

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

Shri Prashant S.P. Tendolkar,
State Chief Information Commissioner

Appeal No. 77/SCIC/2016

Dr.Ms. Kalpana V. Kamat,
R/o Caldeira Arcade, 1st Floor, Bhute Bhat,
Vasco da Gama 403802 Appellant.

V/s

- 1) The Public Information Officer,
Shri Mohan Naik,
Vaco Police Station,
Vasco da Gama.
- 2) The First Appellate Authority,
Superintendent of Police, South,
Margao –Goa. Respondent.

Filed on :03/05/2016

Disposed on: 31/05/2017

1) FACTS:

a) The appellant herein by her application, dated 9/11/2015, filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under on 14 points therein.

b) The said application was replied on 26/11/2015. Under said reply the PIO furnished the information to points 1,9,11 and 13 being exclusively pertaining to the same authority and furnished part of the information to points 2 and 3 and transferred the rest to the concerned authority. The information at point 14 was refused as not coming under the act. However according to appellant the information

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furnished was incomplete and misleading with reference to points 5,7,8,9,10,12 & 14 and hence the appellant filed first appeal to the respondent No.2.

c) The First Appellate Authority (FAA) by order, dated 5/2/2016, partly allowed the said appeal and directed PIO to furnish the information on point nos. 5,7,9 & 14.

d) The appellant has landed before this commission in this second appeal u/s 19(3) of the act with the contention that the information furnished to her is incomplete and misleading. It is also her grievance that she had to pay Rs.24/- as charges for 9 pages and that it is unreasonable. It is also the allegation of the appellant that she also had to pay the fees of Rs.2/- to Cottage hospital Chicalim and equal amount to office of Dy. S.P. Margao. It is her further contention that the information as is furnished is misleading, incomplete and obstruction information for a long period.

e) Notices were issued to the parties, pursuant to which the respondents appeared. The appellant failed to appear and hence the reply of the respondents and their submissions were heard.

f) Subsequently the appellant appeared and submitted that she could not attend the hearing due to her difficulties as explained and that no orders be passed without hearing her. Accordingly she was given opportunity to file her submissions in writing, which she filed accordingly on 26/5/2017.

2) FINDINGS:

a) I have perused the records and considered the submissions of the parties. The appellant vide her application u/s 6(1), dated 09/11/2015 has fourteen (14) requirements. The information pertains to the some assault on the appellant and the action taken by several authorities thereafter. Such authorities being the Department of Police Cottage Hospital Chicalim and Goa Medical College.

By her said application, the appellant has sought the information from PIO held by it as also by all said authorities. On further scrutiny of the application, it is seen that the information at points (1),(9),(11),(12) & (13) are pertaining exclusively to the authority herein and as held by the PIO. The information at points (2) and (3) pertains partly to the authority herein and partly held by other authority and those at points (4) to (6), (8) & (10) pertains to another authorities.

As per the reply of PIO, dated 26/11/2015 the PIO has furnished the information at points (1) (9), (11) (12) & 13 and partly of point Nos. (2) and (3). For remaining part of information at points (2) and (3) and in respect of point (4) to (6),(8) and (10), the PIO has transferred the requirement to the said authorities as required u/s 6(3) of the Act.

By information at points (7) and (14) of the application, the appellant has sought to know the reason or justification. Such a requirement of information cannot be under the act as it is not an information held by the

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authority. What is sought for is the reason or opinion pertaining to certain action of other person/authority. I am fortified in this view on the bases of the ratio laid down by the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para 35 has observed :

“35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish

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information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

b) Considering the said reply of PIO, dated 26/11/2016, the PIO has dealt with the part of the appellant's application appropriately by furnishing the information, which was held by it and the rest is transferred to other authority u/s 6 (3) of the act. Though the PIO has given some information to point (7) in said reply, same is redundant as the same was not required to be answered being in the form of opinion and hence beyond the scope of *Information* as defined under the act.

In the aforesaid circumstances I find no irregularity or illegality in respect of the reply of the PIO u/s 7(1) of the act. Hence the contention of the appellant that the PIO has at all obstructed actual information is

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unjustified. In view of the above I find that the order of the first appellate authority was not justified as the related information as was mandatory under the act to be furnished was already furnished to the appellant by the PIO.

c) It is the second grievance of appellant that she had to pay Rs. 24/- and another sum of Rs.2/- as the fees for collecting the said information. According to the appellant said charges are unreasonable And that the information furnished to her was running in (9) pages. The appellant has not produced the copy of said information furnished by the PIO to her to show that it was infact running in (9) pages to substantiate the same. The further amount of Rs.2/- as is contended to have been paid is paid to another authority after the application was transferred to it u/s 6(3) of the act.

Even otherwise, on perusal of the memo of first appeal it is seen that the appellant has no grievance in respect of the charges/fees collected by the PIO. Therein the only grievance of the appellant is pertaining to non furnishing of information to her.

On perusal of the records it is found that the PIO had replied the application within time stipulated under the act. The appellant therefore is not entitled for exemption from payment of fees. The appellant has paid the statutory amount of Rs.10/- as application fees and Rs.24/- as information fees. Having paid the same the appellant cannot claim the refund thereof. Being so I find that this claim or her is also unwarranted.

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d) I have perused the submissions filed by appellant. According to her she was asked to pay for documents which she had not asked for. The details of such documents are not mentioned. Moreover on perusal of the information, copies of which are filed by the PIO, I find that the documents viz. the hurt certificate, pertain to the information sought.

It is also the contention of appellant that the PIO has not understood the queries/language to provide correct information. If one were to accept this contention then the PIO cannot be faulted with, if at all any lapse has occurred. The appellant can seek any further information with clarity from PIO at any time.

e) In the facts and circumstances of the case I find no force in the submissions of the appellant. I do not find merits in the appeal. In the result the same is disposed with the **ORDER** as under:

Appeal is dismissed. Parties to be notified.

Proceeding closed.

Sd/-
(Mr. Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa