GOA STATE INFORMATION COMMISSION

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

Appeal No. 83/SIC/2015

Advocate Deepali Gauns,
H.No. 947/1 Kranti Nagar,
Penha De-france,Porvorim Goa. …….. Appellant

V/s.

1. First Appellate Authority,
   Director of Mines & Geology,
   Government of Goa
   Institute Menezes Braganza,
   Ground Floor, Panaji Goa.

2. Public Information Officer
   Asst. Director of Mines & Geology,.
   Government of Goa
   Institute Menezes Braganza,
   Ground Floor, Panaji Goa …….. Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 28/07/2015
Decided on:31/08/2017

ORDER

1. The information seeker Advocate Deepali Gauns by an application, dated 27/3/15 sought information on 14 points regarding the construction of six lane NH4 by pass road from Panaji to Old Goa Via kadamba Pleatue by hill cutting from the PIO of Mines and Geology Department Panaji Goa who is the Respondent No. 2 herein.

2. The said application was responded by the Respondent No.2 PIO on 24/4/15 thereby informing the appellant that the information sought

by her vide para 1 to 14 of her RTI application dated 27/3/15 is not available in the Directorate hence may be treated as nil.

3. Being not satisfied with the reply of Respondent No.1PIO , the appellant preferred 1st appeal before the Director of Mines and Geology on 29/4/15 being first appellate authority who is the Respondent No.1 herein . Since the Respondent No. 1 FAA did not dispose the said appeal the reminder letter dated 25/6/15 was send by an appellant to Respondent No. 1 FAA. Despite of same as the same was not disposed the appellant being aggrieved by the action of Respondents, the present appeal came to be filed on 28/7/15 by the appellant on the grounds as set out in the memo of appeal .In the present appeal the appellant has prayed for the directions to the Respondent No. 2 to provide her correct and complete information and for other reliefs also for granting for an compensation to her.

4. Parties were duly notified. Inspite of service of notice the appellant remained absent. PIO was initially represented by Shri Raghunath Naik who sought time to file reply and thereafter both the Respondents remain absent nor filed their reply despite of granting them opportunity to file their say.

5. The matter was thereafter called out number of occasion but non of the parties did turned up and showed any interest in the matter. Never-the-less, as sufficient time is since elapsed, the commission felt it appropriate to now dispose of this appeal, based on the material available on record.

6. From the scrutiny of the records , it is seen that the Respondent PIO right from the inception has informed that information is not available in their office.

7. PIO is duty bound to furnish the information as available on record of the public authority . PIO is not required to create the information for the purpose of furnishing the same to the information seeker. The said observations of mine are based on the ratio laid down by the

The Apex court in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya wherein it has been held at para 35

"At this juncture, it is necessary to clear some misconception about the RTI Act . The RTI Act provides access to all information that is available and existing . This is clear from the combined reading of section 3 and the definition of "information " and "right to information "under clause (f) and (j) of section 2 of the Act . If the public authority has any information in the form of data or anaylised data or abstracts or statistics , an applicant may access such information ,subject to the exemptions in section 8 of the Act ."

8. In the above given circumstances Since the information is not available with the public authority the same cannot be directed to be furnished.

9. The contention of the appellant that the Respondent No. 1 FAA has not passed any order within stipulated time, is also not disputed and reburtted by the Respondent No. 1. FAA. Hence the Respondent No. 1 FAA is hereby directed to be vigilant hence forth while dealing with the RTI matters and the said should be disposed within stipulated time as contemplated u/s 19(1) of the RTI Act. Any further lapse on the part of the first appellate authority will be viewed strictly.

The appeal disposed accordingly the proceedings 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 under the Right to Information Act 2005.

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

Ak/-