

A.P. Information Commission
(under Right To Information Act, 2005)
HACA Bhavan, Hyderabad
Phone Nos: 23230245/246 (O), 23230591/92 (F)

Appeal No:6167/CIC/2008, dated 29-06-2009

Name of the Appellant & Address : Sri G.M. Menon,
Prabhat Castle, 10-3-32/13, East
Marredpally, Secunderabad

Name of the Public Authority : 1) The Dy. Registrar/ Public Information
Officer (U/RTI Act, 2005), Institution of
A.P. Lok Ayukta and Upa-Lokayuktha, 5-
9-49, Basheerbagh, Hyderabad.

2) The Registrar/ Appellate Authority
(U/RTI Act, 2005), Institution of A.P. Lok
Ayukta and Upa-Lokayuktha, 5-9-49,
Basheerbagh, Hyderabad.

ORDER

Sri G.M. Menon, Prabhat Castle, 10-3-32/12, East Marredpally, Secunderabad 500 026 has filed 2nd appeal dated **18.08.2008** which was received by this Commission on **19.08.2008** for not getting the information sought by him from the PIO/ Institution of A.P. Lok Ayukta, Basheerbagh, Hyderabad .

The brief facts of the case as per the appeal and other records received along with it are that the appellant herein filed an application dated **17.06.2008** seeking the following information relating to Complaint case No.761/2007/B1 filed by him:

- i. *On what basis the Lok Ayukta (Officiating) has mentioned in the order that I am seeking transfer of service Connection No.C-14444 from M/s. M.B. Jai Krishna Constructions, 10-3-32/12, East Marredpally, Secunderabad when the relief sought by me is for disconnection of Service Connection No.C-14444 for FRAUD.*
- ii. *What are the documents relief upon by the Lok Ayukta (Officiating) while mentioning in the order dated 27.08.2007 that there is a firm by name M/s. M.B. Jai Krishna Construction, 10-3-32/12, East Marredpally, Secunderabad since it is also mentioned that I can obtain Certified Xerox copies of the original application of M/s. M.B. Jai Krishna Construction.*
- iii. *Certified copies of the Application of M/s. M.B. Jai Krishna Construction, 10-3-32/12, East Marredpally, Secunderabad since I have not been furnished with the same by the Department till now.*

The PIO/Institution of A.P. Lokayukta through **Memo.Dis.No.RTIP-10/Lok/7335/2008 dated 10.07.2008** informed the Appellant that *the information sought on Item Nos. 1 and 2 is not covered by Sec.2(f) of the RTI Act, 2005; moreover the PIO is not competent to give any reasons on the orders passed by the Hon'ble Lokayukta (officiating) of A.P.; as regards the information on Item No.3, the document sought for is not available in the records of the Institution; in the circumstances, the application dated 17.06.2008 is rejected.*

Not satisfied by the decision of the PIO, the Appellant filed 1st appeal dated **19.07.2008** before the Appellate Authority/ Institution of A.P. Lokayukta requesting to furnish him with the correct information. The appeal copy filed by the Appellant does not bear his signature.

The Registrar/Appellate Authority, Institution of A.P. Lokayukta through order in RTI Appeal No.5/2008 dated **11.08.2008** while upholding the order of the PIO dismissed the appeal stating that *as per Sec.17(3) of A.P. Lokayukta Act, 1983, no proceedings, decision, finding or recommendation of Lokayukta or Upa-Lokayukta shall be liable to be challenged, renewed, quashed or called in question in any court or tribunal; that by virtue of powers as per Rule 7(8) (iii) of A.P. Lokayukta & Upa-Lokayukta (Investigation) Rules, 1984, only Hon'ble Lokayukta or Upa-Lokayukta got powers to summon any document from third party during the course of investigation and the other staff members including the PIO have no right to summon a document as stated by the Appellant; moreover the Central Information Commission, New Delhi passed an order in Appeal No.CIC/AT/A/2006/00586 in the case of Shri Rakesh Kumar Gupta vs Income Tax Appellate Tribunal that the orders passed by the courts as well as the tribunals will not come under the purview of the Information Act.*

Aggrieved by the decision of the Appellate Authority, the Appellant preferred 2nd appeal before the Commission requesting to direct the authority to furnish the correction information sought.

After examining the material papers available on record, the appeal was taken on file and notices were sent to the parties concerned directing them to appear before this Commission for hearing on 27.06.2009.

On 27.06.2009 the case was called. The Appellant and the Respondents were present. The appellant contended that he has not been supplied with the information as to (1) On what basis the Lok Ayukta (Officiating) has mentioned in the order that he is seeking transfer of service Connection No.C-14444 from M/s. M.B. Jai Krishna Constructions, 10-3-32/12, East Marredpally, Secunderabad when the relief sought by him is for disconnection of Service Connection No.C-14444 for FRAUD; (2) What are the documents relied upon by the Lok Ayukta (Officiating) while mentioning in the order dated 27.08.2007 that there is a firm by name M/s. M.B. Jai Krishna Construction, 10-3-32/12, East Marredpally, Secunderabad since it is also mentioned that he can obtain Certified Xerox copies of the original application of M/s. M.B. Jai Krishna Construction; and (3) Certified copies of the Application of M/s. M.B. Jai Krishna Construction, 10-3-32/12, East Marredpally, Secunderabad since he has not been furnished with the same by the Department till now.

The Respondents through their counter dated 29.05.2009 contended that the information sought for on Item Nos. 1 and 2, does not fall within the meaning of "information" as defined U/s 2(f) of the RTI Act, 2005 and for any grievance against the orders passed, the remedy does not lie in the RTI but through writ in a Court of Competent Jurisdiction. As far as Item No.3 is concerned, the Respondent has stated that the said document is NOT available with them.

The Commission has gone through the contentions of the Respondent and finds no illegality or irregularity in the orders passed by the Respondent as the information sought for Items Nos. 1 and 2 does not fall within the definition of "information" as defined U/s 2(f) of the RTI Act, 2005 and upholds the contention of the Respondent that in the instant case, remedy is NOT RTI but to seek redressal in a Court of Competent Jurisdiction through appeal. As far as Item No.3 is concerned, the Respondent has stated that the said document is NOT available with them. The Act requires the supply of such information only which already "exists" and is "held" by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to "collect" information and supply it to the Appellant.

Hence, while upholding the decision of the Respondent, the appeal is *dismissed*.

C.D. Arha
Chief Information Commissioner

Authenticated by:

(A. Mohan Krishnaiah)
Registrar