years of age residing within the limits of Yanam region. The Association shall have the following categories of members.

- c. Founder members/permanent members.
- d. Ex-Officio members belonging to Government and Private organization as specified hereunder.

- 1. Member of Legislative Assembly, Yanam.
- 2. Chairman, Yanam Municipality.
- 3. Regional Executive Officer, Yanam.
- 4. Commissioner, Yanam Municipality.
- 5. Deputy Director (Health), Govt. Hospital, Yanam.
- 6. Executive Engineer, PWD, Yanam.
- 7. Assistant Engineer, Electricity Dept., Yanam.

B) The Managing Committee shall have the powers to admit members.

5. A) Every member shall pay Rs.100/- per year as annual subscription at the time of joining. The subsequent subscription should be paid before 31st March.

B) Membership of those members who fail to pay subscription for two years shall be treated as cancelled. But if he wants to get it renewed, he should pay the subscription arrears.

Further, it was informed by the coordinator that the organization is not dependent on the Government for its activities. It has got its own resources mobilization with which they are carrying out their activities. It conducts Yanam Peoples Festival in the month of January for a period of six days with a grant in aid received from the Government as well as pooling other donations. Excepting this activity, for other activities the resources are mobilized on their own. Therefore, it is not dependent on the Government for its maintenance.

Further, he has informed that the Ex-Officio membership extended by the organization to Regional Administrator, Yanam, Commissioner, Yanam Municipality, Deputy Director (Health), Govt. General Hospital, Yanam, Executive Engineer, PWD, Yanam, Assistant Engineer, Electricity Dept., Yanam was not utilized by them at any time since its inception.

Shri Malladi Krishna Rao, Hon'ble Tourism Minister-cum-MLA, Yanam is one of the founder member of the organization as informed by the coordinator.

Shri Gidla Chandra Rao who is the Chairman of Yanam Municipality has also not utilized the Ex-Officio membership extended to him as informed by the coordinator.

This answers the information sought by the applicant.

However, it is necessary to examine i) whether information sought by the applicant will be available in any Government office, ii) whether it is necessary to part with such information.

According to Rule 15 of the Central Civil Services (Conduct) Rules, 1964 no previous sanction of the Government is required for a Central Government servant to undertake honorary work of a social or charitable nature.

As such, the information will not be available in any office even if any Government servant is taking part in such activities. Therefore, the information asked by the applicant can not be provided as it will not be available in any Government offices.

Secondly, the Government servant may undertake any such activity in his own personal capacity. As such, it is purely a private information which does not have any relation to his public activity or his office. As such, this is a third party information and even if it is available it need not be parted with.

Now coming to the relief sought by the applicant.

i). To supply correct and full information to all his requests.

Firstly, the information will not be available in the Govt. offices. Secondly, even if it is available it need not be parted with as it is third party information. Thirdly, as stated by the coordinator of the said NGO that none of the Government officials mentioned in his application have utilized the Ex-Officio membership extended to them.

iii) Transfer the application to the concerned public authority of NGO under Section 6(3) of the RTI Act.

As the said NGO is a private organization is running on its own funds, it is not covered by the RTI Act. As such, the application can not be transferred.

Further, transfer of each part of the application to the concerned public authority does not arise for the reasons mentioned above.

Before disposing of the case, it is necessary to record the following observations.

The appellant has enclosed a copy of the Rules and Regulations of Yanam Old Age Home, an NGO along with his appeal. The applicant should have enclosed a copy of the Rules & Regulations at the time of seeking the information with the PIO so that the PIO will be in a better position to understand what the appellant wants. However, he has not chosen to do so.

According to PIO, he is not aware of the Rules and Regulations/by laws of the said Old Age Home, as no such record is available/maintained in his office. As this is a private organization, it is not necessary to maintain the records pertaining to the said organization. Also a Government office can not be a repository of all information under the sky. It maintains only such records as necessary for its functioning.

Further, the Regional Administrator, who is the First Appellate Authority in this appeal is also not aware that the said organization has extended Ex-Officio membership to him.

Therefore, it is not known whether he is seeking any information or trying to establish that he has more information with him than the PIO of Regional Administrator office.

This application, being frivolous in nature diverted the resources of the administration considerably towards unfruitful work and obstructed indirectly the public servants in discharge of their normal duties.

This act of the appellant appears to be mischievous and needs to be condemned.

With the above observations the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
REGIONAL ADMINISTRATOR-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru P.Veerappan, No.2, 132/11 KV Sub Station Quarters, Mettacur, Yanam.
2. Shri M.Rajeswara Rao, Superintendent, O/o Regional Administrator, Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 28.04.2008
F.No.652/PA/FAA/RTI/2008-09**

Dated, the 15th May, 2008

ORDER

Name of the Appellant : Thiru K.Srihari Kusuma Kumar
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

Name of the Public Information Officer : Shri B.Niranjana Rao,
Deputy Tahsildar (Rev.)-cum-PIO
O/o Deputy Collector (Revenue),
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 09.05.2008 at 4:00 p.m.

The matter was taken up for hearing on 09.05.2008 at 4:00 p.m., as scheduled.

The respondent was present. The appellant was not present. However, he has submitted a letter dated 08.05.2008 expressing his inability to attend the personal hearing because of his preoccupied urgent works.

Further, in the said letter he has stated that he has filed the appeal on various grounds, which were clearly pointed out in Sl.No.5 of his appeal and requested to consider the grounds and dispose off the appeal without his appearance.

The appellant has filed an application in Form-I, dated 18.04.2008 before the PIO of the office of the Deputy Collector (Revenue) seeking the following information:

Please supply me the list of existing Ground Level Water Reservoirs available in Yanam Sub Taluk, Yanam with the details of following particulars:

- i) Village name and site location of Ground Level Water Reservoirs.*
- ii) Cadesdare No. and T.S. No. of Ground Level Water Reservoirs.*
- iii) Total area of Ground Level Water Reservoirs as per the survey record.*
- iv) Present condition of Ground Level Water Reservoirs i.e. whether it is in use or not.*
- v) Details of occupied of surrounding area of Ground Level Water Reservoirs if any, by any body furnish the particulars of name of the person, total area occupied and the action taken by your Department to vacate that person.*

- vi) *Copies of selection committee "suitability report" submitted regarding land acquisition at various places in Yanam region for forming Ground Level Water Reservoirs during the last ten years*

The respondent has transferred the application to the Executive Engineer, Public Works Department, Yanam under Section 6(3) of the RTI Act 2005 vide letter No.44/B/DTRY/2008-09, dated 21.04.2008 as the above information pertains to the Public Works Department.

Aggrieved by the response the appellant has filed this first appeal on 28.04.2008 on the following grounds.

- i) *First of all the PIO has no intention to obey the RTI Act, 2005 and to do PIO duties to supply whatever available information in his office to me according to the RTI Act, 2005.*
- ii) *The PIO has knowingly and willfully transferred full or all request of application to the PIO of Public Works Department under Section 6(3) of RTI Act, 2005.*
- iii) *The Public Works Department is maintaining may be only two or three Ground Level Water Reservoirs in Yanam for that also the Revenue Department only having the details of Cad No., T.S.No., Total area of GLWR and present using condition etc.*
- iv) *Most of the GLWR are situated in public land i.e. Revenue GP land only. Therefore required information should be supplied by the PIO of office of Deputy Collector (Revenue) only. Hence, transfer of all request to the PIO of PWD was totally against to the RTI Act, 2005.*

The relief sought by the appellant is to pass orders to the PIO to do his duties according to the RTI Act, 2005 and to supply the whatever information available with his office in connection with his application as early as possible.

The respondent has submitted his written brief. He has submitted that the information belongs to PWD, Yanam. Hence, the application has been forwarded to the concerned PIO within 5 days and the applicant has been accordingly intimidated.

Further, he has submitted in his written brief as below:

- i) *It is submitted that Ground Level Water Reservoirs are existing in all villages, Kanakalapeta, Mettacur, Yanam, Ambedkar Nagar, Kurasampeta, Farampeta and Dariyalatippa.*
- ii) *The reservoirs are under the control of PWD and they are maintained by the PWD itself. The property where the reservoirs existing belongs to PWD, Yanam. Hence, the PWD should have information regarding the survey numbers etc.*
- iii) *If the PWD requests survey of the total area of the reservoirs, arrangements would be made for the survey of extent of the same.*
- iv) *The present conditions of the reservoirs will be assessed by the PWD and they will be put into use according to the needy of the people.*

v) If the surroundings lands of reservoirs occupied by anybody, it is the responsibility of the PWD to initiate action to vacate the unauthorized occupation. This department is not having any particulars of occupants and the total area occupied by them.

vi) The PWD is the requisition department for acquiring of lands for forming Ground Level Reservoirs in villages. The Executive Engineer, PWD is the Member Secretary of Site Selection Committee. He will process the meeting of the Site Selection Committee for assessing the suitability of land for reservoirs. The information will be available with the Member Secretary.

In view of the above reasons, the copy of the application has been forwarded to the concerned PIO i.e. Executive Engineer, PWD within 5 days of receipt of the application with a request to furnish the information to the applicant directly.

Further, he has submitted that Form-I application has been forwarded to the Executive Engineer, PWD, Yanam. The appellant should await reply from the PWD instead of preferring appeal. But he has not done so. Therefore, his intention is to cause trouble/hindrance to the Revenue Department. He clearly knows that the reservoirs are maintained by PWD. He should have asked the information from the PWD at the first instance. Even though he was intimated the fact, he knowingly and willfully requested the information from this office.

His request was forwarded to the concerned PIO so as to enable him to get the information. Therefore, it is false that the PIO has knowingly and willfully transferred the application.

Decision

I have perused the matter.

The contention of the appellant is that the information sought for belongs to Revenue Department or the Revenue Department should atleast supply whatever information they have.

Therefore, it is necessary to examine whether the information asked by the appellant would be available with the Revenue Department or information relating to which of the items sought by the applicant can be provided by the Revenue Department.

The appellant has sought for the village name, Cadesdar No., T.S.No., total area of ground level reservoirs as per the survey record vide item Nos. 1, 2 and 3. This information will be available in the Settlement Register maintained by the Taluk office.

However, the respondent has submitted that the Settlement Register was prepared in the year 1977 and updated according to a certain procedure. As such, it may not exactly give the details of the existing Ground Level Water Reservoirs. However, he has submitted that the information may be available with the PWD since they are dealing with the water supply.

The appellant is asking for the information whatever is available to be given to him. Therefore, the PIO is directed to provide this information as per the RTI Act.

..4..

The respondent has submitted that the information sought vide item No.4 regarding the present condition of Ground Level Water Reservoirs i.e. whether it is in use or not, is not available with him. Further, he has submitted that the information may be available with the PWD, since they are dealing with the water supply.

I agree with the contention of the respondent. As the application has already been transferred to PWD, this part of the information will be provided by PWD if it is available with them.

For the information sought vide item No.5 regarding the encroachments surrounding the Ground Level Water Reservoirs, the respondent has submitted that the Department has not collected any such details. Further, it is not known whether PWD has collected any such details. This information is not available with the Revenue Department.

I agree with the contention of the respondent. However, as the application has been transferred to PWD, this part of the information will be provided by the PWD if they have this information.

For item No.6 regarding copies of site selection committee suitability report, the respondent has submitted that the PWD is the appropriate authority to disseminate that information, as they process the concerned files. Further, the respondent has submitted that a copy of the site selection committee suitability report will be submitted by the PWD to Revenue Department at the time of acquisition. There had been three land acquisitions during the past 20 years and a copy of the suitability report submitted by the PWD will be available in the concerned file of the Deputy Collector (Revenue).

I agree with the contention. The respondent has submitted that PWD is the appropriate authority to disseminate this information. As the application has been transferred to them, the information pertaining to this part will be provided by the PWD. However, if the PWD fails to provide this information, the appellant may seek the same from the office of the Deputy Collector (Revenue) free of cost.

With the above observations the appeal is dismissed.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE) -CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru K.Srihari Kusuma Kumar
No.7-1-009, Pydikondala Street,
Yanam – 533 464.

2. Shri B.Niranjana Rao,
Deputy Tahsildar (Rev.)-cum-PIO
O/o Deputy Collector (Revenue),
Yanam.

3. The Public Information Officer,
Public Works Department,
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 30.04.2008
F.No.736/PA/FAA/RTI/2008-09**

**Appeal No.Nil, dated 30.04.2008
F.No.737/PA/FAA/RTI/2008-09**

**Appeal No.Nil, dated 05.05.2008
F.No.814/PA/FAA/RTI/2008-09**

**Appeal No.Nil, dated 05.05.2008
F.No.817/PA/FAA/RTI/2008-09**

**Appeal No.Nil, dated 05.05.2008
F.No.816/PA/FAA/RTI/2008-09**

Dated, the 26th May, 2008

ORDER

Name of the Appellant : Thiru M.Subba Rao,
Manyam Building,
Tyagaraya Street, Yanam.

Name of the Public Information Officer : Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue)
O/o the Deputy Collector (Rev.),
Yanam.

The appellant mentioned above has filed five first appeals under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above. As all the five appeals are of similar nature, the same are disposed off with this common order.

Notice was given to both the appellant and respondent to appear on 19.05.2008 at 4:00 p.m.

The matter was taken up for hearing on 19.05.2008 at 4:00 p.m., as scheduled.

The respondent was present. The appellant was not present. However, he has submitted a letter dated 19.05.2008 along with written briefs for the five appeals but expressed his inability to attend the personal hearing because of his preoccupied urgent works.

The appellant has filed two applications in Form-I, dated 24.03.2008 before the PIO seeking the information separately, one regarding Sri Venkateswara Swamy Kalyanam and another one regarding Sri Raja Rajeswara Swamy Kalyanam. In both the cases the following information was sought for:

- 1. Copies of the minutes of the meeting held under the chairmanship of the REO, Yanam to discuss the arrangements to be made in the year 2007-08.*
- 2. Copies of the expenditure sanctions issued for Kalyanam festival in 2007 and 2008.*
- 3. Donations collected from the public and financial assistance from other Government departments.*
- 4. Copies of permission letters issued by the Commissioner, HRI to collect donations from public and financial assistance from other Government Departments.*

5. *Copies of the sanctions issued by the Departments which granted financial assistance to the Temple Committee.*

6. *Accounts of receipts and payments concerning the festival in 2007 and 2008.*

And in the case of Venkateswara Swamy Kalyanam, number of skill games permitted by the Temple Committee during 2007 and 2008.

File No.736/PA/FAA/RTI/2008-09

File No.736/PA/FAA/RTI/2008-09

The above appeals dated 30.04.2008 were filed by the appellant for not receiving the response within 30 days as stipulated in Section 7(1) of the RTI Act. However, in the written brief dated 19.05.2008 the appellant has submitted that after the stipulated date the replies bearing Nos.35/B/DTRY/2008-09 and 36/B/DTRY/2008-09 both dated 24.04.2008 from PIO were received by him after submission of these appeals.

Further, he has stated that he is thankful to the PIO for his reply even though there is some negligible delay and requested to treat these appeals dated 30.04.2008 as cancelled, since he has submitted another two appeals dated 05.05.2008 on the same matter as he is aggrieved by the response received from the PIO.

Though the appellant has requested to treat the appeals as cancelled before dismissing the same, my opinion is recorded below:

Section 7(1) of RTI Act reads as follows:

Subject to the proviso to Sub-Section (2) of Section 5 or the proviso to Sub-Section (3) of Section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under Section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject for any of the reasons specified in Sections 8 and 9.

From the above, it is very clear that the time limit as per RTI Act is 30 days from the date of receipt of the application till date of disposal.

The above applications dated 26.03.2008 were received by the PIO on 26.03.2008. The same were disposed of by the PIO on 24.04.2008. As such, there is no any negligible delay as contended by the appellant.

On perusal of the form of appeals dated 30.04.2008, the appellant has submitted that there was no response from the PIO within 30 days. But on perusal of the appeals dated 05.05.2008 filed by the appellant it was stated that response received within 30 days. Thus, there is contradiction what the appellant says in the form of appeals dated 30.04.2008 and 05.05.2008.

The appellant has filed three applications dated 24.03.2008 before the PIO. The PIO has given reply to all these three applications on the same day i.e. on 24.04.2008. I have perused the dispatch register and all the replies were dispatched by post on 24.04.2008. On 30.04.2008 the appellant filed the above two appeals on the ground that he has not received the reply. Whereas, no appeal was filed against the 3rd application on the ground that he has not received the reply within 30 days. This means that in respect of this 3rd application he has received the reply before 30.04.2008.

Therefore, it can be reasonably presumed that he must have received the other replies also, as all the three replies were dispatched by post on the same day i.e. on 24.04.2008. BY any stretch of imagination, I am not able to understand why the reply has not reached the appellant in these two cases only before filing the appeals i.e. 30.04.2008.

Further, in one of the appeals dated 05.05.2008 which is dealt under File No.817/PA/FAA/RTI/2008-09, I find some correction in the appeal filed by him. The date 30.04.2008 has been changed as 05.05.2008.

On examination of such things, it appears to me that the appellant has filed these two appeals even on receipt of the information stating that he has not received the response. Subsequently, after five days gap he has chosen to file two more appeals stating that he has received the information, however the information is not satisfactory. This is clearly a case of using the RTI Act just for the sake of using it, which is inappropriate.

The appellant has to bear in mind the commendable objectives and ideals with which the Act was brought into force. The appellant needs to desist from indulging in such activities in future, as the communications arising out of such inappropriate use of the Act directly affects the operations of the Government as well as the optimum use of the resources at its command, which is not intended in the RTI Act.

Further, the appellant has to take note of the time limit, which is 30 days from the date of receipt to the date of dispatch by the PIO but not 30 days from the date of submission to the date of receipt of the information by the applicant. Due and diligent care should be taken in future while filing an appeal on the grounds that response was not received within 30 days as per Section 7(1) of the RTI Act as explained above.

File No.814/PA/FAA/RTI/2008-09

File No.817/PA/FAA/RTI/2008-09

The above two appeals dated 05.05.2008 were filed by the appellant as he is aggrieved by the response received in respect of the same two applications which were dealt above.

In both the cases, under item No.5(b), which is meant for aggrieved by the response received within the prescribed period, the appellant has stated that the information is not satisfactory. Under item No.6, which is prayer or relief sought, the submission of the appellant are as follows:

Deputy Tahsildar, Yanam is appointed as Public Information Officer of Hindu Religious Institutions, Yanam. In his capacity as PIO he may directly give the information sought about the Temples in Yanam, if it is available in his office or collect the information from the President of Sri Venkateswara Devasthanam Group of Temples with whom the information may be available. As an alternate, the PIO is required to refer the matter to the PIO with whom the information is available under Section 6(3) of the RTI Act, 2005. The PIO has not followed any of the procedures. In view of this, the information furnished to some items stating that the information is not available in his office is not proper and satisfactory.

The PIO may be directed to follow the procedure laid down in the Act and supply the information.

Further, in his written brief dated 19.05.2008, the appellant has submitted as follows:

Normally Sri Venkateswara Swamy Kalyanam will be celebrated with the funds available with the Board of Trustees, Sri Venkateswara Devasthanam Group of Temples, Yanam to the extent of amount permitted by the Commissioner, Hindu Religious Institutions, Pondicherry. An invitation was published by the Temple Committee on the face of which it was stated that cultural programmes from 08.03.2008 to 19.03.2008 are conducted with the sponsorship of Art and Culture Department and Tourism Department. It learnt by me that the Temple Committee has applied for Grant-in-Aid of Rs.3,00,000/- from Yanam Municipality. Seeking funds from three Government Departments in addition to its own funds by the Temple Committee is unusual. To know the correct facts, I request the PIO to give me a copy of the sanction issued by the

Commissioner, HRI granting funds for Kalyanam festival 2007 and 2008. The PIO replied me that no sanction is available for the festival in 2008. It is strange that the Temple Committee, spent huge amount of money without getting a sanction from the competent authority. The PIO reply is ambiguous. It does not confirm whether a sanction is received or not. I request you to direct the PIO either supply a copy of the sanction if available, or confirm that the expenditure was incurred without a sanction from the competent authority.

With reference to information sought by me vide Paras 3, 4, 6 and 7 the information given by the PIO is ambiguous. His replies to all the paras is "that the information is not available in this office". I am unable to understand whether the information is not available in the Revenue Department or in the office of the Board of Trustees. I do understand that the information is normally not available in the office of the PIO. I, suppose that the Deputy Tahsildar, in his capacity as a PIO of the HRI collects the information from the concerned department and pass on the same to the persons seeking the information under RTI Act. In these circumstance, it is not reasonable to state that the information is not available in his office. If he means that the information is not available with the Board of Trustees the same may be stated without any ambiguity. I therefore appeal to you to direct the PIO either to supply the information or to confirm that the information is not available in the office of the Board of Trustees. In this connection, I submit to you to consider my prayer submitted under para 6 of Form-4 dated 05.05.2008 before my appeal is disposed of.

Similar parawise contentions referred above have been made by the appellant in respect of the 2nd application.

I have perused the reply furnished by the respondent. He has furnished the following copies of the sanctions.

1. Expenditure sanction for Rs.30,000/- vide Note No.4088/CHRI/T2/2007/493, dated 15.03.2007.

2. Expenditure sanction for Rs.60,000/- vide Note No. 4088/CHRI/T2/2008/240, dated 07.02.2008.

3. Copy of the letter sending Cheque No.322251, dated 22.02.2008 for an amount of Rs.2,00,000/- towards financial assistance issued by the Commissioner, Yanam Municipality.

4 Expenditure sanction for Rs.1,10,000/- vide Note No. 4088/CHRI/T2/2007/492, dated 15.03.2007.

5. Copy of the letter sending Cheque No.322253, dated 10.03.2008 for an amount of Rs.2,00,000/- towards financial assistance issued by the Commissioner, Yanam Municipality.

The respondent has submitted that all this information was collected from the records of the temple committee. So, whatever information available was given to the appellant.

I have gone through the written brief submitted by the appellant. Firstly, it is not clear what exactly the appellant wants. Further, the appellant submits that he is in knowledge of much of the information sought. Only to know the facts correctly, he requested the PIO to provide some information.

Further, the appellant submits that he has come to know that cultural programmes are conducted with the sponsorship of Art and Culture Department and Tourism Department. Further, he has also come to know that the Temple Committee has applied for Grant-in-Aid from Yanam Municipality. When he already had the knowledge about the concerned departments, it would be more appropriate if he seeks the information from the PIOs of the concerned departments only. Asking such information from the PIO of HRI is not at all justifiable.

The brief submitted by him explains what action the PIO should take as per the RTI Act. It appears to me that the way the written brief he has submitted, the appellant has or feels as if he has good understanding of the RTI Act. A citizen having good understanding of the RTI Act is welcomed at all times. A citizen having or feeling as if he is having good understanding of the RTI Act has to seek the information from the concerned authorities only as mentioned above.

At some places in the brief, he gives his opinion about celebrations and expenditure for the celebrations. The appellant is at liberty to have whatever opinion he likes. This has no relevance in this context.

A plain reading of the written brief submitted by the appellant, reveals that he has the knowledge of the information he is seeking and he wants the reply to be in a certain form as he likes for the reasons best known to him. He also admits that the information sought by him is not normally available in the office of the PIO. When this is so, he should not file the application in the first instance with the PIO.

As such, these appeals are dismissed in total.

File No.816/PA/FAA/RTI/2008-09

The appellant has sought for the following particulars.

1. Copy of the document of land donated by Smt. Kuchusthambam Mahalakshamma to Sri Venkateswara Swamy Devasthanam.

2. Particulars of temple lands in Kurusampeta, Adavipolam, Dariyalatippa and Mettacur villages

3. Particulars of temple lands in Tyagaraya Street, donated by Raja Bommadevara Mangayamma.

4. Particulars of Temple lands in Vishnu Street and Bussi Street, Yanma.

5. Particulars of the persons who are in occupation of the lands. Period for which they are in occupation of the lands. Last date on which the lease documents were renewed. Particulars of lease amount due from each person as on 31.12.2008.

The PIO has furnished the reply vide his letter No.34/B/DTRY/2008-09, dated 24.04.2008. For item Nos. 1 and 5 the PIO has informed that the required information is not available. The appellant has requested to direct the PIO to collect and supply the information for item Nos.1 and 5.

The respondent has contended as follows:

"In the appeal, the appellant has requested to collect the information with regard to item No.1 & 5 from the President of Sri Venkateswara Devasthanam Group of Temples, Yanam and to furnish the same to him.

As per RTI Act, 2005, information is any material in any form. It includes records, documents, memos, e_mails, opinion, advises, press release, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form.

A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records, taking notes, extracts or certified copies of documents or records, taking certified samples of material held under the control of the public authority.

As per the RTI Act, the available records can be given to the citizens on request. If the information is not available, the same can not be provided to the applicant. As per the RTI Act, the applicant can not compel the administration to collect and provide the same.

I agree with the contention of the respondent.

Under RTI Act information as is available will be given to the applicant. There is no need to create or collect the information as decided by the Central Information Commission in many appeal cases and complaints.

Therefore, the PIO can not be directed to collect and supply the information as requested by the appellant as per RTI Act.

The appellant has submitted that the following lands shown as property of the temples has not been included in the list of lands furnished by the PIO.

1. Adavipolam Revenue Village

TS No.F/7/13/3, R.S.No.108/1 pt & 108/2 pt., C.S.Nos.18BIS pt, 19 BIS pt, 19 pt, Extent H 00-A 43-Ca. 00 joint property of Bezawada family and President of Sri Venkateswara Swamy Temple, Yaam.

T.S.No.F/8/7, R.S.No.107/3 pt, 107/2 pt, 107/1 pt, 108/1 pt, 108/2 pt, 108/1 pt, 108/3 pt, C.S.Nos.17 pt, 18 pt, 19 BIS pt, 19 pt, 18 BIS pt, 20 3pt, Extent H 01-A 63-Ca. 00 Joint property of Bezawada family and President of Sri Venkateswara Swamy Temple, Yanam.

2. Mettacur Revenue Village

TS No.A/3/37/1, R.S.No.38/1, C.S.No.61, 62, Extent H 01-A 51 – Ca.40 in the name of Sri Vigneswara Swamy Temple, present Trustee, Yanam.

In support of the above statement, copies of the settlement register of Adavipolam Revenue Village Mettacur Revenue Village were furnished by the appellant.

The appellant has alleged that the PIO being a member of Bezawada family is a joint owner of the two pieces of land referred above. Therefore, the appellant alleges that the PIO knowingly gave the incorrect and incomplete information. The PIO may be directed to confirm the fact that the lands referred to above belong to Temple committee jointly or exclusively as the case may be.

The respondent in his written submitted as follows:

The applicant should always seek for specific information available in any form with PIO the interrogative queries viz "How/Why/When" do not come under the ambit of the Right to Information Act.

The public authority under the RTI Act is not supposed to create information or to interpret information or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority

I agree with the contention of the respondent. The public authority under the RTI Act is not supposed to create information or to interpret information or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. As such, the PIO can not be directed to confirm whether the above lands belong to temple committee jointly or exclusively or the case may be. The interpretation can not be given by the PIO.

Further, in the written brief the appellant has prayed to direct the PIO to give correct and full information of the lands belonging to Temple committee. Further, he has requested to take action against the PIO.

The respondent has submitted that the ownership of the lands are maintained in Settlement Register which is one of the revenue record. He has further submitted that there are 8 Settlement Registers. The details of the Settlement Registers are given below:

Kanakalapeta	= 1 - 80 pages
Mettacur	= 1 - 131 pages
Francetippa	= 1 - 47 pages
Adivipolam	= 1 - 135 pages
Yanam	
Volume-I	= 1 - 91 pages
Volume-II	= 1 - 64 pages
Volume-III	= 1 - 153 pages
Isukatippa Island	= 1 - 27 pages

The respondent has submitted that he along with one of the staff members has collected the details from the Settlement Registers by going through page by page. The respondent has further submitted that it has taken nearly three days to collect these details from the Settlement Registers.

The respondent has submitted in view of the tedious exercise involved, there could have been some omissions. The respondent has further submitted that he has taken utmost care to provide the full information to the applicant.

The information provided to the appellant involved a very tedious exercise by the staff resulting diversion of the administrative resources. Despite this, because of some omissions due to oversight this has further resulted in appellant making the charge that incomplete information was provided.

The mode of disposal of the application is erroneous. The respondent has not disposed the application as it should have been because of over caution. The more suitable way of disposal could be that the appellant should have been given complete access to the records mentioned above so that he can collect the particulars from the same, as desired by him. With this approach, tedious exercise that the staff have to do resulting diversion of administrative resources can be avoided. At the same time, it would not provide ground for the appellant to subsequently charge that incomplete information was provided.

Therefore, it is directed that the appellant may be given access to the records i.e. Settlement Registers mentioned above free of cost so that the appellant can collect complete details from the these records.

The respondent is cautioned to dispose of the applications with due care in future.

With the above observations, the appeal is disposed of.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru M.Subba Rao,
Manyam Building,
Tyagaraya Street, Yanam.

2. Shri B.Niranjana Rao,
Deputy Tahsildar (Revenue),
O/o the Deputy Collector (Rev.),
Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 15.05.2008
F.No.972/PA/FAA/RTI/2008-09**

Dated, the 20th June, 2008

ORDER

Name of the Appellant : Thiru P.Veerappan, No.2,
132/11 KV Sub Station Quarters
Mettacur, Yanam.

Name of the Public Information Officer : Shri B.Niranjana Rao,
Deputy Tahsildar (Rev)-cum-PIO,
O/o the Deputy Collector (Revenue),
Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 26.05.2008 at 4:00 p.m. Both the appellant and respondent were present. The matter was taken up for hearing on 26.5.2008 at 4:00 p.m., as scheduled.

The appellant has filed an application in Form-I, dated 15.04.2008 before the PIO of the office of the Deputy Collector (Revenue) seeking the following information:

1. Please supply me the copy of "Lease Deed" executed between Government of Puducherry through the Revenue & Disaster Management Department and Yanam Old Age Home (NGO), Yanam in connection with utilization of Government Paramboke land for establishing the said Yanam Old Age Home.

2. Please supply me the copy of Amendment, if any executed in the above "Lease Deed" executed between Government of Puducherry through the Revenue & Disaster Management Department and Yanam Old Age Home (NGO), Yanam in connection with utilization of Government Paramboke land for establishing the said Yanam Old Age Home.

The respondent has sent the reply vide letter No. 43/B/DTRY/2008-09, dated 12.05.2008 informing the applicant as follows:

With regard item no.1, sanction has been accorded to licence the Government land to an extent of 00-16-00 hectares in TS No.B/25/1/3 of Yanam Revenue village to the Old Age Home, a social service institution, Yanam on licence basis for a total period of 19 years at a fee of Rs.24,960/- (Rupees Twenty Four Thousand Nine Hundred and Sixty only) per annum vide G.O.Ms.No.14/98, dated 11.03.1998. A copy of the G.O. is enclosed. The licence fee has been revised as Rs.5,00/- for the five year period 2003-2008 commencing from 20.03.2003 vide G.O.Ms.No.44, dated 10.07.2006. A copy of the same is also enclosed. A copy of the agreement between the Govt. of Puducherry represented by the Deputy Collector (Revenue), Yanam as Licensor and Chairman, Yanam Old Age Home as Licensee is enclosed.

With regard to item no.2, the particulars of the Amendment to the Lead Deed are not available in this office.

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Aggrieved by the response received within the prescribed period, the appellant has filed this first appeal on the following grounds.

1. *The PIO has not supplied the information i.e. copy of "Amendment" in Lease Deed (Licence) executed between the Govt. of Puducherry and Yanam Old Age Home*

2. *The reply of PIO is not acceptable since the Lt. Governor of Puducherry has passed order to the Deputy Collector (Revenue), Yanam to execute fresh licensing agreement vide G.O.Ms.No.25/2000, dated 09.03.2000.*

3. *The PIO has furnished incomplete, false and misleading information without collecting the information from the office files/records.*

4. *If the Deputy Collector (Revenue), Yanam had failed to obey the orders of the Lt. Governor, Puducherry in connection with executing of fresh agreement with Yanam Old Age Home means the reply of PIO is meaningful, acceptable and he has furnished the correct information only.*

The relief prayed by the appellant is to admit this appeal and pass necessary orders to the PIO to supply the correct and full information free of cost to his requests at serial No.2 in his application at an early date.

The respondent has submitted in his reply as follows:

1. *The PIO has not supplied the information i.e. copy of the Amendment in Lease Deed (Licence) executed between the Govt. of Puducherry and Yanam Old Age Home.*

In this connection, it is submitted that as per the RTI Act, 2005, information is any material in any form. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. Whereas, the Amendment in Lease Deed is not available in this office. Hence, the copy of the Amendment Deed could not be furnished. Hence, the fact has been intimated to the appellant accordingly.

2. *The reply of PIO is not acceptable since the Lt. Governor of Puducherry has passed orders to the Deputy Collector (Revenue), Yanam to execute fresh licensing agreement vide G.O.Ms.No.25/2000, dated 09.03.2000.*

In this connection, it is submitted that the public authority under the RTI Act is not supposed to create information or to interpret information or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority. The information to the applicant shall ordinarily be provided in the form in which it is sought.

3. *The PIO has furnished incomplete, false and misleading information without collecting information from the office files/records.*

In this connection, it is submitted that the appellant, on many occasions has been intimated that full and complete access to all the records pertaining to information sought by him as available in this office could be given to him. He may collect the details as desired by him from these records on payment of copying fee. He did not inspect the files, he alleged that false information was furnished by the PIO it is totally irregular as per the provisions of the RTI Act.

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..3..

4. If the Deputy Collector (Revenue), Yanam has failed to obey the orders of the Lt. Governor, Puducherry in connection with executing of fresh agreement with Yanam Old Age Home means the reply the PIO is meaningful, acceptable and he has furnished the correct information only.

In this connection, it is submitted that the applicant should always seek for specific information available in any form with PIO, the interrogative queries viz. "how/why/when" do not come under the ambit of the Right to Information Act. The fresh agreement will be executed. The appellant can not question the Deputy Collector (Revenue) that he has failed to obey the order of the Lt. Governor. It is highly irregular.

Decision

I have perused the records placed before me.

The PIO has furnished a copy of the Lease Deed sought for vide item no.1 by the applicant. He has also supplied a copy of the G.O.No.14/98, dated 11.03.1998 and another G.O.No.25/2000, dated 09.03.2000. The appellant has not sought for the copies of the said GOs. However, the same has been furnished by the respondent to the appellant.

The Amendment to the Lease Deed has to be executed according to G.O.Ms.No.25/2000, dated 09.03.2000. The Amendment is yet to be executed. Therefore, the PIO could not furnish the copy of the Amendment to the Lease Deed. As such, no appeal lies, as all the available information has been furnished to the appellant.

However, the PIO is directed to ensure that the Amendment to the Lease Deed is carried out according to G.O.Ms.No.25/2000, dated 09.03.2000.

With the above observations the appeal is disposed of.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru P.Veerappan, No.2, 132/11 KV Sub Station Quarters, Mettacur, Yanam.

2. Shri B.Niranjana Rao, Deputy Tahsildar (Revenue)-cum- PIO, o/o the Deputy Collector (Revenue), Yanam.

**GOVERNMENT OF PUDUCHERRY
OFFICE OF THE DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM**

**Appeal No.Nil, dated 07.05.2008
F.No.815/PA/FAA/RTI/2008-09**

Dated, the 20th June, 2008

ORDER

Name of the Appellant : Thiru M.Subba Rao,
Tyagaraya Street, Yanam.

Name of the Public Information Officer : Shri R.Sriramulu,
Sub Registrar-cum-PIO,
Registration Department, Yanam.

The appellant, whose details are mentioned above filed a first appeal under Section 19 of RTI Act, 2005 against the Public Information Officer mentioned above.

Notice was given to both the appellant and respondent to appear on 19.05.2008 at 4:00 p.m. The matter was taken up for hearing on 19.05.2008 at 4:00 p.m. as scheduled.

The appellant was not present. However, he has submitted his written brief vide letter No.Nil, dated 19.05.2008 intimating that due to preoccupation, he is unable to personally attend the hearing. The respondent was present and submitted his written brief.

The appellant has filed an application in Form-I, dated 24.03.2008 before the PIO of the Registration Department, Yanam seeking the following information:

- 1. Copy of the lease document of Government land in Rajiv Nagar, Yanam let out to Yanam Old Age Home, Yanam, registered in 1996-97.*
- 2. Copy of the lease document of Yanam Old Age Home let out to Gowthami Teacher Training Institute, Yanam registered in 2005-07.*
- 3. Particulars of registration of temple lands transferred to others on account of sale or lease to private persons during 2001-02 to 2006-07.*
- 4. Particulars of Government lands registered in the name of Reliance Industries Ltd. on account of lease or sale.*

The respondent has sent the reply vide letter No. 01/SRY/RIA/2008-09, dated 14.05.2008. The appellant has submitted that he has received the said reply only on 16.05.2008. He has alleged that the Registrar has fabricated evidence to contend that he has not violated any provisions of the RTI Act.

This is yet another case against the PIO, where the appellant contends that the PIO has not furnished the reply, whereas the respondent submits that he has already furnished the reply. In view of this, the PIO is directed to maintain a proof for sending the letters in future. This can be either sending the letters by certificate of posting or speed post or registered post.

..2..

Secondly, the appellant has submitted that he has not satisfied with the information given by the PIO.

In this connection is noted that according to the Section 57 of Registration Act 1908, Registering officer should allow inspection of books and index registers and to give certified copies of entries. The Section is reproduced below:

57(1). Subject to the previous payment of the fees payable in that behalf, the Books Nos.1 and 2 and the Indexes relating to Book No.1 shall be at all times open to inspection by any person applying to inspect the same: and, subject to the provisions of Section 62, copies of entries in such books shall be given to all persons applying for such copies.

57(2). Subject to the same provisions, copies of entries in Book No.3 and in the Index relating thereto shall be given to persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

57(3). Subject to the same provisions, copies of entries in Book No.4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

57(4). The requisite search under this section for entries in Books Nos.3 and 4 shall be made only by the registering officer.

57(5). All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

Further, Rule 122 to 133 of the Pondicherry Registration Rules 1969 deal with searches.

The above provisions amply enables any person to inspect the Book No.1, Book No.2 and request for any such certified copies. Accordingly, the concerned index registers are also opened for inspection.

As the Registration Act provides for inspection of the records, nothing extra is provided by the RTI Act, which also provides for inspection of the records and taking copies of the same. As such, the appellant can inspect the required documents and obtain the certified copies of the same as per the provisions of the Registration Act 1908 and Pondicherry Registration Rules 1969.

With the above observations the appeal is disposed of.

(Y.LAKSHMINARAYANA REDDY)
DEPUTY COLLECTOR (REVENUE)-CUM-
FIRST APPELLATE AUTHORITY UNDER RTI ACT, 2005
YANAM

To

1. Thiru M.Subba Rao, Tyagaraya Street, Yanam.
2. Shri R.Sriramulu, Sub Registrar-cum-PIO, Registration Dept., Yanam.

