

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner.

Appeal No.106/ SIC/2015/

Mr. Silvano Estibeirol,
Son of Mr. Jose M. Estibeirol,
Age 44 years, Advocate,
Having office at S-17,
Casa dos Aliados Bilding,
Margao, Goa.

.....Appellant.

V/s.

1 The Public Information Officer,
. Office of the Chief Officer,
Cuncolim Municipal Council,
Cuncolim Goa.

... Respondent

Appeal filed on: 30/09/2015

Decided on: 31/08/2016

ORDER

1. Brief fact of the case are that the Appellant, Shri Advocate Silvano Estibeirol, had by his application dated 01/08/2015 address to Respondent No. 1, PIO, Office of Cuncolim Municipal Council Salcete-Goa sought the information on 2 points under RTI Act, 2005 relating to the Construction License No. 84/73 dated 10/04/1973 issued by Village Panchayat of Cuncolim, Goa to one Juliana Coutinho, of Gounkeavaddo, Cuncolim-Goa. The details of the information sought was as under:-
 - a) Copy of construction licence alongwith approved plan.
 - b) Copy of application filed for grant of construction licence and supporting documents produced.
2. As the Appellant did not receive any communication within statutory period of 30 days, the Appellant filed second Appeal before this Commission on 24/09/2015.
3. After notifying the parties the matter was taken on board. In pursuant to the notice Respondent No. 1, Shri Kritika Desai, APIO was present. Appellant remained absent despite of due service of notice.

4. During the hearing the reply came to be filed on behalf of Respondent on 31/08/2016 and in their reply, the Respondent have submitted that the information was earlier furnished to the Appellant on 28/10/2015. Copy of the reply/information dated 28/10/2015 is also annexed to the reply. Vide said reply also the Respondent have submitted that the information sought by the Appellant is pertaining to year 1973 during the time of Panchayat Regime and further submitted that as the information sought was very old there was slight delay in submission of the reply to the application.
5. I have considered the Appeal Memo, reply of Respondents and documents on record. It is seen that the information at point No. 1 was furnished to the Appellant. However, information at point 2 was not furnished to the Appellant as the same was not available in the office records.
6. The Hon'ble Supreme Court in the case of Central Board of Secondary Education and another V/s Aditya Bandopadhyay and others, civil appeal NO.6A54 of 2011, wherein at para 35 thereof it is observed:

35. *At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.....*

7. Thus information which is not held by any public authority and which cannot be access by any public authority under any law for the time being in force does not fall within a scope of the Act. The Apex court has clarified that the Act provide access to all information that is available and existing and that it does not cast an obligation upon the

public authority to collate such non available information and than furnish to the Appellant.

8. It has been observed that the Appellant have been provided information by the APIO after the expiry of statutory period laid down in the Act. The Appellant herein ought to have preferred 1st Appeal under section 19(1) of RTI act before FAA before approaching this Commission by way of second appeal. However, since the information has been already provided after filing of the present Appeal question of giving any direction at this stage doesnot arise. As far as other prayers considered, this Commission is of the view that the Respondent No. 1, PIO have sufficiently explained the reasons for the delay in furnishing the information, as such I am declined to grant prayer b).
9. In the above circumstances the following order is passed:

ORDER

- 1) No intervention of this Commission is required as far as prayer a) is concerned. However liberty is given to the Appellant to approach the FAA if he is not satisfied with the reply/ information furnished to him.
- 2) Prayer at b is dismissed.

Proceeding stands 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 against this order under the Right to Information Act 2005.

Pronounced in open court.

(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa

