

**BEFORE THE GOA STATE INFORMATION
COMMISSION**
**Seventh Floor, Kamat Towers, Patto, Panaji,
Goa.**

**CORAM: Shri. Prashant S. P. Tendolkar,
State Chief Information Commissioner
Smt. Pratima K. Vernekar,
State Information Commissioner**

Appeal No.114/ SIC/2010

Mukesh Gupta,
Sx-2, Block J, Adwalpalkar Shelters,
Caranzalem-Goa. ...Appellant

V/s

1. The Public Information Officer,
Kadamba Transport Corporation,
Porvorim Goa.

- 2.The First Appellate Authority,
The Managing Director,
Kadamba Transport Corporation,
Porvorim Goa.**Respondents**

Appeal Filed on 28/04/2010

Disposed on 20/6/2016

O R D E R

1. Brief facts of the case are that the Appellant Shri Mukesh Gupta through his application, dated 16/1/2010 u/s 6 of the Right to Information act (RTI Act) sought certain information at point 1 to 4 in respect of the complaint lodged by Kadamba transport corporation against the officials of oriental insurance company ltd. , as stated therein in the said application.

2. Public Information officer/PIO, Respondent No. 1 replied to the said application on 9/2/10 denying the said information on the ground that he same was subjudice before the JMFC Mapusa.
3. Being aggrieved by the reply of the PIO the appellant preferred the first appeal before the First Appellant Authority (FAA) who is Respondent No. 2 herein on 26/2/2010. Since Respondent No. 2 /FAA failed to dispose first appeal within specified time as contemplated under the said Act, The present second appeal came to be filed before this commission on 16/4/10, praying for the direction to provide the requisite information at an early date and for penal provision under Right to Information Act (RTI) Act.
4. After notifying the parties matter was listed on board and was taken up for hearing. It is seen from the record that the appellant as well as Respondent No. 2 FAA despite of due service have failed to remain present before this Commission from day one of the hearing .

Respondent No. 1/PIO Shri Sudhakar Gawade was present during the hearing.
5. Reply was filed by Respondent No. 1 on 16/3/2016 before this commission annexing the copies of the information and submitted that the said information is furnished to the appellant
6. During the arguments on 13/4/2016. Shri V.D. Harmalkar Assistant Legal Advisor, representing

PIO submitted that their reply dated 16/3/16 may be treated as arguments. Opportunity was given to the appellant as well as to Respondent No. 2, FAA to substantiate their case and the matter was posted for the argument on 16/5/2016 however on the said day all the parties to the present appeal were absent and as the matter being very old the commission decided to dispose the appeal on merits based on the records and then matter was posted for orders.

7. As no reply was filed by Respondent No. 2/ FAA and as they failed to appear before the commission no clarification could be obtained from the Resp. No. 2/FAA as to why they failed to dispose the first appeal within stipulated time or what was the reason for withholding the same.
8. This Commission would like to refer Section 19(6) of the Act which states "An Appeal under sub-section (7) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing."
10. It is hereby observed by the Commission that in present case even though the Appellant has preferred the Appeal before the FAA/Respondent No. 2 it has failed to pass an order on the first Appeal. The Role of Commission as prescribed u/s 19 (3) is by way of second Appeal and that to only against the decision of FAA. In other

words the role of Commission would come in play only after the issue is decided by the First Appellate Authority.

11. The displeasure is hereby expressed by this Commission for the conduct and attitude shown by the Respondent No. 2/FAA. It has been observed in various cases that FAA either does not pass any Orders or such Orders are passed after the stipulated time, as such great inconvenience and hardship, mental agony is thereby caused to the Appellant. The commission observes that Respondent No. 2 FAA miserably failed to perform their duties as contemplated under the Right to Information Act and hence warns Respondent No. 2/FAA that such irresponsible behavior would not be tolerated hence forth and incase detected, would be reported to the authorities, recommending penal action.

12. The PIO Respondent NO. 1 has not specified the mode by which the said information was furnished to Appellant or produced any acknowledgment on record of having received the required information by the Appellant. In the absence of any such acknowledgement, Commission is reluctant to believe and consider the plea taken by the Respondent No. 1, PIO.

13. The Appellant has prayed for penal action. However, the Appellant has failed to substantiate his plea. In spite of notice Appellant has remained absent considering the

above situation, this commission is of the opinion that the ends of justice can be met by disposing the present appeal with the following Order:-

ORDER

The Appeal is allowed. The PIO, shall furnish to the Respondent No. 1 the entire information as sought for by the Appellant vide his application, dated 16/01/2010 within fifteen days from the date of receipt of this Order. The information shall be sent by Registered Post A.D. free of cost. The acknowledgement so received after service shall be produced before this Commission. Other prayers are dismissed.

Appeal dispose of accordingly proceeding closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided under the Right to Information Act 2005.

Sd/-

(Prashant S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-

(Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

