

GOA STATE INFORMATION COMMISSION

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

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

Appeal No. 113/SCIC/2017/

Shri Pedrito Misquitta Alias
Shri John Peter Misquitta,
H. No.234-B, Souza Vadd,
Candolim, Bardez-Goa .

Appellant.

V/s

- 1) The State Public Information Officer,
Office of Village Panchayat Candolim,
Candolim, Bardez –Goa.
- 2) The Block Development officer
First Appellate Authority ,
Mapusa, Bardez –Goa.

Respondent

Filed on:28/07/2017

Disposed on:31/10/2017

1) FACTS:

a) The Appellant herein by his application, dated 17/08/2016 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 ten points therein.

b) The said application was replied on 15/09/2016 . However according to appellant the information as was furnished was false and misleading and hence the appellant filed first appeal to the Respondent No.2.

c) The FAA by order, dated 17/10/2016 allowed the said appeal and directed PIO to revisit the application dated 17/08/2016 and to furnish the information within 10 days.

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d) The appellant thereafter reminded the PIO to furnish the information to which the PIO demanded citizenship proof . In spite of objecting such demand and raising the same before FAA, the same was not considered. The Appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. In spite of opportunity, the PIO failed to file reply.

f) In the course of his submissions the appellant submitted that PIO has furnished information at points 1 to 7 and rest not furnished. The appellant therefore has prayed for order as prayed.

2) FINDINGS:

a) I have perused the records and considered the submission of the appellant. The PIO failed to file any reply to the appeal. Hence I proceed to decide the appeal on the bases of records.

b) As according to appellant information at points (1) to (7) are furnished, I find no reason to dwell on the said points. Suffice to hold that information at said points is furnished.

c) At point (8) of the application dated 17/08/2016, the appellant wanted to know whether the tasks, as undertaken by the Sarpanch vide affidavit, dated 18/02/2010, was completed. In the later part of the said point the appellant wanted to know the plans of Village Panchayat in taking action for CRZ violation.

On analysis of said requirement, it is to be noted that certain tasks was to be complied by sarpanch. If same is

completed, it would culminate into relevant records and if not, no records would be available. This situation can be explained by PIO by producing the records if it is complied and if not to reply accordingly.

Regarding the latter part, the information sought is not of a concluded action but of the proposed action, regarding which no records exist as on the date of application.

d) While considering the extent and scope of information that could be dispensed under the act, the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para 35 has 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.

A public authority is also not required to furnish information which require drawing of inferences and/or making 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."

e) Thus the latter part of the point (8) cannot be ordered to be furnished.

f) The information at point (9) is also being offered by the PIO vide his reply dated 27/10/2016 after order of FAA, hence no order is required thereon.

g) Regarding point (10) the same being vague, as rightly pointed by PIO the PIO any directions if issued would be redundant and vague.

h) The PIO has also sought clarification regarding citizenship of appellant. Such clarification is not required as the appellant has affirmed his citizenship in his application, dated 17/08/2016 u/s 6(1) filed by him.

i) Considering the above circumstances I find that the information which is not furnished inspite of being in existence is required to be issued to appellant.

j) Regarding the prayer for penalty, as sought by appellant considering the locunas in the application filed by appellant, as pointed by me above and the initial response of the PIO u/s 7(1) I find no malafides on the part of PIO. Consequently I find no grounds to grant such prayer.

In the above circumstances I proceed to dispose the present appeal with the following:

ORDER

Appeal is partly allowed. PIO is hereby directed to furnish to the appellant the information whether any action is undertaken, by Sarpanch as per affidavit dated 18/02/2010, before the High Court. If yes then copies of related documents be furnished free of cost.

While furnishing such information the PIO shall not insist on any clarification or proof of citizenship of the appellant.

Right of the appellant to seek specific and catagoric information on point (10) of his application, dated 17/08/2016, are kept open.

Notify the parties.

Proceeding closed.

Pronounced in open hearing.

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