

GOA STATE INFORMATION COMMISSION

Seventh Floor, Kamat Towers, Patto, Panaji, Goa.

Appeal No. 96/SIC/2013

Dr. (Ms.) Kalpana V. Kamat,
Caldeira Arcade, 1st floor,
Bhute Bhat, Mestawado,
Vasco-Da-Gama, Goa
V/s.

..... Appellant

1. Public Information Officer (PIO),
Directorate of Food and Drugs Administration,
Dhanwantari, Opposite Shrine of the Holy Cross, Bambolim-Goa
2. First Appellate Authority (FAA),
Directorate of Food and Drugs Administration,
Govt. Of Goa,
Panaji-Goa

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 31/07/2013

Decided on: 13/10/2017

ORDER

1. The second appeal came to be filed by the Appellant Dr. (Ms.) Kalpana Kamat , on 31/07/2013 against Respondent No. 1 Public Information Officer (PIO) , Office of Directorate of Food and Drugs Administration, Panaji- Goa and as against Respondent No. 2 First Appellate Authority (FAA) under subsection (3) of section 19 of the Right To Information Act 2005 (RTI Act).
2. The brief facts leading to present appeal are that the appellant vide application dated 25/04/13 have sought information on 15 points as stated therein in the said application. The said application was filed under section 6(3) of Right to Information Act 2005.

3. The Respondent No. 1 PIO responded the same vide letter dated 21/05/13 thereby calling upon the appellant to deposit Rs. 62 towards the cost of said information. She was also called upon to examine the documents/ files as requested by her.
4. Being not satisfied with the reply of Respondent No. 1 PIO the appellant filed 1st appeal before directorate of food and drug administration on 30/05/13 being First appellate authority (FAA).
5. According to the appellant the Respondent No. 2 FAA did not dispose the first appeal as such being aggrieved by the action of both the respondents the present appeal came to be filed with the prayer for directions to the Respondent No. 1 PIO for providing her information as sought by her and for invoking penal provisions u/s 20(1) of RTI Act.
6. The reply was filed by the respondent PIO on 21/02/2014, thereby enclosing the supporting documents.
7. After appointment of this Commission, a fresh notices were issued to both the parties.
8. In pursuant to notice appellant appeared in person. Respondent No. 1 PIO Mrs. Jyoti Sardesai along with her Advocate Harsha Naik was present.
9. In the course of hearing the present PIO volunteered to furnish the information by registered A. D. The appellant was directed to verify the information and submit accordingly on the next date of hearing.
10. On the subsequent date of hearing the appellant submitted that she has received the information on 26/09/2017 which was sent vide forwarding letter dated 20/09/17 by the PIO. The Appellant also requested the Commission to close the proceedings.

11. The Respondent PIO also placed on records the covering letter dated 20/09/17 alongwith the information furnished to the appellant.
12. On scrutiny of the records it is seen that the appellant was furnished the information on 14/06/13 free of cost and She had examined/inspected documents and files on 26/06/2013. Further in pursuant to the letter dated 26/06/2013 the documents as requested by her was also furnished to her by the PIO. Before this commission also the information was refurnished by PIO to appellant vide forwarding letter dated 20/09/2017. On verification of said reply visa vis the application dated 25/04/2013, it is seen that the information/documents at point no.1, 2, 4 to 9 , 14 and 15 were duly furnished to the appellant. The other information was rejected as it was not coming within the definition of information under the RTI Act.
13. On perusal of the point number 3, 10, to 13 it is seen that the Appellant is trying to ask for the opinion or the reasons from the PIO. The PIO is duty bound to furnish the information as available and exist on record of the Public Authority. He cannot create information only to suit the requirements of the information seekers.
14. The Hon'ble supreme Court in "***Central Board of Secondary Education and another V/s Aditya Bandopadhyay and Others (Civil Appeal No. 6454 of 2011)***", while dealing with the extent of information under the Act at para 35 has abserved:

"At this juncture, it is necessary to clear some misconception about the RTI Act . **The RTI Act provides access to all information that is available and existing . This is clear from the combined reading of section 3 and the definition of "information " and "right to information" under**

clause (f) and (j) of section 2 of the Act . If the 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, 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 of 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 citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”*

15. Yet in another decision Hon’ble High Court of Bombay at Goa in the case of **Dr. Celsa Pinto V/s. The Goa State Information Commission and another, reported in 2008(110)Bombay L.R.1238 at relevant para 8 has held**

“ The definition of information cannot include within its fold answers to the question “why” which would be same thing as asking a reason for a Justification for a particular thing, **The Public information authorities**

cannot be expected to communicate to the citizens the reasons why a certain thing was done or not done in the sense of justification because the citizen makes a requisition about information .

justifications are matters within the domain of adjudicating authorities and cannot properly be classified as information .

16. The Apex court in case of Peoples Union for Civil Liberties V/s Union of India " AIR Supreme Court 1442 has held:-

"Under the provisions of RTI Act of Public Authority is having an obligation to provide such information which is recorded and stored but not thinking process which transpired in the mind of authority which an passed an order".

17. By applying the same ratio to the present appeal, I find that information sought by the appellant in the form of opinion and queries does not come within the purview of definition of information. Hence, I find no irregularity or perversity in the reply of PIO or in the order of First appellate authority.

18. The records also reveals that Respondent No. 1 PIO was diligent in performing his duties under RTI Act. There is no cogent and sufficient evidence brought on records by the appellant exhibiting that information was malafiedly denied to her, as such the prayers which are penal in nature are not granted.

19. In the above given circumstances nothing survives to be decided in the present appeal.

20. Appeal disposed accordingly.

21. Proceeding stands Closed.

Pronounced in open proceedings. 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.

Sd/-

(Ms. Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

Kk/-