

GOA STATE INFORMATION COMMISSION
'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

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

Appeal No.78/SCIC/2017

Antonio Domingos Furtado,
H.No.225/1 Sinquetim Navelim,
Salcete-Goa.

Appellant.

V/s

- 1) Shri Salim A. Veljee,
Director of Food & Drugs Admin.,
Bambolim –Goa.
- 2) Smt. Jyoti T. Sardessai,
Dy. Director of Foods & Drugs Admin.,
Bambolim-Goa.

Respondents.

Filed on :19/6/2017

Disposed on:10/11/2017

1) FACTS:

a) The appellant herein by his application, dated 22/4/2017 filed u/s 6(1) of The Right to Information Act 2005(Act), sought certain information from the Respondent No.2, PIO under seven points contained therein.

b) The PIO on 11/5/2017 called the appellant to deposit the cost of information, which was deposited by appellant on 18/5/2017. The PIO accordingly on 18/5/2017 furnished the information vide reply, dated 18/5/2017.

c) According to appellant he was not satisfied with the information as furnished and hence the appellant filed first appeal to the respondent No.1.

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d) The First Appellate Authority (FAA), the respondent no.1 herein by order, dated 7/6/2017 disposed the said appeal interalia holding that the PIO has responded with the available information.

e) According to the appellant he is not satisfied with the order passed by the FAA and hence he has landed before this commission in this second appeal u/s 19(3) of the act.

f) Notices were issued to the parties, pursuant to which they appeared. The PIO on 27/9/2017 filed a reply to the appeal alongwith the copies of the papers, which according to her was the information as was furnished to the appellant. Copy of the said reply alongwith the annexures was furnished to the appellant. The matter was thereafter posted for arguments. On 13/10/2017. On the said date the appellant remained absent hence arguments of the PIO were heard and the matter was adjourned for orders. Even subsequently the appellant did not attend the commission nor taken any steps. This order is therefore passed on the bases of records.

2.FINDINGS:

a) I have perused the records and considered the pleadings of the parties. I have also considered the submissions of the PIO.

b) By his application u/s 6(1) of the act, at points 1,2,5,6 and 7 the appellant required copies of the concerned documents. The same are furnished by the PIO as per her reply dated 18/5/2017. I have also perused the annexures to the reply. In the said annexures are found copies of (i) the complaint filed by one Minguel Fernandes, dated

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22/2/2017,(ii) Copy of notice dated 6/3/2017 issued by the Dte. of Food & drugs,(iii) file notings starting from 24/2/17,(iv) Application for registration under Food Safety and Standards Act 2006,(v) Establishment licence dated 23/2/17 as also another licence, dated 17/3/2012.All these copies are the copies of documents as sought at serial nos.1,2,5,6 and 7 of the said application u/s 6(1) of the act. The said copies are thus furnished. Besides said copies certain other copies and annexures are also furnished.

c) Regarding the information sought for at points (3) which is the copy of notice served on complainant. The PIO has replied that such copy is not available and that there is no provision to serve copy of show cause notice to complainant. In addition to that the appellant is furnished with a copy of letter, dated 7/4/2017 intimating about the action taken to the concerned complainant. Thus the said point is appropriately replied.

d) Regarding point (4) of the application the PIO has replied that there are no records of fine or penalty imposed and has also clarified that there are no provisions to impose fine or penalty. Thus the same is also replied.

The latter part of the said point as sought is in the form of reasons as to why the fine is not imposed. The reasons are beyond the scope of the act and beyond dispensation by the PIO hence the second part of the requirement has been appropriately dealt with by the PIO.

e) While considering the extent and scope of information that could be dispensed under the act, the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para 35 has observed :

“35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the

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citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

f) I have perused the copy of the appeal memo as filed by the appellant before the FAA. In the said appeal the response of PIO was challenged only on the ground that the appellant is not satisfied with the information. The reason for said non satisfaction was not substantiated by the appellant. The FAA has considered the information furnished by the PIO vis a vis the application, dated 22/4/2017 and has concluded that whatever that could have been furnished has been issued to appellant. I find no illegality in the said order of FAA.

g) The appellant herein has challenged the said order of FAA on the sole ground that he is not satisfied with the order of FAA. Here again the appellant has not clarified or substantiated as to whether any information is withheld. As found above the information as is due has been furnished by PIO except the reasons for not imposing fine, which is beyond the scope of the act. Nothing is left to be furnished further.

h) In the above circumstances, I find no merits in the appeal and the same is liable to be dismissed. I therefore dispose the present appeal with the order as under:

O R D E R

The appeal is dismissed. However the right of the appellant to seek any further information for clarification of the one availed, are kept open.

Proceedings closed. Notify the parties.

Pronounced in the open proceedings.

Sd/-

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

