

GOA STATE INFORMATION COMMISSION

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

Shri Prashant S. P. Tendolkar
Chief Information Commissioner

Appeal NO.14/SCIC/2016

- 1) The Benjamin Pereira,
Pereira Waddo Majorda,
H. No. 166/A,
Utorda, Salcete-Goa Appellant.

V/s

- 2) The First Appellate Authority,
Block development Officer,
Mormugao, Vasco da Gama.
3) The Public Information Officer/Secretary,
Village Panchayat of Majorda,
Utorda, Calata,
Majorda, Salcete-Goa. Respondents.

Filed on:25/01/2016

Decided on:09/10/2017.

1) By application, dated 16/02/2015, the appellant herein sought form the respondent PIO the Certified copy of the resolution taken by the Panchayat with regards to the revocation letter, dated 2/02/2015. The appellant has also sought the details of action taken by the office as also if any action is taken with regards to demolition of certain illegal construction.

The appellant has also sought the details pertaining to revocation of licence based on the sketch submitted by the TCP as also copy of the inspection report.

...2/-

According to appellant he was furnished with the information at point C but he was not furnished with the information of points (a) and (b).

2) In reply to the appeal, the PIO submitted that pursuant to the letter from the appellant, a resolution was passed by the Panchayat in the meeting held on 13/02/2015 and the copy of the said resolution was furnished to the appellant. According to PIO the information at point (a) and (b) could not be furnished to the appellant in view of the fact that the action was awaited and that no notice was issued to the subject party pursuant to the complaint of the appellant.

3) When the matter came up for hearing before me the PIO, Shri Phadte submitted that the information at points (a) and (b) is not available in the records. According to him no show cause notice was issued to party and consequently no inspection was conducted hence the information as sought, is non existing. According to him the appellant was offered inspection of the said records if he desire so, for the purpose of confirmation.

4) As per the submission of appellant he inspected the concerned file. By his affidavit, dated 4/8 /2017 the appellant has also affirmed that he inspected the file and there are no documents in the file with respect to information as sought by him. According to him the PIO has not furnished the information to him.

...3/-

On 27/09/2017, as directed by this commission, the PIO has also filed his affidavit affirming that the inspection of records was taken by appellant on 10/4/2017 and that the said documents at points (a) and (b) could not be furnished as they are not in records of the file.

5) In the course of hearing on 28/09/2017, the appellant also orally submitted that the said records are not available and that no action was taken pursuant to his complaint. He further submitted that as the Panchayat has not taken action on his complaint an appeal is filed to the Director of Panchayat under the Panchayat Raj Act which is pending.

6) From the submission made by the parties and the fact as admitted information at point (a) and (b) is not existing in the files of the Panchayat as no action was proposed. I find that the information at point (a) and (b) is beyond dispensation in terms of section 2(f) of the Act being non existing.

7) 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."

8) In the back drop of the above fact I find no reason or grounds to proceed with the above appeal. Consequently the same is dropped. Proceedings closed.

Notify the parties.

Pronounced in open hearing.

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