

GOA STATE INFORMATION COMMISSION

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

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

Appeal No. 90/SCIC/2016

Dr.Ms. Kalpana V. Kamat,
R/o Caldeira Arcade, 1st Floor, Bhute Bhat,
Vasco da Gama 403802 Appellant.

V/s

1) The Public Information Officer,
Asst. Engineer, (V. J. Bhende),
PWD Water Supply Dept.Vasco da Gama.
2) The First Appellate Authority,
(Ashok G. Daiwajna)
PWD Office Panaji-Goa. Respondent.

Filed on :16/05/2016

Disposed on: 31/05/2017

1) **FACTS:-**

a) The appellant filed an application, dated 09/08/2011, u/s 6(1) of the Right to Information Act 2005 (Act) seeking information. As according to the appellant as the said information was not furnished the appellant filed complaint to this Commission under section 18. This Commission by order dated 25/02/2016 dismissed the complaint for lack of first appeal, with liberty to appellant to file first appeal and if aggrieved by such order of first appeal, then to approach this Commission.

b) Accordingly, the appellant filed the first appeal before the First Appellate Authority (FAA), who by order dated 21/04/2016, disposed the same holding that the available information is furnished.

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c) Aggrieved by the order of FAA, the appellant has approached this Commission with this second appeal u/s 19(3) of the act.

d) Parties were notified, pursuant to which they appeared. The PIO filed reply on 17/04/2017. As the appellant remained absent clarification could not be sought and the matter was posted for orders. However, on 26/05/2017, the appellant filed her rejoinder to the reply of the PIO.

2) FINDINGS:-

a) Perused the application u/s 6(1) as also the records. I have also considered the reply filed by PIO alongwith the enclosures thereto. It appears from records that the information sought pertains to alleged misuse of water and the related water connection and of the complaints and representation pertaining to it.

By her application, dated 09/08/2011, the appellant has sought information on 10 points. On perusal of their application, at point (5) to (8) and (10) the appellant has sought information regarding the name and addresses of the persons who has or are responsible for illegal connection, or waste of water. While seeking such information, the appellant has presumed that the water connections are illegal or that there is waste of water.

In case PIO has to answer this requirement, firstly it would amount to his opinion by fixing the responsibility to some person after investigation. Such an exercise to investigate and opine does not constitute information under section 2(f) of the Act as such information is not in existence and is required to be created.

Secondly any reply furnished by PIO on such queries, as asked, would amount to his opinion and admission that there is illegality committed by department either by wastage of water or by illegal release of water to illegal structures.

Considering the above position, I am of the opinion that the information sought by appellant at points (5) to (8) and (10) of her application, dated 09/08/2011, need not be answered under the Act. Even if any of said points are answered, same is voluntary and not as an obligation under the Act.

b) With reference to point No.(1) of the application, dated 08/09/2011 the appellant wanted to have the certified copies of all complaints and letters filed by her from the year 2005 against persons mentioned therein. The said point is answered by reply, dated 29/11/2011 stating that copy of complaint dated 06/12/2010 is enclosed and that other complaints are not traceable. Such a reply clarifies the said point.

c) Regarding point (2) it is clarified by PIO that the action on the complaint filed by appellant on 06/11/2010 cannot be taken for want of jurisdiction.

d) The point Nos. (3) and (4) are also clearly answered that there is no connection in the concerned persons name and that the bills cannot be furnished as the same are held by consumer and what can be given is a statement, which is also furnished.

f) The information at point No.(10) is also appropriately furnished informing that there are no illegal connections released at Baina, Vasco.

Thus on perusal of the reply there remains no issue to be answered vis-a-vis the application of appellant dated 09/08/2011.

g) The PIO, vide his reply dated 17/04/2017 has stated that the said information was furnished to appellant on 10/01/2012 by registered A/D. this statement of receipt by registered post is not denied by the appellant though it is stated that information at (1) (3), (5) and (10) have not been furnished.

h) In the rejoinder filed by appellant to the reply filed by PIO, at paras (8) to (14) the appellant has narrated the alleged incident of waste of water by one Naik family and the alleged nuisance caused by said family. Said narrations also contains the alleged acts of harassment and intimidation.

Such averments/statement/narrations has no relevancy for the present appeal under the act. This Commission has no jurisdiction to investigate into the said allegations nor to issue any orders/directions to such violators. Hence, the said statement in paras (8) to (14) of the rejoinder are redundant for the present appeal.

i) Considering the application filed u/s 6(1) of the act and the reply of PIO u/s 7(1), I find that the appellant has been furnished the information due.

Regarding the grievance of the appellant regarding non furnishing of inspection, I find that the inspection of records is subjective to the applicant if required. When the copies are furnished inspection of the records may be redundant. However, the appellant, if wish so, can seek inspection by filing the application.

j) In the facts and circumstances of the case, I find no merits in the appeal. I therefore proceed to dispose the same with the following.

ORDER

The appeal is dismissed. Notify the parties.

Proceedings closed.

Sd/-

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