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

CORAM: Shri Juino De Souza State Information Commissioner

Appeal No. 290/SIC/2011

Mr. Santosh Vernekar
H. No. 40/1, Mollem
Dharbandora- Goa.

v/s

..... Appellant

1.The Public Information Officer
The Deputy Collector of South Goa
(Revenue Branch)
Margao, Goa- 403601.

2.First Appellate Authority,
Collector of South Goa
Margao, Goa- 403601.

..... Respondent

Relevant emerging dates:

Date of Hearing : 13-06-2016
Date of Decision : 06-10-2016

O R D E R

1. The brief facts of the case are that the Appellant had sought certified copies Processo File No. 102/cd/1945 from the Respondent PIO vide his application dated 08/07/2005. The Respondent PIO vide his letter No. 14-01-2005-DSLR/38/13568 dated 04/08/2005 addressed to the the Collector, North Goa District requested to return the processo file 102/cd/1945 of Village Mollem in Sanguem taluka stating that "as per the records in this office it is seen that the said processo file along with file no. LS/AGM/363/68 had been sent to your office on 08/06/1971 and that the same may be returned to this office in order to comply with the request of the applicant."

2. In the meanwhile the Appellant sent a letter to the Collector of North Goa District on 15/12/2010 asking permission to inspect the said file. It is further seen that vide letter dated 14/01/2011 the office of the Collector North Goa transferred the application of the Appellant under Section 6 (3) of the RTI Act to the Respondent PIO/ Deputy Collector (Revenue) South Goa as the information sought by the Appellant pertained to the district of South Goa.

3. On 15/05/2011 the Appellant addressed a letter to the Collector, South Goa to issue certified copies of Processo File No. 102/cd/1945 and file no. LS/AGM/363/68.

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and the office of the Collector, South Goa (Revenue Branch) vide letter No. 49/18/Rev./2010/5651 dated 09/06/2011 informed the Appellant stating "You are informed that this office vide letter of even number dated 25/01/2011 has already informed that the file bearing Nos. Processo File No. 102/cd/1945 and file no. LS/AGM/363/68 is not available in this Office."

4. Not being satisfied the Appellant moved the First Appellate Authority on 12/07/2011 and the FAA vide his Order dated 21/10/2011 disposed off the said Appeal stating that the Appellant was given liberty to search all files and documents in the Revenue Section to satisfy himself of the fact and the inspection was fixed on 08/10/2011 at 10:00 a.m. and that the Appellant remained present for inspection on the appointed date and after a thorough search of all the records/ files in the cupboards his documents that is Processo File No. 102/cd/1945 and file no. LS/AGM/363/68 were not found in the Office.

5. The FAA has also stated in his Order, "I am of the opinion that the Appellant was indeed informed by the Respondent PIO that the relevant information is not available in his Office. However the Appellant was also given an opportunity to attend the office and assist in searching/ inspection of records to satisfy himself on the availability of the information and despite of all efforts to trace the relevant file the same could not be found and in the absence of any documentary evidence to prove that the relevant file/ information has indeed been sent to the Collectorate of South Goa, the Appeal filed by the Appellant is disposed off".

6. During the hearing held on 13/06/2016 the Appellant represented by Adv. Atish P. Mandrekar is present in person. The Respondent PIO & FAA are both represented by the APIO Shri. Prabhakar M. Phadte who is also present in person. The Advocate for the Appellant submits that the Appellant is in need of the information sought as it pertains to his ancestral property and that even if the said file is not available the same can be reconstructed with the help of the Appellant.

7. The representative of the Respondent PIO and FAA furnishes a written reply signed by the Collector of South Goa (FAA) which is taken on record of the file and a copy of which is also furnished to the Advocate for the Appellant.

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8. In his submission, the representative of the FAA submits that a thorough search was done to find the Appellant's documents but they were not available in the office of the Respondent PIO. He further submitted that there is no deliberate attempt to deny the information but it was not possible to provide the information as the same was not found in the records despite best efforts including joint inspection that was carried out in presence of the Appellant.

9. It is also submitted that the Appellant had first moved the Collector of North Goa as well as Director of Survey & Land Records and even these public authorities did not have the relevant file which pertains to the year 1945.

10. The Commission on perusal of the material on record and observes there is numerous exchange of correspondence between the Appellant and the PIO's of all the three public authorities respectively namely the Directorate of Survey and Land Records, Collector of North Goa & Collector of South Goa and which details have been enumerated in the brief facts of the case as stated above which clearly goes to prove that all the PIO's have left no stone unturned to search for the missing file of the year 1945 but their efforts have gone in vain.

11. As stipulated in the RTI Act the role of the PIO is to provide information as is available, what is available and if available, regrettably the PIO cannot procure information to satisfy the whims and fancies of the Appellant, besides it is not a case where the PIO has denied or deliberately withheld the information. Also a joint inspection was done where the Appellant has himself carried a thorough search of all cupboards and has satisfied himself that the said file is not available.

12. The Commission accordingly comes to the conclusion that information relating to the Processo File No. 102/cd/1945 was indeed not available and as such it is also not possible for this commission to issue directions to reconstruct the file. **The Appeal case stands closed.**

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

Under Secretary cum Registrar
Goa State Information Commission

sd/-

(Juino De Souza)
State Information Commissioner

Appeal No.290/SIC/2011/885
Goa State Information Commission,
Kamat Towers,
Seventh Floor, Patto,
Panaji, Goa.
Dated:~~14~~18/10/2016

To,

Mr. Santosh Vernekar,
H. No.40/1, Mollem,
Dharbandora – Goa. .....**Appellant**

V/s

1. Public Information Officer,
   The Deputy Collector of South Goa
   (Revenue Branch),
   Margao – Goa. 403 601.

2. First Appellate Authority,
   Collector of South Goa,
   Margao – Goa. .....**Respondents**

Sub: Order in Appeal No. 290/SIC/2011

Sir,

I am directed to forward herewith copy of the Order dated 06/10/2016 passed by the Commission in the above referred matter for information and necessary action at your end.

Right to Appeal {Sec 19 (9)}: No Appeal lies against the order of State Information Commission under the RTI Act. However either party who is aggrieved has the right to challenge the Order of Goa State Information Commission by filing a Writ Petition under Article 226/227 of the Constitution of India before the High Court of Bombay at Goa.

Yours faithfully,
14/10/16
(**Dasharath M. Redkar**)
Under Secretary cum Registrar
Goa State Information Commission.
Panaji-Goa

Goa State Information Commission
GOA INFORMATION COMMISSION
Panaji - Goa

Encl : Copy of Order.