

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

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

Appeal No.77/SCIC/2017

Mr Eusebio Braganza,
4-C, Govt. Quarters,
Patto, Panaji.

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Appellant

V/s

1) The Public Information Officer/
Asst. Public Information officer,
O/o Goa Meat Complex,
Sesa Ghor, 3A+3B, Patto Plaza,
Panaji-Goa.

2) The First Appellate Authority,
O/o Goa Meat Complex,
Sesa Ghor, 3A+3B, Patto Plaza,
Panaji-Goa.

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Respondents.

Filed on :15/6/2017

Disposed on:15/12/2017

1) FACTS:

a) The appellant herein by his application, dated 5/12/2016, filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under several points therein.

b) The said application was transferred by the PIO to the PIO of the Goa Meat Complex on 9/12/2016 u/s 6(3) of the act, as the information pertain to said authority was available with the PIO of The Goa Meat Complex(hereinafter referred to as THE TRANSFEREE PIO for short. As per the records the said letter was received by the transferee PIO on 13/12/2016.

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By letter, dated 9/1/2017, the transferee PIO informed the appellant that the process of collecting and Xeroxing the information is in progress being huge quantity and that as soon as the information is ready he will be intimated.

On the same day i.e. 9/1/2017 the transferee PIO also sought part of the information at point 13 of the application from the factory manager, who had the details and a copy of the said letter was marked to the appellant.

c) It appears that having not received the information in 30 day, the appellant filed first appeal to the First Appellate Authority (FAA) on 9/02/2017, who by order, dated 31st March 2017 dismissed the same.

d) In the mean time during the pendency of first appeal the transferee PIO, by letter, dated 15/2/2017 addressed to appellant offered to furnish the information on payment of the fees of Rs.1050/- for 525 pages.

e) The appellant has not averred whether he has at any time responded to the said demand of fees by transferee PIO but being aggrieved by the order of FAA has approached this commission in this second appeal u/s19(3) of the act.

f) Notices were issued to the parties, pursuant to which they appeared. The PIO on 27/9/2017 had filed a reply to the appeal. The appellant filed his written arguments. PIO submitted that his reply is his arguments as well.

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2. FINDINGS:

a) I have perused the records and considered the grievance of the complainant. In the present appeal the appellant has challenged the order of the FAA and has prayed for quashing the same. He has also prayed for order for furnishing the correct information and also for penalty upon transferee PIO for some remarks against the appellant. The entitlements of the appellant for said relief would be based on the fact of the case.

b) In the present case there is no dispute that the application for information was transferred to the transferee PIO in time as prescribed by the act. The transferee PIO has received the said transferred request on 13/12/2016. Hence in ordinary course he was required to respond within thirty days from 13/12/2016 i.e. on or before 14/1/2017. In the present case the transferee PIO has responded on 9/1/2017. Such time is provided under section 7 of the act which reads:

" 7. Disposal of request.____(1) *Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, **either provide the information on payment of such fee as may be prescribed** or reject the request for any of the reasons specified in section 8 and 9:*

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipts of the request.

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(3) Where a decision is taken to provided the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send intimation to the person making the request, giving_____

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;”

c) On conjoint reading of the said provisions the response u/s 7 involves two stages. Firstly PIO should take a decision within 30 days either to provide the information on payment of prescribed fees or not to provide. Thus an outer limit of thirty days is provided to decide and intimate the decision. The seeker is not saddled with anytime limit for deposit, but such period is added for disposal of application u/s 6(1) of the act. In the present case the PIO has communicated his decision to appellant on 9/1/2017 within statutory period of

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thirty days. Though the appellant has a grievance that the PIO has taken more days only to communicate the decision, it is the period granted under the act to decide whether information can be furnished or not.

d) In ordinary course the transferee PIO was required to furnish the information on or before 14/1/2017, being the 30th day from the date of receipt of request by transfer of application. But the information is offered on 15/02/2017. Thus there occurred a delay of about 26 days. The appeal memo is silent as to whether the information is collected or not.

e) From the records it is seen that the information comprises of 525 pages and which according to PIO pertains to the years from 1982 onwards. Thus the information sought is indeed substantial and is spread over several years even, beyond 20 years. Though the law mandates the dissemination of information in thirty days, it is in the general circumstances. The same rule cannot be applied for old and voluminous information. One can take judicial note of the fact that more the information more time would be involved in procuring its copies. In the present case in view of volume of information and period to which it relates, it has consumed more time which I find is not disproportionate. Though section 7(6) contemplates for furnishing of free information after 30 days the same cannot be applied universally to all cases.

f) In the case of ***Dalbir Singh V/S Chief Information Commissioner Haryana & others (WPNo.18694 of 2011)*** the Hon'ble High Court of Punjab & Haryana while

holding that the quantum of information cannot be a ground for refusal of information has observed:

"There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner."

g) In the appeal memo the appellant has prayed for a direction for furnishing the correct information to the points as requested. Firstly there is no mention whether the appellant has at all collected the information as was offered. In the absence of receipt of the said information it would be premature for the appellant to conclude that the information is wrong. The appellant has also not produced on record the copies of such information if received by him. In this situation I am unable to hold that the information is at all incorrect.

h) The appellant has also prayed for penalty against the PIO for certain remarks against him. Such statements are in the form of reply to the appeal and to substantiate the malafide intention of the appellant. Said submissions are part of the reply and hence the prayer for penalty on the said grounds are beyond the act.

i) The appellant has filed his written arguments. In his said arguments he has raised several contention on the gestures

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of the PIO and that such gestures are malafide. However the appellant herein has failed to prove his bonafides in filing this appeal. In the instant case the appellant was offered the information. Had the appellant really required the information he ought to have received the same against payment. If according to him the delay was malafide appellant could have approached this commission with a complaint u/s 18 of the act. He could have also approached this commission with complaint in case he had reasons to hold that he was required to pay unreasonable fees. Considering the approach of the appellant I find that the appeal also lacs bonafides.

j) Before I part with this appeal I would like to highlight the fact that the act does not call for dispensation of information free of cost in all cases. It is the duty of the PIO to see that under the garb of information no loss to public exchequer is caused. The cost of information should be charged and accounted and in that direction to ensure that public monies are not wasted on Xeroxing and copying the information unless such cost is deposited by the seeker. The PIO in such cases should strictly adhere to the provisions of section 7(3) (a) of the act and dispense the information against deposit. Needless to say that in case of unreasonable delay in furnishing the information the liability to make good the loss of public exchequer would lie on the PIO u/s 20(1) of the act.

k) In the background of above facts and circumstances I am unable to consider the relief as sought by the appellant as I

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find no merits in the appeal. I therefore dispose the present appeal with the following:

ORDER

The appeal is dismissed. However the appellants shall be entitled to receive the information sought by him vide his application, dated 5/12/2016, within fifteen days from the date of receipt of this order by him and on payment of the fees as intimated by the PIO.

Order to be communicated.

Proceeding closed.

Pronounced in open proceeding.

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

