

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Juino De Souza: State Information Commissioner
Complaint No. 56/SCIC/2013

Smt. Rubina Beig,
No.9, 3rd floor, Paes
Avenue Bldg.,
F.L. Gomes,
Vasco Da – Gama

..... **Complainant**

v/s

1. Public Information Officer,
Department of Law & Judiciary ,
(Estt) Division,
Secretariat, Porvorim – Goa.
Porvorim – Goa.
2. First Appellate Authority,
Jt. Secretary (Law),
Secretariat, Porvorim – Goa

..... **Respondents**

Relevant emerging dates:

Date of Hearing : 27-10-2016

Date of Decision : 27-10-2016

ORDER

1. Brief facts of the case are that the Complainant vide an RTI application dated 11/06/2012 sought certain information under section 6(1) on three points from the Respondent PIO. The information in point no 1 is for certified copies of Bio-Data of six advocates who have been appointed as government advocates, in point no 2 all supporting documents submitted by the six advocates and in point no 3 file notings and note of AG recommending the six advocates as government advocates in the High Court.
2. It is seen that the RTI application was addressed to the PIO, O/o of Principal Chief Secretary and the said PIO transferred the RTI application under section 6(3) to the PIO, Under Secretary (law) who vide letter dated 06/07/2012 informed the Complainant that as far as information on points No.1 & 2 are concerned, the respective Advocates have objected that information sought relates to personal information and ought to be rejected and as such PIO denied the information and whereas information on point No.3 was furnished to the Complainant.

3. Not satisfied with the reply of the PIO, the Complainant preferred a First Appeal on 24/07/2012 and it is the case of the Complainant that the FAA despite having perused the records and having heard the arguments has not passed any order and which is why the Complainant is before the commission in a Complaint case filed on 26/04/2013 and in the prayers at i) has sought that information be furnished correctly free of cost ii) action u/s 18 sub section b,c,e & f is warranted by the commission to set a precedent as not to take law for granted. iii) impose penalty iv) to recommend for disciplinary action against the PIO and FAA and other such reliefs.
4. During the hearing the Complainant Rubina Beig is absent, however she has sent a letter dated 30/08/2016 opting not to be present and requesting the commission to decide the matter on merits as per her submissions and arguments in the Complaint memo. The Respondent PIO is represented by Adv. K.L. Bhagat who is present alongwith Shri. Chandrashekhar Naik, Legal Officer. The FAA is absent.
5. It is submitted that the information sought by the Complainant on points 1 & 2 came to be rejected as the respective vide their separate letters have objected as the same relates to asking personal information the disclosure of which as no relation to the public activity or interest and /or which would cause unwanted invasion of privacy and hence was exempted from disclosure Under Section 8 (1)(j) of the RTI Act, 2005. Copies of the correspondence received from the six advocates is furnished before the commission which is taken on record.
6. The Commission has perused the records including the RTI application dated 11/06/2012, the reply of the PIO dated 06/07/2012, copy of first appeal dated 24/07/2012, complaint memo dated 26/04/2013, the application of the Complainant dated 30/08/2016, reply of respondent dated 27/10/2016.

7. The main grievance of the Complainant is that information in points I & 2 of the RTI application have been denied and there is no dispute regarding information on point no 3 which has already been provided.
8. The Complainant had sought information as follows: In Point 1: For certified copies of all the above said advocates Bio-Data who have been appointed on recommendation of Advocate General and in Point 2: All the supporting document submitted by the above name advocate for their appointment of Government Advocates.
9. The complainant has stated that the names of the said six Advocates who were recommended on the Government panel to appear in matters before the Bombay High Court at Goa are as follows: Govt. Advocate (1) Shri Dattaprasad Lawande and Five other Additional Government Advocates namely (2) Prachi P. Sawant (3) Shri. Pankaj Vernekar (4) Shri Shashank Narvekar (5) Shri. Pradosh Dangui and (6) Shri Kaif Noorani.
10. The Commission observes that the Respondent PIO had addressed a letter bearing no. LD/5251/RTI-Act/Estt/Vol.II/845 dated 26/06/2012 Under Section 11 (1) of the RTI Act, 2005 to all the said Advocates stating that Complainant herein Smt. Rubina Beig has requested to furnish a certified copy of their Bio Data and all supporting documents attached to their application in the appointment of Government Advocates/Additional Government Advocate under RTI Act, 2005 and requested them to make a submission in writing to him whether the information sought by the party should be disclosed.
11. Further it is seen that all six Advocates filed their objection before the Respondent No.1 PIO vide separate letters all dated 28/06/2012 have same subject matter Under Section 11(1) of the RTI Act, 2005.

12. Further all the six advocates have stated in para 2 that they are unable to comment on the said RTI application as the same has not been furnished to them and in para 3 have stated that the information being sought by the Complainant ought to be rejected as the same information which relates to personal information the disclosure of which has no relation to public activity or interest and/or which would cause unwanted invasion and privacy in terms of exemption from disclosure of information and based on these letters the PIO rejected disclosure of information in points 1 & 2.
12. The commission at the outset finds that there is no order passed by the First Appellate Authority (FAA). Neither the learned advocate nor the representative for the Respondents could give any satisfactory explanation as to why the FAA failed to discharge the duty that is cast on him as per provisions of the RTI act. It is alleged by the Complainant in the Complaint memo that the FAA despite perusing the records and hearing arguments did not pronounce any order so as to safe guard the malpractice happening under his own control and which appears to be a serious charge.
13. The FAA being a quasi judicial body should have applied his mind and come to a conclusion whether the information sought by the Complainant in the RTI application indeed falls within the ambit of third party information and whether the disclosure can cause invasion of privacy and hence cannot be provided. The Commission notes with serious concern that such a serious lapse on part of the FAA clearly tantamounts to dereliction of duty and cannot be taken lightly more so as the FAA is a senior officer of the rank of Jt Secretary in the Law department.
14. **The FAA is hereby called upon by this commission to explain the reason for his failure to discharge his duties which he is legally bound. The FAA is directed to remain present personally before the commission with his reply on, 21st December 2016 at 11.30am .** ...5

15. The commission finds that seeking information about bio data and supporting documents of candidates appointed as Govt/ Addl Govt. Advocates on the government panel cannot be construed as either confidential or third party information or that which would cause unwanted invasion of privacy and hence exempted from u/s 8 (1)(J) of RTI Act.
16. The public have a right to know the credentials of such persons including their qualifications, experience, age, knowledge of law and standing at the bar more so as such advocates are getting pecuniary benefits and drawing remuneration from the public exchequer for the services rendered by them before the High Court.
16. There was no necessity for the PIO to have sent the letter no. LD/5251/RTI-Act/Estt/Vol.II/845 dated 26/06/2012 and that too without enclosing the referred RTI application to the respective advocates for their say. It was the duty of the PIO to have furnished the information straight away, if the said information was available in the public domain in larger public interest and for maintaining transparency.
17. If the government had not called applications for such appointments or if the respective advocates had neither applied nor submitted any bio-data, then it was the duty of the PIO to have informed the complainant accordingly in his reply to the RTI applicant and which has not been done.
18. In view of the above discussions the Commission directs the PIO to furnish all information as sought in points 1 and 2 of the RTI application to the Complainant by Registered Post within 25 days of the receipt of this order free of cost with compliance report to be furnished to the commission.

19. Before parting the Commission would appreciate if the Chief Secretary/ Law Secretary take a serious note at the manner in which the First Appellate Authority, Jt. Secretary, Law has dealt with the First appeal case. The Commission recommends that the concerned officer be deputed for a training course in RTI.

Copy of this order to be sent to the Chief Secretary and Law Secretary.

With these directions the Complaint case stands disposed.

All proceedings in complaint case stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

**Sd/-
(Juino De Souza)
State Information Commissioner**