

GOA STATE INFORMATION COMMISSION

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

Appeal No. 101/SCIC/2015

Smt. Antonia Michelle Abel,
Flat A-3Bella Vista Apartments,
O'Coqueiro Circle,
Alto Porvorim, Goa.Pin. 403521.

..... Appellant

V/s.

1. Public Information Officer
Office of the Chief Electoral Officer,
Altinho Panaji Goa.
2. First Appellate Authority
Office of the Chief Electoral Officer,
Altinho Panaji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 10/08/2015

Decided on: 10/07/2017

ORDER

1. The facts in Brief which arises in present appeal are that Ms Antonia Abel, the appellant herein by her application dated 5/11/14 sought information from Central public information officer, Election Commission of India, New Delhi on three points as stated therein in the said application. The said information was sought by appellant in exercise of her right u/s 6(1) of the RTI Act 2005.
2. The application of the appellant dated 5/11/14 was transferred by the Central public information officer Election Commission of India New Delhi office to the PIO of office of Chief electoral officer, Panajim Goa on 13/11/14 u/s 6(3) of RTI Act.
3. The APIO of the office of Chief electoral office Panjim inturn transferred the same u/s 6(3) to the collector (DEO) of North Goa District and South Goa District vide their letter dated 21/11/14.

4. 4. Since the said application was not responded and as she did not receive any information, the appellant then preferred the first appeal on 30/1/2015 before the office of the Chief Electoral officer Altinho Panaji Goa who is the respondent No. 2 herein wherein her first appeal was not entertained by the respondent No. 2.
5. The appellant also filed first appeal before the chief electoral officer at Secretariat, Porvorim on 28/5/15 which was disposed vide order dated 9/7/15 wherein the appeal of the appellant was dismissed.
6. Being aggrieved by the action of both the Respondent the present appeal came to be filed before this commission on 10/8/15 thereby seeking prayer for directions to the Respondents No. 1 PIO for furnishing her information and for invoking penal provisions.
7. In pursuant to the notice of this commission appellant was present on two occasion and then opted to remain absent. PIO is represented by Mrs. Shivangi Amonkar who filed reply on 20/6/2017. The copy of the reply could not be furnished to the appellant on account of her continuous absent.
8. It is the contention of the Respondent No. 1 PIO that the subject matter of the RTI application falls within the jurisdiction of state election commission and not the chief electoral officer. It is further contention of the PIO that the appellant had shown willingness to withdraw the proceeding for misjoinder of Respondent.
9. On scrutiny of the records it is seen that the application of appellant finally was transferred to the collector (DEO) North Goa District and South Goa District respectively for furnishing the information to the appellant. The District election officer are separate entities having separate public information officers and first appellate authorities. The appellant ought to have preferred first appeal before the first appellate authority of the respective district election offices for non receipt of information from the PIO of District of election office North/South Goa District. The Respondent No. 2 The Chief Electoral

Officer at Secretariat, porvorim in his order dated 9/7/15 had also held that he cannot act as a First appellate authority of District Election offices as such he dismissed the said appeal for want of jurisdiction.

10. The Judicial institution operate in hierarchical jurisprudent the appellant ought to have exhausted the alternate and efficacious remedy of first appeal before approaching the higher forum. In the present case the appellant has failed to file appeal before an appropriate forum. Such a remedy of filing first appeal would also be inconformity with the provision 19(5) of the Act and grant of fair opportunity to the PIO to prove the denial of request for information was justified.
11. The second appeal is filed against the respondents who had transferred the said application u/s 6(3) of the RTI Act and not against the PIO of the District election officer, North/South Goa District who was holding the said information. As they are not impleaded parties to the present appeal, no directions can be given to them for furnishing the information.
12. It appears that appellant is now not interested in pursuing the present appeal as such not made herself available before this commission to substantiate her case and as such contention of the Respondent that appellant wanted to withdraw the proceedings for misjoinder of Respondents appears to be genuine.
13. In the above given circumstances I hold that the present appeal filed against the rejection of the application for information is not maintainable.

The appeal stands dismissed

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

(Ms.Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa