GOA STATE INFORMATION COMMISSION

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

Appeal No.20/SIC/2011

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

Shri Jawaharlal T. Shetye,
C/o Mapusa Jana Jagruti Samiti,
H. No.35, Ward No.11,
Khorlim, Mapusa-Goa. ….. Appellant

V/s

1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa –Goa.
2) First Appellate Authority,
The Directorate of Municipal Administration and
Urban Development,
Collectorate Building Ground Floor,
Panaji –Goa. ….. Respondents.

Filed on: 2/2/2011

Decided on: 09/08/2016

1) FACTS:

a) The appellant herein by his application, dated 05/10/2010 filed u/s 6(1) of the Right to Information Act 2005 (Act) sought certain information from the Respondent No.1, PIO in the form of progress report on his earlier applications filed by him.

b) The said application was replied on 04/11/2010, informing that the said letter is pending with Chairperson. Contending that the information as sought was not furnished, the appellant filed first appeal to the respondent No.2.

…2/-

C) The First Appellate Authority (FAA) by order, dated 20/12/2010, allowed the said appeal and directed PIO to trace the original application dated 14/01/2009, process it for action and respond to the appellant within one months from the date of order.

d) According to appellant the PIO has failed to furnish the information inspite of said order and he has therefore landed before this Commission in this second appeal u/s 19(3) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 18/07/2012 had filed a reply to the appeal. Arguments were heard.

2) FINDINGS:

a) We have perused the records and considered the arguments. Vide his application dated 05/10/2010 filed under section 6(1) of the Act , at point (1) therein, the appellant has sought the progress report on his earlier application, dated 14/01/2009. The requirements at points 2 to 5 were related and were to be answered based on the progress report. By the reply, dated 04/11/2010 the PIO informed appellant that the said letter is pending with Chairperson. Based on this status of the said application the information at points 2 to 5 was replied accordingly as "same as above".

b) In the first appeal, the FAA had directed the PIO to trace the said application, dated 14/01/2009, process it for action and respond the appellant within one month. In other words, the FAA has directed the PIO to locate the application, take action thereon and thereafter furnish the same to the appellant.

c) The nature and the extent of information, which the seeker can access under the act ,is contained in section 2(f) and (j) of the act. Said provisions reads:

…3/-

> *"**2(f)** "information" means any , material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material **held** in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in for"*

> *"**2(j)** right to information" means the right to information accessible under this Act **which is held by or under the control** of any public authority and includes the right to:*
>
> *i. inspection of work, documents, records;*
> *ii. taking notices, extracts or certified copies of documents or records;*
> *iii. taking certified samples of material;*
> *iv. obtaining information in the form of diskettes, floppies, taps, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"*

Thus the act confers powers to the citizen to seek information which is held or under the control of the authority. It does not extend to creation of information for the purpose of dispensing.

d) While considering the extent and scope of information that could be dispensed under the act, the Hon'ble Supreme court in the case of: ***Central Board of Secondary Education & another V/s Aditya Bandopadhay*** (Civil Appeal no.6454 of 2011) at para 35 has 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 form 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……."***

e) Considering the above limitations under the act we find that the order passed by the FAA was beyond its competence under the act. Hence we are unable to subscribe to the same as the order of FAA has no merits and cannot survive.

f) The requirement of the appellant being the progress report, the same was appropriately answered by PIO that the same is pending with chairperson. The information as was existing on the date was given and the related requirements at (2) to (5) were also answered appropriately. The interference of the FAA, thus was not warranted.

g) As the information as was sought was already furnished, we find no merits in the appeal and the same is disposed with the following:

O R D E R

The appeal stands dismissed. The order dated 20/12/2010 passed by the FAA is set aside.

Notify the parties.

Pronounced in open hearing.

Proceedings closed.

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

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