

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Juino De Souza State Information Commissioner

Appeal Nos. 102 /SCIC/2012 | 225

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Mr. Joao C. Pereira,
H. No.40, Acsona,
Utorda,
Salcette- Goa.

..... Appellant

v/s

1. Public Information Officer,
Under Secretary(Law Establishment),
Department of Law,
Secretariat, Porvorim – Goa.

..... Respondents

2. First Appellate Authority,
Joint Secretary (GA),
Secretariat, Porvorim – Goa

Relevant emerging dates:

Date of Hearing : 23-06-2016

Date of Decision : 23-06-2016

ORDER

1. Brief facts of the case are that the Appellant had filed an application dated 27/01/2012 with the Respondent PIO which is a law department seeking certain information which pertains to whether the Indian National registering his/her birth foreign country does he become an Indian or foreign National as per Indian citizenship Rues & Regulation.
2. The Respondent No.1 PIO vide his reply dated 21/02/2012 informed the Appellant that the role of Law Department is to tender legal opinion to the Government Departments and that this Department is not supposed to tender any legal opinion to private parties and they are required to make their own arrangement for obtaining legal opinion. Further the PIO held that since information sought is as an advice the same does not fall under the definition of the RTI Act and hence the same cannot be furnished.

3. Not being satisfied with the reply of the Respondent PIO, the Appellant preferred a First Appeal on 10/03/2011 and the First Appellate Authority (FAA) disposed off the First Appeal vide order dated 18/05/2012. Being aggrieved the Appellant has filed a Second Appeal before this commission on 03/02/2014.
4. During the hearing the Appellant Mr. Joao C. Periera is absent despite advance notice issued by RPAD without intimation to this Commission. The Respondent PIO represented by Shri Adv. K. L. Bhagat is present in person.
5. The learned Advocate on behalf of the Respondent PIO submits that the information as requested by the Appellant is in the form of getting opinion in the event an Indian national registering his birth in a foreign country does not become an Indian or foreign national as per Indian citizenship rules and regulation and the same does not constitute as information under the RTI act 2005.
6. The learned advocate contends that the main function of the Public Authority which is the law Department is to tender legal advice to the Government. A reference for legal advice should, therefore be made to it only by a Department of the Government and not by a private person.
7. The learned advocate also stated that the FAA vide order dated 18/05/2012 had closed the First Appeal filed by the Appellant herein with the observation.
8. The advocate cited Appeal No. CIC /SG/A/12010/002398 Dr. Jitendra Nath Gupta V/s Govt. of NCT of Delhi- it is held that the terms opinions and advices which are brought within the purview of information under Section 2(f) of the RTI Act, are opinions or advices that are already present on record. It does not mean that if the opinion or advice of the public authority is sought under Section 6(1) of the RTI Act, the said opinion or advice shall have to be created.

9. The commission on perusal of the record as also the detailed reply filed by the PIO indeed finds that the RTI information sought by the Appellant was not falling under the purview of the definition as envisaged under RTI act and that there was no malafide intention whatsoever on the part of the PIO in furnishing any wrong reply, as alleged by the Appellant.
10. The Commission finds that there is no need to interfere with the order passed the FAA. The Appeal is devoid of any merit and accordingly stands dismissed.

All proceedings in the Appeal case also stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the Order be given free of cost.

sd/-
(Juino De Souza)
State Information Commissioner

