

GOA STATE INFORMATION COMMISSION

‘Kamat Towers’, Seventh Floor, Patto, Panaji – Goa

Appeal No. 85/SIC/2014

Smt. Rosy M. D’Souza,
H.No. 81, Vaddem, Socorro,
Bardez Goa.

..... Appellant

V/s.

1.The Public Information Officer,(PIO)
Mamlatdar of Bardez,
Mapusa, Bardez Goa.

2.The First Appellate Authority,
Dy. Collector & SDO Mapusa,
Mapusa Bardez Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 06/02/14
Decided on: 12/10/16

ORDER

1. The appellant by letter dated 9/4/13, filed u/s 6(1) of The Right to Information Act (Act) requested Respondent No. 1 Public Information Officer(PIO) of Mamlatdar of Bardez to make available Matriz Book of Village Socorro for identification of Matriz number to effect necessary payment towards Land tax. Another application was also filed on the same day before the Respondent No. 1 PIO requesting him for a Microfilm copy or a soft copy(on CD) or a hard copy of the Matriz book of Village Socorro, Bardez Goa.
2. The Respondent No. 1 PIO vide his reply, dated 17/4/13 & 26/4/13 informed the appellant that the Matriz book of Village Socorro, Bardez Goa cannot be issued since the Matriz book are completely

..2/-

mutilated and they have stopped issuing Matriz certificate and vide their another letter dated 29/07/13 further informed appellant that Microfilming and preservation of record cannot be considered under Right to Information Act, as these record has not been microfilmed by their office.

3. Being not satisfied with the reply of Respondent No. 1 PIO the First Appeal came to be filed before the Dy. Collector of Mapusa being First Appellate Authority (FAA) on 28/5/2013 and Respondent No. 2, FAA, by an order, dated 6/11/2013 dismissed the appeal.
4. Being aggrieved by the order of FAA and also by the action of both the Respondents, the present appeal is filed before the commission under section 19(3) of Right to Information Act on 06/02/2014 seeking directions as against Respondent No. 1 to make available Matriz Book of Village Socorro Bardez Taluka for identification of Matriz number, sought details of the properties belonging to Aleixo Mariano Lobo and for invoking penal section.
5. After notifying the parties matter was listed on board and taken for hearing. Appellant was represented by Advocate G. Usgaonkar. On behalf of Respondent No.1 PIO Shri Ramdas Mayekar appeared and behalf of Respondent No.2, Shri Pravin Gawas was present.
6. Both the Respondent did not file their say despite of opportunity given to them. The written submission were filed by the Advocate G.Usgaokar on behalf of the appellant on 06/12/2014.

It is the submission of the appellant that the Matriz record are the pre-liberation document maintained under legislative enactment number 1785 and is still in force and the same is required by her for payment of agricultural income tax fixed on land purchased by her father Late Aleixo Mariano Lobo. In absence of any land registration documents Matriz documents serves as a

title document as according to him, the land registration decree itself says that in absence of land registration, Matriz records will be title document. It is his further contention that order of Respondent No.2, holding that Respondent NO. 1 PIO has not denied information deliberately but have justifiable ground by which information cannot be accepted as it is the duty of PIO to keep records in good condition. It is his further contention that Matriz records are regularly used and therefore are running record as the land tax is being paid by the proprietors to the Government.

It is further contention of the appellant that the Socorro Village records are in good condition and can be available to the appellant. Appellant further submits that the denial of Matriz certificate copy is violation of the appellant's Right to Information.

7. It is also the contention of the appellant that records are vitally important to her since they are the only the documents pertaining to her property right which are being denied to her on one or the other pretext by other by members of their own family and denying these records to the appellant the Respondent is indirectly or perhaps deliberately assisting those who are unjustly denying the appellant her property right.
8. I have perused the records and also considered the submissions of the parties. Section 2(f) of the act which classifies information reads:

"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"

Section 2(j) of the act gives the extent of right to the seeker as under:

"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;"*

A conjoint reading of these provisions shows that a seeker can exercise his rights in the form and manner as specified in section 2(j) in respect of the records as specified in section 2(f)

9. Public authorities are required to maintain the information and the PIO is designated to furnish same to the public. In other words the PIO is the custodian of information and such information is in the registry is required to be dispensed to the applicant/ seeker unless exempted u/s 8 and 9 of the Act. Another situation where in relaxation from providing information is allowed in the cases which may adversely effect the preservation of the records u/s 7(9) of the act .Said provision states:

" 7)Disposal of request—(1)-----

(9) An information shall be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question"

10. From the perusal of the reply of the Respondents to application of Appellant u/s 6(1) of Act, it appears that the records are in existence and are in their possession. The only ground for denial as raised by PIO is that the records pertaining to information is mutilated. Appellant also does not dispute the mutilation of the said records but insist that the same are to be furnished to her, as she is entitled to, being the title deeds of the property. It is the contention of the appellant that the PIO has not maintained matrix book in the condition they were required to be kept. It is also the submission of the appellant that the answer of the PIO is not satisfactory specifically with reference to the steps taken for preserving the records and as to when the said information would be available.

11. The Matrix records are running document and still in force and has not be weeded out. It was abundant duty and obligation of the public authority to maintain all a records duly preserved. It appears that from the reply of Respondent No. 1 filed before respondent NO. 2 First Appellate Authority on 03/08/2013 that the matrix record are not been microfilm, nor prepared soft copy nor scanning photocopy or electronic photo copy of Mariz record is not done. Ordinarily, the information which at some point of time or the other was available in the records of the Government, should continue to be available to the concerned department unless it has been destroyed in a accordance with the rules framed by the department for destruction of old record It appears that the public authority is not very keen in preserving the such important documents which are in the form of records .

12. It is the duty of Public authority to find out the alternative and to provide necessary relief to the appellant who is seeking information as her rights.

..6..

The public authority should see that main purpose of RTI Act to facilitate the appellant to get information, is not defeat by this kind of excuses.

13. *It is the need of the hours that demands that every records creating agency shall nominate one of its officers as records officer to discharge the functions under this Act who shall be responsible for.*

a. Proper arrangement, maintenance and preservation of public records under this charge.

b. Periodical review of all public records and weeding out public records of ephemeral value.

c. Appraisal of public records which are more than twenty-five years old in consultation with the national Archives or India or as the case may be the archives of the union territory or states with a view to retaining public records of permanent value.

d. Adoption of such standards, procedures and techniques as may be recommended from time to time by the National Archives of India for improvement of record management system and maintenance of security of Public records

14. Considering the above facts it appears to me that the practice of the Public authority involved herein that is a Mamlatdar of Bardez regarding preservation of the Matriz records is not in conformity with the spirit of this act and hence I find it necessary to issue appropriate direction and recommendation for taking steps for promoting such conformity, by exercising the rights under section 25 (5), of the Act. I find it necessary to issue appropriate direction to the public Authority involved herein to take urgent appropriate majors to preserves the Matriz Records in such

..7/-

..7..

a way that the same are ultimately available for the inspection of the public and /or obtaining the copies thereof by the seeker. The Commission also recommends the public authorities to take appropriate steps to micro film the said records if original records are mutilated. This exercise for preservation and maintenance of the records be done by following the provisions of the public records Act 1993. The appellant herein shall be entitled to monitor and seek necessary feedback from the public Authority i.e Mamlatdar of Bardez and after compilation of the records and its preservation, the Public Authority shall provides the information sought by the appellant free of cost after an intimation to this commission.

Considering the fact that the process of preservation of the records may involved other authorities like the Revenue Department , Director of Archives, etc the copy of the order be sent to Panchayats, Municipalities and also copy may be forwarded to Chief Secretary, State of Goa, Secretariat, Porvorim , for issuing necessary direction to all public authorities for the appointment of **Record Officer in each office.**

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Proceedings Stands Closed.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

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

Fn/-