

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

Appeal No. 13/2017

Yogesh Raythatha
No.3 ground floor, Seagull Apt.
Bernardo Guedes Road,
Near Market Panaji Goa.

.....Appellant

V/S

1. The Public Information Officer,
The Dy. Commissioner,
Corporation of City of Panaji Goa,
CCP Building, Panaji -Goa.

2. First Appellate Authority
The Commissioner,
Corporation of City of Panaji Goa,
CCP Building, Panaji -Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 02/02/2017

Decided on: 13/09/2017

ORDER

1. By this appeal the appellant assails the order, dated 9th November 2016, passed by the Respondent No.2 FAA in first appeal in case No. RTI/Appeal/8/2016/ 4872, filled by the appellant herein .
2. The facts in brief which arises in the present appeal are that the appellant Shri Yogesh Raythatha , by his application ,dated 20/7/16, sought certain information from the Respondent no.1 PIo of corporation of the city of panaji , as stated therein in the said application . The said information was sought by the appellant 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 the Respondent no.1 PIO ,he vide letter dated 16/8/16 provided the information at point no.(1),(2), and (4) and with regards to point no.(3) and (5) it was informed to the

appellant that he was required to pay Rs 46/- and Rs 500/- per receipt respectively for obtaining the copies of the same .

4. It is the case of the appellant that as unreasonable fees of Rs 500/- per receipt were told to pay for information at point no.5 , the appellant preferred first appeal before the Respondent no.2 FAA and the Respondent No.2 FAA was pleased to dismiss the appeal on 9/11/16 by upholding the say of PIO.
5. Being aggrieved by the action of both the respondents , the appellant have approached this commission on 31/1/17 by way of second appeal filed u/s 19 (3) of the RTI Act .
6. In pursuant to the notice of this commission , the appellant was present in person . The Respondent No.1 PIo was represented by Shri Deepak Satardekar and Respondent no.2 FAA by Shri Malik on initial two hearings who despite of given undertaking to file letter of authority and reply of respondents, failed to do so and also opted to remain absent on the subsequent dates of hearing. Opportunities were granted to both the respondents to file their say , as no say came to be filed by both the respondents it is presumed that they have no say to offer.
7. However on 18/8/2017 Advocate J. Lohar appeared and on 13/9/2017 Advocate Kapil Kerkar appeared and submitted that he does not desire to file written reply and desires to argued the matter orally .
8. It is the contention of Advocate Kapil Kerkar that as a PIO or as a commissioner, he is not legally empowered to challenge resolution passed by the CCP and on the contrary he is bound to comply with the resolution, hence appellant was directed to pay amount of Rs. 500/- per receipt.
9. The appellant has challenged the order passed by the FAA on several grounds as raised in the memo of appeal.
10. The question for my determination is whether the Respondents were justified in quoting such fees ?

11. On perusal of the order of FAA ,it is seen that the FAA has passed an order basically by taking into account the minutes of the special meeting of the corporation dated 25/4/13 wherein the resolution was passed for charging certain fees for document.
12. On perusal of annexure (D) relied by the appellant i.e copy of the minutes of special meeting 24/5/13 of the corporation of the city of Panaji it could be gathered that the revised rates charged for financial year 2013-14 onwards were for the issuing duplicate receipt copy of house tax and other documents etc and not for the purpose of regulating the fees under the RTI Act. In the circumstances the same resolution cannot be considered as rules of the said authority for the purpose of RTI.
13. Section 27 and section 28 of the right to information Act confers powers on the appropriate government and competent authority to frame rules to enforce the provisions of the RTI Act .
14. In exercise of the powers conferred by section 27 of the RIT Act,2005 , the Government of Goa framed rules called the Right to information Act (Regulation of fee and cost) rules 2006 , which were duly amended from time to time by the government of Goa . The said were duly published in the official gazette .

Under sub-clause (2)(a) and (b) of rule 3 , an amount of rupees two for each page (in A-4 or A-3 size paper) and actual charge or cost price of a copy in larger size paper is prescribed .

Rule 4 provides for charging high fees than specified under rule 3 . However the said rules has to be read with sub-section(5) of section 7 of the Right to information Act . and cannot be read in isolation.

Sub-section (5) of section 7 states that " fees prescribed under sub-section (1) of section 6 and sub-section (1) and (5)of section 7 shall be reasonable "

15. In the present case the respondents have not produced copy of the gazette publishing such rules by them in exercise of their powers conferred by section 28 of the right to information Act,2005 .
16. The reply of respondent no.1 pio dated 16/8/16 given u/s 7 of the act reveals that for 6 receipts the appellant was told to pay Rs 500/- per receipt . If once calculates such total cost, Rs 3000 was required to be deposited for seeking the said information ,in my opinion such an amount was not an reasonable fees as contemplated under the right to information Act.

Further on the basis of minutes of special meeting dated 25/4/13 of the corporation of the city of panaji ,the appellant was told to pay such extraorbident fees by the PIO is contrary to the letter and spirit of the RTI Act. The said act is people friendly act which has come in force to promote transference and accountability in the working of the public authorities . The very mandate of the RTI act is to provide information which is not exempted u/s 8 of the said Act.

In the above given circumstances , I hold that the Respondents has erred in not following the procedure prescribed for levy of fees under the rules framed by the Government of Goa nor has pointed out any regulation framed by CCP for the purpose of levy of fees under the Act. Hence the following order

Order

Appeal is allowed

- a. The order dated 9/11/16 passed by the Respondent no.2 FAA is quashed and set aside .
- b. The Respondent No. 1 PIO is hereby directed to furnish the information at point No.5 as sought by the appellant vide his application dated 20/7/16, by levying him fees as are prescribed for furnishing of the information at rule 3 of the Goa

right to information (Regulation and fee and cost) Rules ,2006 within 15 day after the payment is made by the appellant .

- c. Respondent no.1 is also hereby directed to intimate the cost of providing the said information to the appellant within 10 days from the date of receipt of this order .

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 Goa.