

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

**CORAM: Smt. Pratima K. Vernekar,
State Information Commissioner.**

Appeal No.156/2016

Vikas Kumar,
B-210, Madhukunj Gali,
North Ghonda, Delhi,
Pin Code 110053.

...Appellant

V/s.

1.The Dy. Resident Commissioner,
Office of Resident Commissioner,
Government of Goa, Goa Sadan
18 Amrita Shergil Marg. New Delhi,
Pin Code 110003

2.The First Appellate Authority,
Additional Secretary (GAD),
General Administration Department,
Government of Goa,
Secretariat, Porvorim-Goa.

...Respondent

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**Appeal filed on: 25/08/2017
Decided on: 2/06/2017**

ORDER

1. The appellant Shri Vikas Kumar by application dated nil sought certain information at point No. 1 to 6 as stated therein in the said application from the Office of Chief Secretary (C. S.), Goa Secretariat, Porvorim, Goa.
2. The said application was transferred under section 6(3) on 22/02/2016 by PIO, Under Secretary, General Administration Department (GAD), Porvorim-Goa to the Deputy Resident Commissioner, Office of the Resident Commissioner, Government of Goa , Goa Sadhan, Delhi with the request to furnish the information at point No. 3,5,6.

3. The Deputy Resident Commissioner replied the said application of the Appellant on 22/03/2016 thereby calling upon him to pay the requisite fee of Rs. 4600/- and to collect the information after the fees paid.
4. On the receipt of above letter dated 22/03/2016 of Deputy Resident of Commissioner, the appellant then addressed letter dated 31/03/2016 and 15/04/2016 to Mr. Vatsala Vijayanan, which was replied by her/ Dy. Resident Commissioner on 25/04/2016.
5. Appellant vide letter dated 6/05/2016 addressed to the Deputy Resident Commissioner, submitted the demand draft of Rs. 4610/- for the said information.
6. The Deputy Resident Commissioner by her letter dated 5/07/2016 informed the appellant that second part of information at point no. 6 cannot be provided as the same are damage due to rain water and termite and volunteered to provide information of the first part of the point No. 6 and at point No. 3 and the fee amount of Rs. 18 was directed to be deposited. Vide said letter the demand draft of Rs. 4610 was returned back to the Appellant.
7. Notice were issued to both the parties. Appellant opted to remain absent despite of due service of notice. Respondent No. 1 was represented by Ms. Varsha Naik, Under Secretary, (GAD) who placed on record the information. The reply alongwith the enclosures received by them from the Office of the Resident Commissioner. The copy of the said reply of the Deputy Resident Commissioner/Respondent No. 1 alongwith the enclosure could not be furnished to the appellant in view of his continuous absence.
8. I have perused the records available in the file. On scrutiny of the application dated Nil. The appellant wants to know what are the reasons for providing job extension to Valsala Vijayan, Deputy Resident Commissioner, G. P. Nathan and Nirmal Bhagat and the reasons for not giving chance to younger

people. He also wanted to know regarding post to be filled in Goa Sadhan.

9. Section 2(f) of the Right to Information Act 2005 states as under:-

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

10. The PIO is the Custodian of the Information to be posted to the applicant/ Information seeker if the same is available in records of Public Authority. While requesting PIO to furnish the information he cannot be called upon to create information for being furnished. He also cannot be expected to give the background under which the certain information was created or held by public authority. PIO was not supposed to know the views logic and the reasons and the author of the information. In the present case the appellant has sought from PIO the reasons or legal basis of which certain act was done or not done. It is beyond the scope of PIO to know such basis. The query of the Appellant was of hypothetical in the form of opinion or reason.

11. Hon'ble supreme Court in “**Central Board of Secondary Education and another V/s Aditya Bandopadhyay and Others (Civil Appeal No. 6454 of 2011)**”, while dealing with the extent of information under the Act at para 35 has observed:

“ 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 analyzed 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, 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 of 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."

12. By applying the same ratio to the present appeal, I find that the information sought by the appellant at point No. 1, 4, 5 doesnot come within purview of definition of information.
13. Since the Respondent No. 1 PIO vide their letter dated 5/07/2016 have intimated the information at point No. 3 and 1st part of the point No. 6 is available with them, the copy of the said information can be furnished to the appellant after the requisite fees are deposited by him.
14. Before parting, it is pertinent to made observation that vide letter dated 22/03/2016 the Respondent PIO have intimated the appellant that he has to pay an amount of Rs. 4600/- for furnishing him information approximately 2300

pages of logbook for the period 1/01/2010 to 31/12/2015. However vide their other reply dated 5/07/2016 she has informed that the logbooks are damaged due to rain water and termites. PIO ought to have verified records first before responding application filed under section 6 by the Appellant and ought to have given correct reply in the inception itself.

15. In the above given circumstances following order passed:-

ORDER

- a) PIO directed to give information at point No. 3 and 1st part of the Point No.6 to the appellant on payment of fees by the Appellant
- b) Respondent No. 1 hereby directed to be vigilant in giving reply under section 7(1) of the RTI Act 2005. The same should be given only after verification of records.

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 against this order under the Right to Information Act 2005.

Pronounced in the open court.

Appeal is stands dismissed liberty is hereby given to the appellant.

Sd/-

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

Kk/-fnl

