

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Shri. Prashant S. P. Tendolkar, State Chief Information Commissioner

Appeal No. 32/SCIC/2016

Shri Ramachandra S. Hegde,
Teacher Grade I,
M.E.S. Higher Secondary School,
Zuarinagar.

... Appellant

V/S

1) Public Information Officer,
M.E.S. Higher Secondary School,
Zuarinagar Goa- 403726.

... Respondent

Filed on : 25/2/2016
Disposed off: 13/12/2016

1) FACTS:

a) The appellant herein by his application, dated 23/9/2015, filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO on his 4 points pertaining to the teaching staff in the school.

b) The said application was replied on 20/10/2015 informing that the information to points 1 (a, b, c, and d),2 and 3 is third party information and at (4) as not available.

c) The appellant filed first appeal on 6/11/2015, and by order dated 20/1/2016 First Appellate Authority (F.A.A) allowed the same and directed PIO to furnish information within rules.

d) PIO contends that the order dated 20/01/2016 of FAA was received on 2/2/2016 and that by letter, dated 29/2/2016, she called upon the appellant to collect the information on 1/3/2016.

e) According to appellant he received the said letter on 2/3/2016 i.e. after the date fixed by PIO for collecting information.

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f) In the mean time the appellant has approached this commission on 25/2/2016 with this appeal u/s 19(3) of the act.

g) Notices were issued to the parties, pursuant to which they appeared. The PIO on 3/8/2016 filed a reply to the appeal. Additional reply was filed on 25/8/2016.

h) It is the version of PIO that the information sought was of third party and was refused initially by her. But in view of the order of FAA, the same was offered. The said order of FAA was received on 02/02/2016 and immediately the information was offered. According to PIO before the order was complied by it, the appellant has filed this appeal and hence is premature. According to PIO the appellant failed to collect the information when offered and there is no delay on the part of PIO in furnishing the information.

i) Arguments were heard. The appellant argued that the order, dated 20/1/2016 of FAA was received by him on 25/1/2016 and as he is in the same institution of the PIO it should be presumed that the PIO has also received the same on the same date. He further submitted that though the information was offered to be collected on 01/03/2016, said letter itself was received on 02/3/2016, i.e. later than the date fixed for information. He admitted that the information as furnished by PIO in the course of this appeal is the full information as sought by him. According to him delay is caused by PIO in furnishing the information and hence the PIO should be penalized.

The PIO in her arguments reiterated the contents of the reply and produced before me the copy of the order of the FAA as having inwards in the said office on 2/2/2016. She submitted that the order of FAA does not fix any time for furnishing information and as such

the period of thirty days, as is found reasonable under the act was adhered to. She submitted that the appeal was filed without considering the period under which the information was to be furnished.

Both the parties opted that the order of this appeal be communicated to them.

2) FINDINGS:

a) The admitted facts are that by her reply dated 20/10/2015, under section 7(1) of the Act the PIO, as per her prudence, has refused the information being third party information. This refusal was appealed against and the FAA by order dated 20/01/2016, directed the PIO to furnish the information as per the rules.

The PIO does not dispute the order of FAA and has volunteered to furnish the information and in fact has furnished the same in the course of this second appeal. As contended by the appellant, only requirement to be considered is whether delay in furnishing information was malafide.

b) It is not in dispute that the order of FAA does not stipulate time for furnishing information. I do not find the approach of PIO in constituting the time for furnishing information in compliance of order of FAA, as thirty days, being in conformity with the time granted to PIO under section 7 of the Act. The fact to be considered is whether there is delay considering this time.

c) According to PIO she received the copy of order, dated 20/01/2016 of FAA only on 02/02/2016. This is disputed by appellant on the ground that, as he has received it on 25/01/2016 and that as he is working in same public authority, it is to be presumed that PIO has also received on same date.

On the other hand PIO has produced the inward stamp on copy of order received by her which shows as 02/02/2016. There is no other evidence to hold that the same was received earlier.

d) According to PIO, on receipt of the said order on 02/02/2016, by letter, dated 29/02/2016, information was offered on 01/03/2016. This is not in dispute but the said letter was received on 02/03/2016, i.e. a day later. But that itself cannot be held to be intentional or malafide. The appellant is working in the same Public Authority as of PIO and hence it was also expected of him to step a litter further to receive the information.

e) Be that as it may, the appellant has filed this appeal on 25/02/2016. The appellant could have confirmed whether, like him, the order of FAA was received by PIO or not. It appears that the appellant has considered his requirement under RTI as a battle of technicalities over justice and on presumption that the copy of order of FAA was received by PIO on 25/01/2016 has filed this appeal.

f) Considering the above situation, I find no cogent and convincing evidence to conclude that the delay, even if any, in furnishing information was intentional or malafide to attract penalty under section 20(1) of the Act. As submitted by appellant information is received by him. Hence no intervention of this Commission is required for seeking information. In the result I dispose this appeal with following.

ORDER

The appeal stand dismissed.

Order to be communicated.

Proceedings closed.

Sd/-

(Mr. Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

