GOA STATE INFORMATION COMMISSION

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

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

Appeal No.99/SCIC/2016

Shri Jawaharlal T. Shetye,
H.No.35, Ward No.11,
Khorlim, Mapusa –Goa. ….. Appellant

V/s

1) The Public Information Officer,
Under Secretary Personnel-I,
Personnel Dept. Porvorim –Goa.
2) The First Appellate Authority,
Additional Secretary Porvorim,
Secretariat, Porvorim –Goa. ….. Respondent.

Filed on : 23/5/2016

Disposed on: 02/05/2017

1) FACTS:

a) The appellant herein by his application, dated 4/2/2016 and in warded on 5/2/2016, filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under several points therein. This application was preceded by inspection of the records.

b) The said application was replied on 3/3/2016 by the PIO, calling upon the appellant to pay an amount of Rs.232/- towards cost of information. However according to appellant the said letter was received on 10/3/2016 and hence beyond the statutory period of 30 days and hence he is entitled for the information free of cost. In this context he made representation to PIO to furnish the information free of cost but the same was rejected by PIO.

c) Against the refusal to furnish free information the appellant filed first appeal to the respondent No.2, who by order, dated 15/4/2016,dismissed the appeal.

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d) 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. The PIO on 24/3/2017 filed a reply to the appeal . Arguments were heard.

2) FINDINGS

a) I have perused the records and also considered the submissions. In the present case the application under section 6(1) filed by appellant was received by PIO on 05/02/2016. The same was responded to by PIO on 03/03/2016, directing the appellant to pay the charges.

b) The appellant contends that he received the same on 10/03/2016 and that the same was registered for dispatch on 04/03/2016 and was taken by Central registry on 08/03/2016.

c) Considering the above sequence of stages the position remains that the PIO has responded to the application within 30 days being the time as stipulated under the act. The delay caused in receiving the response by the appellant was only due to administrative or postal delay.

d) The appellant has claimed free information on the ground of delay in responding. I find no bases to accept this argument. Section 7(6) of the act which has created an ground for seeking free information reads;

> ***"7. Disposal of request.***___*(1)*
>
> *(2)*
>
> *(3)*
>
> *(4)*
>
> *(5)*

6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).”

Sub section (1) as referred therein reads

“*1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9 “*

e) Thus the above provisions makes it mandatory on the PIO either to provide information on payment of fees or to reject the request. The time for demand of fees, indicating that the information shall be furnished, is also included in the said time of thirty days. As the act of payment of fees involves the PIO and the applicant, it is only after completion of the process of payment of fees that the information can be furnished. What is expected under section 7(1) of the act is the response of PIO to the applicant’s application either indicating that the information shall be furnished or not.

f) The appellant does not dispute that the PIO has responded to the request on 3/3/2016 but as the same was received by him on 10/3/2016 he wants the same free. Such an argument appears only technical. What is required is the response of PIO in time, which is found herein. Though there was postal delay the same cannot be attributed to PIO or the Public authority. PIO, having performed its

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obligation within time, the appellant cannot claim the information free.

g) The appellant has challenged the order of FAA herein on the ground that appellant is entitled to receive the information within 30 days. Such and assumption is wrong. As stated above this period of thirty days is for responding the application either by i) by furnishing it, ii) demanding fees if any and iii) rejecting the same with reasons. In case the information has to be furnished on receipt of fees, the time for dispensation of such information will be proportionately extended till the fees are paid. The appellant herein having not paid the demanded fees, cannot raise the said ground herein for claiming information free.

h) considering the above circumstances I find no merits in the appeal and the same is therefore disposed with the following:

O R D E R

The appeal stands dismissed. The order dated 15th April, 2016, passed by the First Appellate Authority (FAA) in appeal NO.1/01/2015/AS(P)/RTI-FAA/34, is upheld. The Appellant shall be entitled to receive the information from the PIO within 15 days from the date of receipt of this order by him and on payment of the fees.

Pronounced in the open proceedings.

Parties be notified.

Proceedings closed.

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