

GOA STATE INFORMATION COMMISSION

Kamat Towers, Seventh Floor, Patto, Panaji, Goa

Appeal No. 89/SIC/2014

Shri Yogesh Dhondiba Dinde,
H.No. 17/39C, Aamral Bandh,
Taleigao Goa.

-----Appellant

V/S

1.The Public Information Officer,
Jt. Director (Accounts),
Sports Authority of Goa,
Myles High Building 5th floor,
Patto Panaji Goa.

2.Goa Olympics Association,
Through the Secretary General,
Shri Gurudatta D. Bhakta,
D 3/26, Thivim Industrial Estate,
Karaswada Mapusa Goa.

-----Respondent

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

Appeal filed on: 19/08/2014
Decided on: 09/12 /2016

ORDER

1. FACTS:

a) Brief facts of the case are that by an application, dated 21/10/13, filed u/s 6(1) of The Right to Information Act 2005 (Act) the appellant sought certain information and documents from Public information officer/Assistant public officer of sports authority of Goa, the Respondent No. 1, PIO herein, regarding Goa Olympic Association, the respondent no.2.

b) By letter, dated 11/11/2013, the said application was transferred by the Respondent No.1 to Secretary, General, of Goa Olympic Association

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under section 6 (3) of the Act, with a request to provide information to the appellant directly at their end under intimation to respondent no.1.

c) The General secretary of Goa Olympic Association, vide his letter dated 14/2/14 intimated the appellant that respondent no.2 is a non profit organization and a private body registered under societies act 1860 and they refused to provide the information to the appellant on that count.

d) Being aggrieved by the response of the Goa Olympic Association. first appeal was filed by appellant on 07/01/14 before the Director, the Sports authority of Goa being the First Appellate Authority(FAA) and the FAA was pleased to allow the appeal and by its order, dated 15/05/14 directed the Respondent No. 1 PIO to provide whatever information available with them within one week and whatever information not available with them to be called from Respondent No. 2, Goa Olympic Association and to provide the same to appellant.

e) Since both the Respondents failed to provide the information to appellant as ordered within stipulated time, the appellant has approached this commission by way of this second appeal on 19/8/14 with a prayer for direction to both the respondent for issuance of information to him free of cost and also to penalize the respondents.

f) Notices were duly served on both the parties . Though the appellant was initially represented, he remained absent on all subsequent dates of hearing. Initially respondent no.1 through its representative remained present but did not attend the hearing later. Respondent no.2 was represented by Adv. Ms. A. Fernandes.

g) The respondent no.2 filed its reply on 28/7/2016,interalia contending that the respondent no.2 is not a public Authority in terms of the act and hence provisions of the act are not applicable to it. With regards to the order of the FAA, respondent no.2 has submitted that it is not the authority to decide on the respondent no.2.

h) Thus the Respondent No.2 opposes this appeal on the ground that it does not come under the purview of the section 2(h) of the act and hence the act is not applicable to it. The Respondent No.2 also contends that the information sought does not fall u/s 2(f) of the act. According to respondent no.2 disclosure of information will cause harm to commercial confidence, trade secrets and harm competitive position and that it is not in public interest.

i) The appellant remained absent and no arguments are advanced by him. The respondent no.2 filed written arguments. The arguments are reproduction of the reply filed by it. The respondent no.2 also filed the bye laws governing it as registered with registrar of Societies.

2) FINDINGS:

a) The short point that arises in the appeal is whether the Respondent No.2, herein is a Public authority as defined under section 2(h) of the Act.

b) The appellant herein has sought the information from Respondent No.1 i.e. the Sports Authority of Goa seeking information pertaining to Respondent No.2. The said application was forwarded to the Respondent No.2 under section 6(3) of the Act. It is not in dispute that the Respondent No.1 is a public authority. Had the Respondent No.2 not been under its control in any form, firstly the question of transfer under 6(3) of the Act would not arise. The transfer of the application by Respondent No.1 to Respondent No.2 itself suggests that the Respondent No.2 is acknowledged by Respondent No. 1 as another Public authority and that the subject matter of information sought by the appellant is closely connected with the functions of Respondent No.2.

c) We have perused the order of the First appeal. In the said appeal as per the reply filed therein all the Sports Associations recognised/ registered with the Respondent No.1 are Public authorities and that the guidelines pertaining to RTI Act are to be adhered to by such associations.

d) Be that as it may, the Appellant has filed on record a copy of a gazette, dated 08/07/2010 wherein specific guidelines are published wherein the State Sports Association shall be covered under the provisions of RTI Act. Under the said guidelines it is emphasized by the department of Sports and Youth Affairs that the RTI Application, received by the office of Sports Authority of Goa shall be referred to such associations who shall be responsible to provide the required information and also to maintain up to date records as provided under clause (4) of the Act. In addition to the above a letter addressed to President/Secretary of all such Associations by the executive Director of Sports Authority of Goa is also enclosed. Thus according to the Sports authority of Goa, the Respondent No.2 is a public authority under its control.

e) It is the contention of Respondent No.2 that it is a private body registered as a Society. The Respondent No.2 has also filed on record the copy of its amended Constitution which according to him is governing its functions. A perusal of the requirements for membership reveals that the membership of this Association i.e. the Respondent No.2 herein are open only to two categories, firstly State Sports Association, whose Sports is included in the Olympic, Asian, Common wealth or National Games and secondly State Sports Association, which represent widely played Indian Sports recognized by the I.O.A.

Further under the said bye laws Respondent No.2 association has a committee and the Constitution prescribes the duties of the office bearers. At at clause XIV (a) (XVI) states that the powers and duties, of general Assembly, in addition to others, is also to act as a channel of communication between the State Sports Association and the Government of Goa for financial and other assistance to the other associations.

f) Section 2(h) of the Act reads:

(h) "public authority" means any authority or body or institution of self-government established or constituted_

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

d) by notification issued or order by the appropriate Government, and includes any-

(i) body owned, controlled or substantially financed;

(ii) non –Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

g) Thus from the above provisions of the Act read with the constitution under which second Respondent is Constituted it is clear that it is only the States Sports Association which Constitutes the Second Respondent and it also entitled to avail financial Assistance to such association from government. In the circumstance it can be safely inferred that, even if it is presumed that the second Respondent as a non-Government organization, has a financial interest directly or indirectly by the state Government. Thus it makes the Respondent No. 2 a public authority with the meaning of section 2(h) of the Act. We therefore find no force in the argument of the second respondent that it is immune to the provisions of the Act.

h) A similar issue was raised by Goa chess Association when an Information was sought a seeker. As the same was refused, it finally landed before this Commission by way of complaint No.53/SCIC/2011 wherein this Commission has held that said Goa Chess Association, which is also a State Sports Association, is a Public authority.

i) The second Respondent has also contended in the arguments that as the appellant has been continuously absent the appeal is liable to be dismissed we are unable to concede to this submission in view of Rule 7 (2) of the Goa State Information Commission Appeal procedure Rules 2006.

j) Considering the above facts we hold that the Respondent No.2 Goa Olympic Association, is a public authority as defined under section 2 (h) of the Right to Information Act 2005 and is liable to dispense the information sought by a seeker.

In the above circumstances we dispose the present appeal, with the following:

ORDER

The appeal is allowed. The Respondent No.2, Goa Olympic Association shall take steps to designate its officer as its public information officer (PIO) as also designate any officer senior to such PIO as the First Appellate Authority, within 30days from the date of receipt of this order. On appointment of such PIO, the PIO shall deal with the application of the appellant dated 21/11/2013 and disposed the same in accordance with the Act.

Considering the similar issues that has cropped up before this Commission regarding the status of State Sports Association, the Respondent No.1, i.e. the Sports Authority of Goa is hereby directed to instruct, all the State Sports Associations and Sports Clubs recognized by it within 30 days from the date of receipt of this order to comply with the obligations as required under section 4 of the Right to Information Act, 2005 as also to designate the officers therein as PIO and First Appellate Authority such list to the Sports Authority of Goa within a period of 60 days from date of such instructions.

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The Sports Authority of Goa shall take appropriate action against all such sports Club/State Sports Associations committing default in compliance of such instructions, including its derecognition.

Others prayers in the appeal sought by the appellant seeking fine is rejected. Notify the parties alongwith copy of the order, free of cost.

Pronounced in the open proceeding.

Proceeding stands closed.

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