

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

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

Appeal No.162/SCIC/2013

Shri Pedrito Misquitta
Souza Vadd,
Candolim, Bardez-Goa . Appellant

V/s

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

Filed on :29/11/2013

Disposed on:28/11/2017

1) FACTS:

a) The appellant herein by his application, dated 06/05/2013 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under eight points therein.

b) The said application was not responded to by the PIO within time and as such deeming the same as refusal, appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

c) The First Appellate Authority (FAA) by order, dated 22/07/2013, allowed the said appeal and directed PIO to furnish the information within 15 days.

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d) In spite of said order the PIO failed to furnish information and 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.

f) In spite of several opportunities granted to the PIO till date no reply is filed by him to the appeal. In view of the same. On 17/10/2017, on behalf of PIO an application was made requesting for copies of the appeal memo and documents for the purpose of filing reply. As the said request was made in 2017 and in spite of the PIO appearing since 2013, the said request was rejected as found not bonafide as it was found that the same is sought after four years of appearance of PIO before this Commission. The matter was therefore posted for orders, with liberty to PIO to file reply if any on or before 27/10/2017.

g) After the matter was posted for orders, on 03/11/2017 the PIO filed his reply to the appellant. Copy thereof was furnished to the appellant. The orders were differed.

2) FINDINGS:

a) I have perused the records and considered the pleadings of the appellant. I have also considered the reply filed by PIO on 03/11/2017. By his application, dated 06/05/2013, the appellant has sought information pertaining to his reply, dated 28/01/2013 to the show

cause notice dated 14/01/2013 issued to the appellant by the respondent Public Authority. The information required was the status of his reply and the action initiated. The appellant also wanted the copy of resolution if any passed as also other correspondence generated. He also desired to have copy of resolution passed from 01/03/2013 and the copies of notices.

b) The said application was not responded to by the PIO resulting in deemed rejection of the request. In the first appeal before the FAA, the PIO has contended that the information could not be issued due to administrative reasons. Such a defence was held as not sustainable by the FAA.

c) In spite of notice to PIO in this appeal no reply was filed herein. However subsequently the same is filed. Considering the nature of information, the same does not stand exempted from disclosure under the act.

d) On perusal of application filed u/s 6(1) of the Act, it can be seen that the information sought pertains to the matter relating to which he is issued a show cause notice and which is replied by him. Hence I hold that the issue is in force and hence the information is available. The same is therefore dispensable, except at point (4) of the application, dated 06/05/2013. The appellant therein i.e. at point (4) has sought for proposed action of the Authority. Such a proposed action does not come under purview of definition of information u/s 2(f) of the act as such information is not yet held by the PIO.

e) In the aforesaid circumstances I hold that the appellant is entitled to have the information as sought by him vide his application, dated 06/05/2013 except at point (4) therein.

f) The appellant has also prayed for penalty against the PIO for non furnishing the information. The matter relates to the year 2013. Present appeal is filed by appellant beyond the period of limitation without giving any opportunity to PIO to resist the delay. Hence by adopting an equitable approach, I desist from granting such relief of penalty.

In the above background I dispose the above appeal with following:

ORDER

The appeal is allowed. The PIO is directed to furnish to the appellant the information as sought by him vide his application dated 06/05/2013, except at point (4) therein free of cost, within FIFTEEN DAYS from the date of receipt of this order by him.

Notify parties.

Appeal disposed accordingly.

Pronounced in open proceedings.

Sd/-

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