

GOA STATE INFORMATION COMMISSION

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

Appeal No. 160/2016

Shri Sandeep Heble,
BF1, Astral gardens,
Santismo Wado, Taleigao Goa.

..... Appellant

V/s.

1. Public Information Officer
Sports Authority of Goa,
Dr. Shyama Prasad Mukherjee Stadium,
Goa University, Taleigao, Goa.
2. Goa table Tennis Association,
Through its President,
Mr. Vero Nunes,
C/o Bambolim Beach Resort,
Bambolim Goa.
3. First Appellate Authority,
Sports Authority of Goa,
Dr. Shyama Prasad Mukherjee Stadium,
Goa University, Taleigao, Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 26/08/2016

Decided on: 10/08/2017

ORDER

1. The Facts in brief which arises in the present appeal are that the information seeker Shri Sandeep Heble by his six application dated 19/6/2012 and two more application dated 28/6/2012 and 20/7/2012 sought information from the Respondent No. 1 PIO of Sports authority of Goa. The said information was sought by the appellant in exercise of his right u/s 6(1) of the RTI Act 2005.
2. As per the said application the information was sought pertaining to Respondent No. 2 Goa table tennis association .
3. It is the case of the appellant that the partial information was furnished to him by respondent no.1 SAG and has not received any

information from respondent no.2 GTTA , as such being not satisfied with the same he preferred eight different appeals with the respondent No. 3 FAA which was disposed by the FAA.

4. The Respondent No.2 GTTA approached the Hon'ble High Court of Goa and Hon'ble High Court was pleased to remand the matter back to Respondent No. 3 FAA to hear it a fresh.
5. It is the case of the appellant that before the Respondent No. 3 FAA he filed application date 22/8/12 prioritizing and specifying the documents /information that he urgently continued to it and withdrew the seeking of the information that he no longer required.
6. In the first appeal the appellant had also made the Respondent No. 2 Goa Table tennis Association as one of the party .
7. The respondent No. 3 first appellate authority by his order dated 4/4/2016 allowed the appeal and directed the Respondent No. 1 PIO of sports authority of Goa to obtain full and complete information from the Respondent No. 2 i.e Goa Table tennis Association as sought by the applicant within a period of two weeks and then the Respondent NO. 1 was directed to furnish full and complete information to the appellant within a one week thereafter.
8. Since no order of Respondent No. 3 FAA was complied by Respondent No. 1 and 2, being aggrieved by the action of respondent No. 1 and 2, the appellant have approached this commission with this second appeal u/s 19(3) of the RTI Act on several grounds as raised in the memo of appeal. The appellant has prayed this commission for directions for furnishing him the required information free of cost and for invoking penal provisions against the respondent No. 2 Goa Table tennis Association.
9. In pursuant to the notice of this commission the appellant appeared in person. Respondent No. 1 was represented by APIO Ms Monica Dorado. Respondent No. 2 was represented by Advocate Arun

Talaulikar . reply filed by both the respondents i.e respondent no. 1 and Respondent No. 2 on 6/4/2017 .

10. It is the case of the appellant that respondent No. 2 Goa Table tennis Association is affiliated to Table tennis Association of India which is the National sports federation coming within the purview of ministry of youth affairs and sports as per the allocation of business rules 1961 . It is his further contention that the respondent No. 2 Goa Table tennis Association is recognized by Sports authority of Goa and is required to colobrate with the Director of Sports and Youth Affairs in Sports authority of Goa to develop promotional plans and activities for development of table tennis in Goa and it serves as a nodal body for a participation of 'Goa' Table tennis schemes in zonal , national, and internationals events such as lucofonia games. It is a further contention that the Respondent No. 2 Goa Table tennis Association receives direct government funding as well as indirect funding such as free and concessional usage of its stadium /halls to conduct his championships /meetings etc. It is his further contention that Government grants forms major part of his income for promotion development of his sports including preparation of the state teams and the teams selected by Goa Table tennis Association receives 100% funding. It is his further contention that the managers/coaches and other officials are also fully funded by the state and as such for any violation of the rules as affiliated members can be re-recognized. It is further contended that a National sports federation including table tennis federation of India, which is the parent body of table tennis of Goa which is also coming under the RTI Act.

It is the further contention that the grant of Rs. 20 lacks sanction and disburse to respondent No. 2 Goa Table tennis Association for conduct of international championship by the Respondents No. 1 Sports authority of Goa.

In short it is the case of the appellant that the Respondent no. 2 Goa Table tennis Association is the public authority and they are

required to furnish the said information. The written argument also files by the appellant on 6/4/17.

The appellant also produced on record by application dated 26/4/2017 the various documents and annexure at 1 to 19 in support of his case, so also by rejoinder dated 17/5/17 and dated 7/6/17 produced on record the statistics chart showing the various grants received from the year 2006 till date, also the income and expenditure account of Goa Table tennis Association Panajim Goa which was submitted by Respondent No. 2 GTTA to Respondent No. 1 SAG which was sought by him u/s RTI Act from Respondent No. 1 was produced on records by appellant. Written arguments were also filed by the appellant on 12/7/2017.

11. The respondent no. 1 the PIO of Sports authority of Goa vide his reply dated 6/4/2017 and 22/6/2017 submitted that in compliance of the order of the FAA, he had sent letters dated 4/5/2016, 7/10/2014 , 20/4/15, 6/5/2016,22/6/2012 to respondent No. 2 requesting it to furnish the information as required by the appellant. However no information submitted. It is the further contention that respondent No. 2 Goa Table tennis Association is recognized by sports authority of Goa and has been receiving substantial grants from time to time like the other association and the concessions for availing hall or stadium facilities etc. are granted to them . It is their further contention that Respondent no. 2 Goa Table tennis Association has been given grants in various occasion and they have relied upon annexure (a) to (e) in support of his contention.
12. Respondent No. 2 Goa Table tennis Association contended vide their reply and written argument that they are not a public authority within a meaning and scope of section 2(h)(d)(i) in terms of the RTI Act and hence the provision of the Act are not applicable to it and specifically denied of receiving substantial funds for various purpose including funds for organization for zonal, National and international champion ship etc. It is their further case that the registration of Respondent Association is only purpose of receiving

grants which are being given to the association without any fix amount and that there are instances when the grants were never received by the Respondent for some years. It is their further contention merely because funds are received for organizing some events and this funds cannot be termed as substantial funds and the income of Respondent Association . It is further contended that the Respondent No. 1 sports authority of Goa has no administrative power to control the working of the respondent association. Vide written argument, it is further contended that all the relevant documents, balance sheet and all the information have been submitted by them to respondent No. 1 SAG and the appellant can seek the same from Respondent No. 1 SAG .

13. Appellant as well as Respondent no. 2 GTTA have relied upon various authorities in support in their contention on a point of "substantial funding".

14. I have considered the pleadings of the parties vide the memo of appeal , reply and written argument filed by them. Considering the rival contentions of the parties herein , the points which are arises for my determination is

a. whether the Respondent No. 2 Goa Table tennis Association herein is a public authority as defined u/s 2(h) of the act.

15. Section 2(h) of the act reads :

"Public authority" means any authority body of institution of self Government establish or constituted.

- a-----.
- b-----.
- C-----.

D. by notification issued order made by the appropriate government, and includes any

(i) body owned, controlled or substantially financed .

(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by appropriate Government .

Hence the two basic requirements required in order to declare public authority are

- a . Substantial finance/funding by the Government and
- b. or controlled by the Government.

16. The Hon'ble Apex Court in the case of Corporation of city of Nagpure, Civil lines V/s Ramchandra Modak; AIR 1984 Supreme Court 636 held that the term control is of wide connotation and amplitude. It is further held that the word control in legal terminology and parlance means to restrain, to regulate, to govern, to keep under check, to rule and direct, to subject to authorities superintendence.
17. On Perusal of the annexure (5) i.e. a letter dated 16/12/13 and annexure (6) letter dated 23/7/2013, annexure (8) letter dated 13/2/13, annexure (9) (2) letter dated 15/11/13 relied by the appellant enclosed to the application dated 26/4/17, the said letters are issued to the Respondent No. 2 by the Respondent No. 1 sports authority of Goa , reveals that certain cheques were issued to respondent No. 2 Goa Table tennis Association being grants to Respondent No. 2 Goa Table tennis Association . The same were disbursed/ granted subject to certain conditions as stated there in said letters and Respondent No. 2 were directed to strictly adhere to above mentioned conditions. On perusal of such conditions it can be observed that the Respondent No. 1 has got control over the said organization . and Respondent No. 2 were required to adhere to such instructions. In other words the Government through Respondent No 1 SAG specified the purpose in which such funding is to be utilized and the Respondent No. 2 is accountable to the Respondent No. 1 SAG and the Government for all the financial assistance /grant received .
18. The annexure b(1) i.e a letter addressed to the assistance secretary (program)SAG Campal by the president of Respondent No. 2 , Goa table tennis association dated 3/7/12 reveals at para 3 of the said letter, the election of the Goa table tennis association

are duly conducted under the supervision of SAG. Hence I find that the Respondent No. 2 GTTA does not have absolute autonomy in its functioning .

19. The order of FAA dated 4/4/16 reveals that the FAA has arrived at the findings that the state Government have actively supported all the state recognized association in the state through the release of grants/financial assistance and making available infrastructural facilities and for this purpose have reviewed and revised various guidelines time to time. further came to the findings that all the State recognizes association are under the regulatory control of the state Government and have to necessarily furnish various documents and other details to the appropriate authorities in order to avail such grants/ assistance and other benefits . It has been further observed by Respondent No. 3 FAA that Goa tennis association serves as a nodal body and which represent the state of Goa for various zonal, national and other recognized sporting events even international level tournament and for that purpose receives direct government funding by way of financial assistance/grants from the Respondent No. 1 sports authority of Goa. It has been further observed by FAA that Respondent No. 2 Goa Table tennis Association enjoys privileges such as concessional rates Usage of stadium and other practical facilities which are otherwise not available to others. The FAA has also come to the findings that the Respondent No. 2 is also performing duties which are predominantly "Public in nature" which effect the interest of public. The FAA has also come to the finding that the respondent No. 2 Goa Tabe tennis association is also duty bound to furnish any information called for by the Respondent No. 1 ASAG being recognize sports association and receiving substantial grant/financial assistance from the Government through SAG to run its affairs and as such had directed Respondent No. 1 to collect the information from Respondent No. 2 GTTA and then to furnish to appellant.

20. The said order of FAA has not been challenged by the Respondent No. 2 GTTA and such it could be safely presumed that Respondent No. 2 GTTA was not aggrieved by the said decision and as such the belated stand taken by Respondent No. 2 that they are not public authorities during the present appeal proceeding appears to be after thought.

Be that as it may .

21. The documents relied by the appellant vide application dated 26/4/17 more specifically Annexure 12(1) , Annexure 12(2) , Annexure 12(3), Annexure 12(4) , Annexure 12(5) , Annexure 12(6) shows the grants received from SAG forms their major income . The grant amount is seen more than the other source of income of Respondent No. 2 GTTA.

Annexure 20 ,Annexure 21, Annexure 22 and Annexure 23 relied by appellant vide application dated 17/5/2017 shows the statistical charts of the various grants received by Respondent No. 2 Goa table tennis association. The income and expenditure account of the Respondent No.2 Goa table tennis association which were duly prepared by them and certified and submitted to Respondent No. 1 SAG reveals that major part of income of the said association is from finance/grants received from the SAG, more particularly the annexure (20) which also reveals that the , major part of the grants have been received for the years 15-16 and 16-17 by the Respondent No.2. Annexure A(1) i.e the income and expenditure account for the year ending 31/3/13 also reveals that the major income is from the grants received from SAG.

22. The respondent No. 1 Goa Sports Association also enclosed certain documents in support of their contention/case vide their annexure (b),(c), and (d) funds grants released to the Goa table tennis association. Annexure 'D'clearly specified grants release towards the coaching camp in Table tennis for the third Lucofinia games held in Goa as Rs. 6,65,607 entirely to the Respondent No. 2.

Annexure (e) relied by respondent No. 1 vide their additional reply dated 22/6/2017, specifies the grants paid to Goa table tennis association for the period 1/4/2014 to 31/3/17. It is seen from the said annexure that for national participation an amount is Rs. 768,166 and for international tournament Rs 20 lakhs have been paid to Respondent No. 2. The Respondent No. 1 SAG at annexure (A) has given statistical chart showing various grants received Respondent No. 2 from the year 2006 till date.

23. In the catena of decisions relied by both the parties, Hon'ble Court have held that that there cannot be straight jacketed in to rigid formula of universal application and the word substantial does not necessarily connote "majority financing".
24. The courts held that the word "substantial financing" is an relative term and would have to be examined on the facts of the each case. The facts of the present case based on the document relied by appellant and by Respondent No. 1 reveals that the Respondent No. 2 GTTA is substantially financed directly and indirectly by the funds provided by the appropriate Government through Respondent No. 1 sports authority of Goa. The Respondent No.3 FAA also has arrived at the same finding that the Respondent no. GTTA is substantially funded by the government through respondent no.1 SAG .The Respondent no.3 FAA allowed the 1st appeal by coming to the same findings.
25. There is nexus regarding control of finance by public authority Respondent no. 1 SAG over the activity of Respondent No. 2 Goa Table tennis Association. For breach of condition by respondent No. 2 GTTA , the Respondent no. 1 can stop the grants and even derecognize the association as such also hold some administrative control over the Respondent No. 2. Goa Table tennis Association The Respondent NO. 3 FAA has in its order also has told Respondent No. 1 to use his Administrative Power is in securing the said information.

26. The appellant as well as Respondent no. 1 SAG have sufficiently established that Respondant no.2 GTTA was carrying on public activities and were substantially financed by the funds provided by the appropriate government through respondent no.1 SAG and as such I hold that respondent no.2 GTTA is liable to dispense the information as sought by the information seeker as it comes within the purview of definition of "Public Authority" as defined in section 2(h) of RTI Act.

27. Be as it may Section 2(f) also specifies any information related to any private body can be assessed by public authority under any law for the time being in force .

Admittedly the Respondent no. 1 SAG is a public authority even if you consider that the Respondent No. 2 GTTA is not a public authority Still Respondent no.1SAG can call for the information from the Respondent no. 2 Goa table tennis association u/s 2(f) of the Act.

28. Further on going through the records of the present Case it is seen that various applications of various dates were filed by the appellant. separate 1st appeals were filed in respect of each application .

on perusal of The order of respondent no.3FAA dated 4/4/16 , it is not clear on which appeal number the said order was passed . The said order also does not reflect the dates of applications nor the description of the information which was required to be furnished. The appellant before the first authority , filed another application dated 22/8/12 prioritizing and specifying the documents / information that he urgently required . It is also not clear from the records whether the said application dated 22/8/12 was disposed by the respondent no.3FAA in accordance with law .

29. In my opinion though the subject matter of each applications filed under RTI act is common , each application constitutes a distinct and separate cause of action for appeal with reference to relief and

limitation as such independent appeals would lie and not consolidated as is done herein .

However considering the principals and aim of RTI Act , it is a legislation beneficial to the information seeker , I find such a defect in appeal should not hamper the rights of the information seeker to seek information .

I also find that disclosure of such information is also warrants in the larger public interest as the activities carried by the Respondent no.2 GTTA has relation to public activity as such Respondent No. 2 GTTA cannot claim immunity under the Act on the ground that it is not an Public Authority moresoever as the said information cannot be denied to the parliament or a state legislature, the same cannot be denied to the appellant .

30. However considering the facts that the appellant by clubbing all his applications has prayed for only specific information as per application dated 22/8/2012. I find that ends of justice will be meet . with following directions/order

Order

The Respondent no.1 SAG is hereby directed to provide information as sought by applicant vide application dated 22/8/12 filed during 1st appeal in accordance with the provisions of RTI Act . Needless to say that The Respondent no .2 GTTA shall render all required assistance and co-operation to the Respondent no.1 SAG in providing the said information to the appellant .

Proceeding stands closed.

Notify the parties.

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

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.

Sd/-

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