

GOA STATE INFORMATION COMMISSION

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

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

Appeal No.242/SCIC/2010

Shri Damian Telles,
R/o. Orda, St. Sebastian Wado,
Candolim, Bardez-Goa.
V/s

... Appellant

1. The Public Information Officer,
Mamlatdar of Bardez,
Mapusa –Goa.
2. The First Appellate Authority,
Deputy Collector,
Mapusa, Bardez-Goa.
3. The Block Development Officer,
Mapusa, Bardez-Goa.

... Respondents

Filed on : 21/10/2010

Disposed off: 10/8/2016

1) FACTS:

- a) The appellant herein by his application, dated 16/6/2010 filed u/s 6 of The Right to Information Act 2005(Act) sought certain information from the Respondent No.2 raising several queries therein.
- b) The said application was replied on 22/7/2010. However the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2.
- c) The First Appellate Authority (FAA) by order, dated 7/10/2010, dismissed the said appeal.
- d) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

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e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 11/1/2011 had filed a reply to the appeal . Subsequently the additional reply was filed on 19/1/2011. Arguments were heard.

2) FINDING

a) We have perused the records and considered the reply filed by the Respondents. On going through the application of the appellant filed under section 6(1) of the act it is seen that , he has sought information on several queries. In his said application by referring to certain voters in part No. 12 to 18 of Calangute Assembly constituency and Zilla Panchayat Electoral Roll, he has sought at query No. 1A the copies of the supporting Document submitted at the time of applying for registration be included in the Electoral Roll. This query was clear and called for all the accompanying documents filed by the new voters. This query is answered by the PIO as "Not available" in the office of mamlatdar Bardez Taluka as the same pertains of the year 2000.

b) To query **(No.I.a.1)** to **(I.a.8)** and **(I.a.10)** the appellant has sought for voters birth certificate issued by several authorities or the school certificates or the form of oath. At said query (**I.a.3**) he has stated that the voter must at least indicate the approximate age in date as on qualifying date all this queries were answered in the same way.

c) Regarding query No.(**I. a**) the requirement was clear however a casual approach is adopted by the PIO in answering the same by labeling "not available". The records pertain to the year 2000 and the PIO has answered in 2010. The said answered does not specify firstly whether the records were filed and as to when and

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under which authority/instruction/guidelines / orders such records were destroyed. It was incumbent on the part of PIO to give the details as to how the records become non extinct.

Again at query **(I.a.9)** the appellant has sought for the verification reports conducted by the concerned talathi. The same is also similarly answered. Further perusal of the reply of PIO it is seen that he has adopted a similar approach while answering query **(II.a.7)** and **(II.a.8)**.

d) From the tenure of the reply it is not clear whether the information as sought to said queries was at anytime available and if so the date on which it became non available was required to be mentioned. There is no clarity in the reply of the PIO.

e) The FAA while dealing with the said appeal has failed to consider the above aspect and has simply endorsed the approach of the PIO. The FAA did not seek any further clarification regarding the non availability of information at this stage. It is seen from the order of the FAA that as the appellant has sought for voluminous information he was supposed to be more practical while seeking information. This rational is not in dispute but that itself is not a ground for denying the information by convenient and casual ground of non availability. The PIO could have sought for additional fees if the information was voluminous.

f) On going through the records more particularly the application dated 16/06/2010, in addition to the supporting documents appellant has also referred to voters birth certificate, school certificate form of oath etc. It is not clear from his application as to whether said documents are the said accompaniments or independent. When supporting documents are sought it would include all the

documents accompanying the application for registration. If such documents like voters birth certificate, school certificate form of oath etc. are sought independently they may come out of the purview of information as the PIO herein may not be holding such information independently unless it forms part of the voters application as its accompaniment. On this aspect we find that the application of the appellant is ambiguous.

g) It is also seen that at query **II** and **III** he has sought for the information regarding the procedure to be followed for transfer of the names on electoral role from one state to another state or at the time of revision of Electoral Roll. These queries to our mind does not constitute information being in form of opinion pertaining to the law under which the records are prepared.

h) From the tenure of the application filed under section 6(1) of the Act, we are partly in agreement with the respondent PIO that the same was partly vague and not clear.

i) In the above background we hold that the appellant is entitled to have the existing information. If any information was existing earlier at any time and not available as on the date of application , the PIO is required to give the reason with the detail as to why it is not existing.

j) We also find that the PIO has delayed in furnishing the information. The delay is also on the ground that the application is ambiguous and not clear. The appellant has also thus contributed and is responsible for delay hence we are not inclined to grant such relief.

In the above circumstances we proceed to dispose the appeal with the following:

ORDER

Appeal is partly allowed. The PIO shall furnish the appellant the information sought by him to queries **(I(a),(I.a.9), (II.a.7), (II.a.8), (II.a.9)** and **(II.a.10)** of the appellant's application dated 16/6/2010 filed u/s 6(1) of The Right to Information Act 2005, within thirty days from the date of receipt of this order free of cost.

Copy of the order to be furnished to the parties free of cost.

Proceedings closed.

Pronounced in the open proceedings.

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

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