

GOA STATE INFORMATION COMMISSION

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

Appeal No. 04/SIC/2015

Dr. Shailesh Arlekar,
A-202, Vrundavan Park,
Vapi, Gujrat, 396191.

.....Appellant

v/s

1. The Public Information Officer,
Directorate of health Services,
Public Health Department,
Panaji Goa.

2. The Public Information Officer,
Public Health Department,
Secretariat Porvorim Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 24/12/2014

Decided on: 11/12/2017

ORDER

1. The facts in brief which arises in the present Appeal are that Shri Dr. Shailesh Arlekar the appellant herein, by his three separate applications , dated 20/2/2014, sought information from the Public Information Officer (PIO) of Directorate of Health Services, Panjim, Goa. The said information was sought by the Appellant in excise of his right u/s 6(1) of Right to Information Act, 2005.
2. On receipt of the said application by the Respondent no. 1 PIO of Directorate of Health Services , by his letter, dated 7/3/2014 transferred the said application u/s 6(3) of Right to Information Act, 2005 to the PIO of Public Health Department, Secretariat and vide letter dated 28/3/2014 also transferred the said application to the PIO of Finance Department with a request to furnish the information at point No. 1.

3. The PIO of Finance (R&C) inturn transferred the said application vide letter dated 3/4/14 to the PIO of Public Health Department, Secretariat u/s 6(3) of RTI Act.
4. The PIO of Public Health Department, Secretariat responded the said application of appellant vide letter dated 25/3/2014 interalia informing the appellant that said information not available in their department.
5. Being not satisfied with the reply of Respondent , the appellant approached the First Appellate Authority (FAA) of Directorate of Public Health Department on 11/4/2014 and the First Appellate Authority of Directorate of Public Health Department herein by an order dated 23/4/2014 instructed PIO to look into the matter and give a appropriate reply to the applicant.
6. The PIO of the Public Health Department in compliance to the order of First appellate authority, vide letter dated 5/5/2014 again informed appellant that information is furnished to him by their letter dated 25/3/2014.
7. With the above background the appellant approached this commission on 14/7/2014 by way of application ,seeking directions for furnishing him information , and for transferring the application to the concerned PIO
8. It also appears from the records that the appellant also made letter dated 22/11/2014 before the Central Information Commission which was forwarded to this Commission by the Registry of Central Information Commissions on 15/12/2014 which came to be inwards by entry No.1154 dated 24/12/2014.
9. It also appears from the records that since the appeal filed by the appellant is not filed with the confirmative with the provisions of RTI Act 2005, the appellant was informed by the

registry of this commission vide letter dated 9/3/2016 to rectify the same and he failed to do so.

10. In pursuant to the notices of this commission the appellant opted to remain absent. However, the commission granted him one more opportunity to do the needful. It appears that the appellant is not interested in pursuing the matter. The said application/memo of appeal filed before this Commission also did not specify the parties against whom he seeking relief.
11. It is seen that the various applications of the same dates were filed by the appellants thus each application constitutes an independent cause of action for the appeal with reference to relief and limitation, as such independent appeals would lie and not consolidated as is done herein. Though the subject matter is common each application constitute a distinct and separate cause of action for the purpose of grant of relief. It is not permissible to club all said application together. Such an excise would take away the valuable right of defence, which has accrued in favour of Respondent and may result in grant of time bar relief. In the present case even though the present appeal involves an defect in nature of misjoinder of cause of action, this Commission in the interest of justice and considering the intent of RTI Act decided to overlook the defect in the appeal and based on the records available, decided to issued notices to PIOs of Directorate of Health Services, Panjim and Public Health Department , Secretariat, Porvorim.
12. The PIO of Director of health services filed his reply on 13/10/17 contending that he had transferred said applications to PIO of Public health department u/s 6 (3) and that he was not an party to the first appeal neither any directions are issued against him.

13. The PIO of the Public health department filed her reply on 11/12/2017 contending that information sought is not available in their Department and as such there was no rejection or suppression of information as alleged by the appellant.
14. In the nut shell it is the case of both the PIOs that said information is not available in the records of the respective public authority .
15. The nature of the information which can be furnish to a information seeker is discussed by the Hon'ble Supreme Court in the case of Central Board of Secondary Education and another V/s Aditya Bandopadhyay and others civil appeal NO.6A54 of 2011, wherein at para 35 thereof it is 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 upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.....

16. In the above given Circumstances and based on the ratio laid down in Aditya Bandopadya case (supra) , I am of the opinion that since the information is not available in the records of the said public authorities , the relief sought by the appellant cannot be granted.

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