

GOA STATE INFORMATION COMMISSION

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

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

Appeal No. 91/SCIC/2016

Shri Vinod V. Kundaiker,
H. NO.188, Behind Hema Apartment,
Margao Borda-Goa. Appellant

V/s

1) The State Public Information Officer,
Member Secretary,
SGPDA, Osia Complex, 4th floor,
Margao-Goa.
2) The First Appellate Authority,
The Chairman,
SGPDA, Osia Complex, 4th floor,
Margao-Goa. Respondents.

Filed on :17/5/2016
Disposed on:3/8/2017

1) FACTS:

a) The appellant herein by his application, dated 8/2/2016 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under six points therein.

b) The said application was replied on 7/3/2016, intimating the appellant to obtain necessary documents after inspecting the file. However according to appellant the information as sought was denied and hence the appellant filed first appeal to the respondent No.2 on 10/3/2016, being the First Appellate Authority (FAA).

According to appellant, the First Appellate Authority (FAA) till date of this appeal has not passed any order on the said appeal.

c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act

d) Notices were issued to the parties, pursuant to which the PIO alongwith the advocate appeared. Appellant failed to remain present inspite of notice. The PIO on 2/5/2017 filed affidavit in reply to the appeal . On 19/6/17 the PIO filed a memo alongwith copy of the order of FAA as also the copy of site inspection report, which according to PIO was refused by the appellant. .

e) The appellant remained absent all throughout the proceedings inspite of notice and several opportunities granted to him. In view of the continuous absence of appellant submissions of the PIO were heard. The advocate for PIO submitted that her written reply be treated as her submissions in the appeal.

2) FINDINGS

a) I have perused the records. By his application u/s 6(1), the appellant at point 1, 2, 4 to 6 has sought certified copies of five documents and at 3 the name and designation of the official who allegedly not recommended/placed site inspection report of member Secretary.

On going through the said requirement, I find that the requirement at para (3) of the application does not refer to existing information and requires the PIO to investigate and collate information, hence the same does not constitute information and need not be furnished.

b) Regarding rest of the requirement at points 1, 2, 4 to 6, the appellant has asked for certified copies of certain documents. Such documents would either exist or not. In case of former the appellant is entitled for the certified copies and

if not then the PIO is required to reply appropriately.

c) The PIO, while responding to the appellant's application u/s 6(1), has requested the appellant to inspect the file and obtain necessary documents after doing necessary payment. According to PIO this response to appellant is as per section 3(a) of the act.

As rightly contended by appellant in appeal memo, there is no section 3(a) in the Act. If the PIO refer the same to sub section 3(a) of section 7 of the act, then such a right can be exercised by him after determining the actual fees. In the present case the PIO, without assessing whether the information is available or not and without assessing the fees payable, has casually responded the application u/s 6(1). I find such act of PIO as totally vague and casual and not in conformity with the requirements of the act.

d) The PIO in his reply filed before this Commission has avered that as no illegality was found to have been committed as per inspection, according to him the points (2) (5) & (6) are hypothetical as there was no consequential information.

While noting that there was no illegalities detected and consequently no further information was available, I find that the said facts could have been informed by PIO in reply to appellant's application u/s 6(1). There was no need to call the appellant for inspection as he had not sought for the same. He could have simply replied that there were no illegalities detected and consequently further information is not in the records of Public Authority.

e) The PIO, on 19/06/2017 filed on record the copy of order dated 16/05/2016 passed by FAA. The said order was passed pending this second appeal before the Commission and after

the expiry of statutory period of 45 days granted to FAA. The first appeal was filed on 10/03/2016 and ought to have been disposed on or before 27th April 2016. Having not passed the order within time stipulated, the first appeal had become infructuous and the said order in said appeal becomes redundant. Thus the appellant having approached this Commission, the order of FAA in first appeal is without any effect.

f) Considering the above facts, I find that the approach of PIO and the FAA, to the application of appellant was not in accordance with the requirement of the act.

However, considering the fact that the PIO, in his affidavit in reply has affirmed on oath that the information at points 2, 4 to 6 does not exist, as no illegalities were found and that the available information, which is the inspection report is filed on record, I find the said application u/s 6(1) of the appellant, dated 08/02/2016, does not require any further consideration.

g) The appellant in this appeal has prayed for a direction to FAA to pass order in appeal. I find that such a relief is redundant in view of the fact that on the 46th day from the date of filing of first appeal, notwithstanding the fact that no order is passed by FAA, the right in favour of appellant accrues to approach this Commission in second appeal, which is accordingly exercised by appellant.

Considering the above facts and the circumstances and though I find that the response of the PIO and FAA to the requirement and grievance of the appellant were not in conformity with the act, I find that nothing survives now as

the dispensable information is offered by PIO. In the circumstances. I proceed to dispose this appeal with the following.

ORDER

The appeal stands dismissed. However the appellant shall be entitled to collect from this Commission the certified copy of the inspection report, dated 19/02/2016 filed by the PIO in this appeal on 19/06/2017, within fifteen days from the date of receipt of this order.

Proceedings closed.

Notify parties.

Pronounced in open proceedings.

Sd/-

(Mr. Prashant S. Prabhu Tendolkar)

State Chief Information Commissioner

Goa State Information Commission

Panaji-Goa