

GOA STATE INFORMATION COMMISSION AT PANAJI
Seventh Floor, Kamat Towers, Patto, Panaji –Goa.

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

Appeal No.112/SCIC/2010

Engr. Rabindra A. L. Dias,
Dr. Pires Colony, Block "B"
Cujira, St. Cruz-Goa.

.... Appellant

V/s

- 1) The Public Information officer,
District Level Rent Controller,
South Goa District,
Margao, Salcete-Goa.
- 2) The First Appellate Authority,
O/o The Additional Collector-I
South Goa District,
Margao-Goa.

.... Respondent No.1

.... Respondent No.2

Filed on 26/4/2010

Disposed on :30/06/2016

1) FACTS:-

- a) The appellant herein filed an application on 11/12/2009 under section 6 of the RTI (Act) seeking information in the form of certified copies as also by way of inspection. On 22/12/2009, the PIO wrote to the appellant that, as the records are sent to Administrative Tribunal, he is unable to furnish the same. The said letter was replied by the appellant contending that the PIO is denying information. On 04/01/2010 the PIO once again wrote to the appellant that since the Records are transferred information cannot be furnished.
- b) On 13/01/2010 the appellant filed the first appeal which was finally decided on 17/02/2010.
- c) In the meantime on 14/01/2010 the appellant wrote to PIO by way of reminder that latter has erred to comply with the provisions of section 6(3) of the Act and on the same day the

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PIO wrote to appellant that the application under section (6) is transferred to the PIO of the Administrative Tribunal.

- d) On 29/01/2010, the PIO, on receiving the records back from the office of Admin Tribunal, informing the appellant that the record are received and called for inspection. Accordingly on 04/02/2010 the PIO furnished the information to the appellant.
- e) The appellant has filed this second appeal on 26/04/2010 on the grounds that the Respondent No.1 PIO has refused to make available the information sought and that the Respondent NO.1 has put the appellant to hardship by not abiding to the provisions of section 6 more particularly sub section 3 (ii) of the Act. According to the appellant the Respondent No.1 has given incorrect and misleading information. In this appeal the appellant has prayed to take cognizance of the submissions on behalf of Respondent No.1 in giving incorrect, incomplete and misleading information by not abiding to section 7(1) and 19 (9) of the Act. The appellant has also prayed for taking cognizance that the respondent No.2 has given biased order and by not abiding section 19(9) of the Act. The appellant has also prayed for compensation and penalty. The appellant has not prayed for furnishing any information through this appeal.
- f) Notices were issued, pursuant to which parties appeared . PIO filed reply on 28/03/2011. In the present appeal the parties filed written submission which are taken on records.
- g) In the present appeal the short point that has to be decided is whether any malafide could be attributed to the PIO for delay in furnishing the information.

2) FINDINGS:

a) On going through the records more particularly the appeal memo, it is found that the appellant has no grievance of seeking the information and hence we conclude that the contentions of the PIO

that the information has been duly furnished to the appellant, as substantially correct. The only point which is required to be considered by us is whether the appellant is entitled for compensation and /or whether the Respondent PIO has to be penalized.

b) On going through the records it is not in dispute that the information that was sought by the appellant from the PIO pertain to an eviction case therein being case No. BLDG/08/RC/2001 wherein the appellant himself is also an appellant before the said public authority. Arising out of the said proceedings the appellant, himself has filed an eviction appeal No.23/09 before the Administrative Tribunal, Panaji. In this situation the appellant was aware of the movement of the file. In the records of this appeal, at annexure R-2 is a notice of the Administrative Tribunal dated 09/10/2010 calling for records of the file pertaining to which the information was sought and at R-3 is the letter from the PIO dated, 13/01/2010 to the PIO of the Administrative Tribunal informing regarding the letter, dated 11/12/2009 received from the appellant under section (6) of the Act. Thus there is substantial evidence that during the relevant period, the file was moving from one Public Authority to another. No doubt in this situation it was necessary for the PIO to transfer the application to the other public authority, within a period of 5 days from 11/12/2009 and we find that there is a delay in transferring the application to the other authority.

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- c) For the purpose of considering the claim of penalty and compensation, it would be necessary to consider the provisions of the act governing the same. Section 18 of the Right to Information Act 2005 reads:

"18. Powers and functions of Information Commission:- (1) *Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person:-*

- (a) *Who has been unable to submit a request to a Central public information Officer, or State Public Information Officer as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Commission or the State Information Commission, as the case may be;*
 - (b) *Who has been refused access to any information requested under this act;*
 - (c) *Who has not been given a response to a request for information or access to information within the time limits specified under this Act;*
 - (d) *Who has been required to pay an amount of fee which he or she considers unreasonable;*
 - (e) *Who believes that he or she has been given incomplete, misleading or false information under this Act; and*
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(f) *In respect of any other matter relating to requesting or obtaining access to records under this Act.*

Thus the act empowers the Commission to inquire into complaints which involves only the case as contained at clauses (a) to (f) above. It is nowhere the case of the appellant that he was unable to submit a request OR that PIO has refused to accept OR that has refused access OR that he has not been given a response to a request for information OR that he was required to pay an amount of fee which he considers unreasonable; OR that he was given incomplete, misleading or false information OR that it is a matter relating to requesting or obtaining access to records.

Thus the appellant has not made out any ingredients of section 18(1) (a) to (f) of the act. Hence to our mind the present appeal is beyond the scope of this Commission.

- d) Considering the above situation in the present case delay in referring the application to the other public authority, by itself does not attract penalty/compensation under the Act.
- e) The appellant has also prayed for penalty and compensation from the Respondent No.2 for passing an order, which according to the appellant is biased. We are unable to accept this contention of the appellant as he has failed to substantiate his claim of the said order as biased. Even otherwise we do not find any provision under the Act conferring powers to the commission to impose penalty or compensation against respondent No.2 to the appellant under the act.

f) Considering above circumstances we find no substance in the appeal to impose any penalty or grant any compensation to the appellant and hence we proceed to dispose the present appeal with the following:

O R D E R

The appeal stands dismissed.

No further appeal is provided under the act against this order.

Parties to be intimated. Proceeding stands closed.

Pronounced in the open proceedings.

Sd/-
(Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa

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

