

GOA STATE INFORMATION COMMISSION

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

Appeal 24/2017

Shri Uday R. Pokle,
Flat No. 8, Apa Commercial Complex,
Valpoi Goa.

.....Appellant

v/s

1. The Public Information Officer,
Under Secretary,(Personnel-I),
Secretariat Porvorim Goa.
2. The First Appellate Authority,
Additional Secretary,(Personnel),
Secretariat Porvorim Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 20/3/2017

Decided on: 28/11/2017

ORDER

1. The facts in brief which arises in the present appeal are that Shri Uday Ramnath Pokle the appellant herein, by his application dated 30/11/2016, sought information from PIO of department of General Administration, Secretariat, Porvorim, Goa. The said information was sought by the Appellant in exercise of his right u/s 6(1) of right to information Act, 2005.
2. As per the said application the information sought by the appellant where the copies of returns of assets and liabilities submitted by Shri Minino D'Souza and by Shri Satyavan Bhiv Shet in compliance to section 44 of the Lokpal and Lokayukta Act 2013.
3. On receipt of the said application by the PIO of general Administration, by his letter, dated 2/12/2016 transferred the said application u/s 6(3) of right to information Act, 2005 to the

PIO of Personnel Department who is the Respondent No.1 herein.

4. The Respondent no. 1 PIO responded the said application of appellant vide letter dated 7/12/2016 interalia informing the appellant that said information cannot be furnished interms of section 8(1) (j).
5. Being not satisfied with the reply of respondent , the appellant approached to the Respondent No. 2 being First appellate authority and the Respondent No. 2 herein by an order dated 31/1/2017 upheld the say of Respondent no. 1 PIO and dismissed the appeal
6. With the above background the appellant approached this commission by way of second appeal filed u/s 19(3) thereby seeking direction against respondent No. 1 to provide the information as sought by him by his application dated 30/11/2016 .
7. The appellant has challenged the order passed by the Respondent No. 2 FAA on several grounds as raised in the memo of appeal
8. Notices of the appeal was given to both the parties so also the third party Shri Minino D'Souza and Shri Satyawan Bhiv Shet. In pursuant to the notice of this commission , the appellant was present . Respondent no.1 PIO Gloria Arbranches was present who filed the reply on 21//6/2017. Third Party namely Shri Minino D'Souza and Satyawan Bhiv Shet remained present and submitted that they do not desire to file any say.
9. Appellant vide application dated 15/11/2017 objected for having issued notice to third party. However the same was over ruled as the commission is empowered in terms of section 19(4) to give reasonable opportunity of being heard to that

third party. Further said section does not envisages that information should be treated as " Confidential" by third party.

10. The copy of the reply of Respondent no. 1 was furnished to the appellant .
11. On behalf of appellant, Shri Sushant Nagvekar advanced the arguments. Respondent PIO Smt. Gloria Arbranches submitted to consider her reply dated 21/6/2017 as her argument. Third party Shri Bhiv Shet submitted to decide the matter on merits of the case.
12. On behalf of appellant it was contended that PIO have not substantially shown or argued that information can be denied/or is not accessible to Parliament/State legislature as such it is his contention that he is entitled for the said information.
13. I have scrutinise the records available in the file. From perusal of the application, it is seen that the appellant is trying to seek the copies of the returns pertaining to the assets and liabilities of the two officers of the State Excise Department filed by the said officers in compliance to the section of 44 of the Lokpal and Lokayukta Act, 2013 . At the out set I find it appropriate to mention that the said Lokpal and Lokayukta Act, 2013 is not prevailing and applicable to the state of Goa. Moreover under the said Act the forum for seeking disclosure of such information is prescribed which is not an state information commissioner.
14. Never the less, Apex Court in special leave petition(Civil) No. 27734 of 2012;- Girish Ramchandra Deshpande V/s Central state Commissioner. Considered such information to be qualified to be exempted u/s 8(1)(J) of the Right to Information Act.
15. In the above given Circumstances the relief sought by the appellant cannot be granted. Consequently the appeal stands dismissed.

The matter disposed accordingly. 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 against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

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