

THE GOA STATE INFORMATION COMMISSION

Seventh Floor, Kamat Towers, Patto Panaji-Goa.

Appeal NO.49/SCIC/2017

Miss Sneha Vinayak Parab,
C/o Ninad Gurudas Kamat,
2nd floor, Sushilla Building,
18th June Road,
Panaji –Goa.

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Appellant

V/s

The Public Information Officer,
Commercial Taxes,
Vikrikar Bhavan,
Panaji –Goa.

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Respondent.

Filed on: 13/04/2017

Disposed on: 27/09/2017

1) FACTS:

a) The appellant herein by her application, dated 19/10/2016 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 five points therein, pertaining to her complaint dated 28/09/2015 against one Mr. Pratap Phadte.

b) The said application was replied on 07/11/2016 by PIO intimating the appellant that the inquiry is under process and that the copy of documents cannot be given u/s 8 (1) (j) of the act. The appellant filed first appeal to the respondent No.2, against the said response of PIO.

c) The First Appellate Authority (FAA) by order, dated 15/03/2017 , dismissed the said appeal.

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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 the appellant appeared. The PIO did not file any appearance inspite of notice.

f) In spite of giving several opportunities the PIO failed to file any reply nor filed any submissions. The appellant also has failed to advance any arguments. Hence the matter was posted for orders, based on records.

2) FINDINGS:

a) In the present case the refusal of information is on the ground that the same cannot be given u/s 8(1) of the act. Vide the said response the PIO has informed the appellant that the inquiry against the person in respect the appellant that the inquiry is in process. Thus it appears that the refusal is due to the said pending inquiry. Exemption of furnishing information on account of pending inquiry is available to PIO u/s 8(1) (h) and not u/s 8(1)(j) of the act. Thus the response of PIO to the application of appellant appears to be without proper application of mind.

b) Be that as it may, the appellant herein has sought the copy of the notice, if any issued pursuant to the appellants complaint dated 28/03/2015 filed against one Mr. Pratap Phadte. In fact when any inquiry is initiated pursuant to any complaint the complainant is entitled to know the action taken on the same. This could be done by simply marking a copy of the notice issued to the delinquent person. Such gestures shows transparency in functioning.

c) In the present case the PIO at one stage states that the inquiry is in progress but fails to furnish even the copy of the notice issued to the delinquent to support his plea that any action is taken, on the spurious plea of pendency of inquiry. Inquiry can be initiated only with a prior notice. While replying PIO states that the inquiry is in process suggesting that the notice was given to delinquent. No other version is available before me as the PIO has failed to respond to the notice issued by this Commission.

d) Coming to the order of the FAA I find that the same is an order passed mechanically without application of mind. In the said order the FAA has relied on the order passed by Central Information Commission in the case of *Shri Vijay Kambli* and that of *Shri Milap Chorania*. In the former the appellant has sought for the copies of the proceedings under adjudication and in the latter case the information sought was personal information which had no connection with public activity. The ratio laid in both the cases is not applicable in the present case. The appellant has not sought the proceedings of inquiry. The information sought has a relation with the public activity as according to appellant the delinquent has filed false declaration for securing Government job. The FAA thus has misinterpreted the said orders passed by Central Information Commission. The said order of FAA therefore cannot survive .

e) The appellant herein at points (a) to (c) has sought copy of notice if issued, the reply if filed. These information can be furnished notwithstanding pendency the inquiry. The information

at (d) and (e) as are related to conclusion of inquiry cannot be made available at this stage.

f) In the above circumstances I find that the information as sought by appellant at (a) to (c) of her application dated 19/10/2016 has to be furnished. Hence I dispose the appeal with the following:

O R D E R

The appeal is allowed. The PIO is directed to furnish to the appellant the copy of the notice, if issued, on the complaint dated 28/09/2015 as also the reply if any filed to such notice.

The right of the appellant to seek balance information at point (d) and (e) after conclusion of inquiry are kept open.

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