

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

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

Appeal No.01/2017

Mr. Surya L. Aroskar,
R/o. Purva Wada, Nagzar,
Pernem-Goa.
Pin: 403512.

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Appellant

V/s

The Public Information Officer &
Under Secretary Revenue II,
Government of Goa,
Secretariat, Porvorim –Goa.

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Respondent

Filed on: 03/01/2017

Decided on:21/09/2017

1) FACTS:

a) The appellant herein by his application dated 31/08/2016 filed u/s 6(1) of the Right to Information Act 2005, (Act for short) sought information from PIO General Administration Department (GAD). The said application was transferred by PIO, GAD to the PIO i.e. Revenue the respondent herein, by letter, dated 2/09/2016, u/s 6(3) of the Act. The appellant by his another letter, dated 12/10/2016 called upon the respondent to furnish the said information free of cost.

b) The respondent PIO by her reply, dated 15/11/2016 furnished the information. However as per the said reply the information at point (2) it was mentioned that the matter is before Hon'ble Dy. Chief Minister for order.

c) The appellant filed first appeal before the First Appellate Authority (FAA) on 30/11/2016, who by order, dated 07/12/2016

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held that the reply of respondent informing the appellant that the matter is before Hon'ble Dy. Chief Minister, was inadequate and should have passed speaking order, and directed the respondent to furnish information within 7 days free of cost. As per letter dated 13/12/2016 the respondent has furnished the information to appellant.

d) The appellant apparently aggrieved by the said order of FAA has filed this second appeal u/s 19(3) of the act.

e) The notice of this appeal was given to respondent who filed its reply on 03/05/2017 as also additional reply on 03/08/2017. Arguments of parties were heard on 13/07/2017.

2) FINDINGS:

a) I have perused the records. As per the appeal memo vide para (5) thereof the requisite information was furnished on 04/11/2016. Again at para (12) it is contended that on second time part information was furnished on 13/12/2016. In prayer clause the appellant has sought information only at point (2) and hence I restrict my findings to the appellants requirement at point (2) of his application, dated 31/08/2016.

b) By his application at point (2) the appellant has sought for "certified copies of all the orders passed in the matter at point 1 above."

The PIO by its reply dated 15/11/2016 has replied that the matter is before Dy. Chief Minister for order. Thus the PIO has informed that the file is not ready before him with the orders if any passed by the Dy. Chief Minister.

c) In the course of arguments, the appellant has contended that by answering the point as above the PIO has tried to shield the Minister and that the PIO could have very well stated that the information is not existing. According to him non mentioning of the fact that the said information is non existing is malafied and linient view should not be taken. He further submitted that the PIO also has not mentioned the details of the First Appellate Authority.

d) The above arguments does not appeal me. The PIO has refused the information at point (2) on the ground that the file is before minister for orders. This reply suggests that either the orders are not passed or that the file has not been received by PIO. It is to be noted that the file pertaining to which the information was sought is a revenue proceedings and in the procedural hierarchy the file has gone upto the Minister as a forum. I fail to understand as to how the said reply of PIO is an attempt to shield the Minister. The appellant has also not pointed out any legal mandate requiring the Minister to pass order within any time frame. Even otherwise the contention of appellant are held to be true, there is no provision under the act, conferring powers to Commission to deal with such alleged lapse.

Be that as it may, after the order of the FAA the PIO by its letter dated 13/12/2016 has clarified by enclosing copy of roznama in the said proceedings.

e) Considering the above circumstances I find that the information as sought is furnished to the appellant, except at point (2) which is not yet held by PIO.

f) In respect to the prayer of the appellant for penalty sought by the appellant, I find no malafide on the part of PIO for alleged with holding of the information. Moreover by his letter, dated 12/10/2016 the appellant has himself extended the time. It is also to be noted that the appellant has filed the first appeal only on 04/11/2016, when infact if one considers the original request dated 31/08/2016, received on 01/09/2016, the first appeal ought to have been filed on or before 07/10/2016. Thus the appellant has also contributed in delay. Hence I find no grounds to grant the relief of penalty as prayed by appellant.

g) Considering the above facts and circumstances I find that the ends of justice shall be met with following order, which I pass.

ORDER

The appeal is dismissed. The rights of the appellant to seek the information at point (2) of his application dated 31/08/2016, after the same is held by PIO is kept open. Proceedings closed. Parties to be notified.

Pronounced in open proceedings.

Sd/-

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