

GOA STATE INFORMATION COMMISSION

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

Appeal No. 17/2017

Mr. Savio Antao,
Bank of Baroda,
Opp. Shital Baug Walkeshwar,
Mumbai 400 006

...Appellant

V/s

1)The Public Information Officer,
Dy. Collector & SDO,
Mormugao Vasco Goa.

2)The First Appellate Authority,
Additional Collector I,
South Goa District Collectorate Build,
Margao Goa.

..Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 23/02/2017

Decided on: 8/09/2017

ORDER

1. By this appeal the appellant Shri Savio Antao assails the order dated 17/10/16, passed by the Respondent No.2 First Appellate Authority in RTI Appeal No. 18/AC-I/2016.
2. The facts in brief which arises in the present appeal are that the appellant herein , by his application dated 27/7/2016 , sought information on points (a) to (f) as stated therein in the said application from respondent no,1 ,PIO Deputy Collector and SDO, Mormugao Vasco Da Gama. The said information was sought in exercise of his right under section 6(1) of The Right to information Act ,2005.
3. On the receipt of the said application by respondent no.1 PIO, by his letter dated 22/08/16 provided the information to the appellant.
4. Being not satisfied with the reply of respondent No. 1 PIO, the appellant preferred first appeal before the Additional Collector on

8/9/2016 being the first appellate authority who is the respondent No. 2 herein .

5. The Respondent No.2 FAA by an order dated 17/10/16 dismissed the appeal of the appellant for default.
6. The appellant being aggrieved by the decision of respondent no.2 FAA, has approached this commission by way of second appeal challenging the said order of respondent no.2 FAA dated 17/10/16 on several grounds as raised in the memo of appeal.
7. In pursuant to the notice of this commission , the appellant opted to remain absent. Respondent no.1PIO was represented by Shri Walter Rodrigues who filed reply of PIO on 2/8/2017. The copy of the reply could not be furnished to the appellant on account of his continuous absent.
8. By the said reply , it is contended by the PIO that in the demarcation matter one Mr. Macedonio Alcasoas R/o H. No 232 Ranalem, Arossim moved application dated 4/2/2015 and was received by their office through office of Collector of South Goa, margao for correction of Survey records and demarcation u/s 103 and 114 of LRC in survey nos. 101/23, 116/2, 119/3 and 27/86 of village Arossim, Mormugao Taluka and is given file No. LRC/COR/DEM/05/2015. It was further contended that vide judgment and order No. LRC/COR/DEM/05/2015 dated 25/4/2017 the demarcation of disputed property referred by Hon'ble High Court of survey No, 101/23 is demarcated and confirmed as there were no objections and the matters in respect of the other survey no. is still in under process and not yet disposed. The copy of the said order dated 25/4/2017 was enclosed to the reply.
9. It was further contended that the PIO has given reply u/s 7(1) as per the information available in the file no. LRC/COR/DEM/05/2015. The copy of the letter dated 22/8/2016 by which the information is furnished to the appellant was also enclosed in their reply in support of their contention.

10. It is their further contention that appellant was requested to collect the information at point No. (d) after payment of necessary fees . However the appellant never visited their office nor paid any fees and directly appealed to the first appellate authority.
11. I have scrutinise the available records in the file . on perusal of the reply given u/s 7, it is seen that all the queries of the appellant i.e (a) to (f) have been duly answered by the Respondent PIO.
12. The PIO can only furnish the information as available on records. The appellant vide memo of appeal have contended that the reply given by the PIO contradicts has own answered and it is not satisfactory . In such a circumstance, the onus lies on the party who makes such averments to prove the same . The appellant by remaining continuous absent have failed to discharge his such burden. In absence of any cogent and sufficient evidence it will not be appropriate on the part of this commission to arrive at any such conclusions.
13. It is seen from the reply dated 22/8/16 it was informed to pay necessary fees without specifying the amount in respect of information at point (d). As per section 7(3)(a) the PIO was supposed to intimate details of the fees representing the cost of providing the information as determined by him together with the calculation made to arrive at the amount in accordance with the fees prescribed. However in the present case the PIO have failed to intimate him the amount which he is required to pay. The PIO is directed to comply with such above provision henceforth.
14. The Respondent no. 2 First appellate authority have erred in dismissing the appeal for non appearance of the appellant. The first Appellate authority ought to decide the matter on merits. Such an conduct on the part of the FAA is against the mandate of RTI Act.
15. In the above given circumstances, I feel ends of justice will meet with following order;-

Order

1. The respondent PIO is hereby directed to calculate and intimate the cost to the appellant for furnishing him the available information, the appellant if so desired may collect the same after payment of necessary fees.
2. Since now the present PIO has submitted that the demarcation of the disputed property referred by Hon'ble High Court of survey No, 101/23 is demarcated and confirmed and others are pending under process. The appellant if so desired may take the inspection of the file No. LRC/COR/DEM/05/2015. The convenient date of inspection shall be mutually fixed by the appellant as well as the Respondent PIO.

Appeal disposed accordingly proceedings stands closed.

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.

Pronounced in the open court.

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

