

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

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

Appeal No.02/2017

Mr Deepak Krishna Naik,
Asst. Executive Engineer (Elec.),
Electricity Department Goa,
H. NO.5/Q/1/2, "RADHA,"
Wilsonnagar, Tolyaband,
Davorlim –Navelim –Goa.
Pin 403707.

..... Appellant

V/s

- 1) The State Public Information Officer,
Joint Chief Electoral Officer,
O/o the Electoral Officer,
Altinho-Panaji –Goa.
- 2) The First Appellate Authority,
O/O the Electoral officer,
Altinh-Panaji-Goa.

..... Respondents

Filed on :05/01/2017

Disposed on:17/11/2017

1) FACTS:

a) The appellant herein by his application, dated 27/6/2016, filed u/s 6(1) of The Right to Information Act 2005 (Act for short), sought certified copies of the information from the Respondent No.1, PIO under nine points therein.

b) As the information on points 1 to 6 of the said application was held by another authority i.e. office of Collectorate South, by its letter, dated 4/7/2016 the respondent no.1 herein transferred the said points to PIO Collectorate South, with copy to the appellant.

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c) With reference to the information pertaining to points 7 and 8, the PIO by reply, dated 20/7/2016 informed the appellant that the desired information is kept ready and that the same can be collected from office on payment of the fees.

d) However according to appellant, the information at points 1 was not furnished and vide letter, no. 19/2/2016 he was informed that the information is not available in the office records and that in respect of information at points 2 to 6 it was informed that the information was not received. In respect of point (7) and(8) the appellant admitted having received said letter, dated 20/7/2016 from the PIO herein. With these contentions the appellant preferred first appeal to the First Appellate Authority (FAA), the respondent no.2 herein.

e) The FAA by order, dated 18th October 2016 dismissed the said appeal interalia holding that the appellant ought to have filed the first appeal to the FAA of the Collectorate South Goa to whom the application was transferred and that in respect of the remaining information the same was offered to appellant who failed to collect the same.

f) The appellant is apparently aggrieved by the said order of the FAA and has filed the present second appeal before this commission u/s 19(3) of the act.

g) Notices were issued to the parties, pursuant to which they appeared. The PIO on 27/9/2017, filed a reply to the appeal . Copy of the said reply was sent to the appellant, which the appellant in the course of hearing admitted having received the same. Arguments were heard on 11/10/2017 and the same was fixed for further clarification on the next date. However the appellant remained absent and hence no clarification could be sought and hence the matter was posted for orders.

2. FINDINGS:

a) I have perused the records more particularly the application filed u/s 6(1) of the act and the reply filed under section 7(1) and the letter, dated 4/7/2016 u/s section 6(3) of the act. Considering the nature of request I find that the information at points (1) to(6) is required to be held by the office of Collectorate South Goa. The PIO has therefore rightly transferred the said part of the application to the concerned PIO u/s 6(3) of the act.

If the information was not furnished by the transferee PIO within time it was necessary for the appellant to file first appeal to the FAA of the transferee authority. In the absence of such first appeal the present appeal is rendered premature with regards to the information at points (1) to (6). In addition to the same the concerned PIO is also not joined as party to this appeal. I therefore find no illegality or irregularity in the findings of the FAA herein.

b) Regarding the information at points 7 and 8 the same is offered by the PIO vide letter, dated 20/7/2016 and the appellant is called upon to collect the same on payment of the fees. Here also I find that the PIO has responded appropriately within the time as stipulated u/s 7(1) of the act. On receipt of the said response the appellant could have collected the same.

In the course of hearing when asked the appellant as to why the said information at points (7) and (8) was not collected inspite of information, it was answered that he is expecting the entire information at one stretch and not in piece meal. This

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explanation does not appear logical as there are two departments involved and the time for dispensation of the information may vary. Suffice to say that the information was offered by PIO.

c) Coming to the nature of the information at point (9) of the application, dated 27/6/2016, what is sought by the appellant is the future plans of the government to pay the dues. Such an information being not in existence now in tangible form, the same does not constitute information under the act.

d) While considering the extent and scope of information that could be dispensed under the act, 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

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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 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." (emphasis supplied)

In the light of the above ratio the said point (9) is beyond consideration under the act.

e) In the light of the above facts and the circumstances as discussed above I find no merits in the appeal and hence the same is disposed by the following:

ORDER

The appeal is dismissed. The appellant shall collect the information on points (7) and (8) from the PIO on payment of the quoted fees.

The right of the appellant to file first appeal in respect of information at points (1) to (6) against the PIO of the Collectorate South Goa are kept open.

Proceedings closed.

Order to be notified to the parties.

Pronounced in the open proceedings.

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

