

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

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

Appeal No. 44/SCIC/2016

Shri Ulhas R. Mainikar,
B-14/1, Police Quarters,
Alto Porvorim –Goa.

Appellant

V/s

1) The First Appellate Authority,
Director of Settlement & Land Records,
Panaji –Goa.

2) The Public Information Officer,
The Superintendent of Survey & Land Records,
Panaji –Goa.

Respondents

Filed on : 10/03/2016

Disposed on: 09/02/2017

FACTS:

a) The appellant herein by his application, dated 02/11/2015 filed under section 6(1) of the Right to Information Act 2005 (Act) Sought certain information from the Respondent No.2, PIO under six points therein.

b) There said application was replied by PIO on 23/11/2015, intimating that the information at point 1 and 2 is and that at 3 to 6, the information is not readily available as the office has not maintained the register or file in reference to name of surveyor. He was further advised to carry out inspection of files.

c) According to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2.

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d) The First Appellate Authority (FAA) by order, dated 08/01/2016 decided the said appeal and allowed appellant to inspect documents and whatever documents requested to be furnished.

e) After inspecting the documents, the appellant by another application dated 20/01/2016 sought from the PIO further information giving the list of partition cases and its file numbers and seeking certified copies of all the documents in the files with relevant enclosures.

f) In spite of the said application the PIO did not furnish the information and hence the appellant has approached this Commission with the present second appeal.

g) In the mean time the PIO has filed an appeal against the said order dated 08/01/2016 whereby the appellant was permitted to inspect the documents and directing to submit the required information free of cost.

h) Notice of the appeal was sent to the parties pursuant to which they appeared. In the reply filed by the PIO it is his contention that the information as sought for by the application dated 20/11/2015 was partly furnished and the remaining information was not available with the department as registers of files are not maintain in reference to the names of the surveyor.

It is further according to PIO that the second application dated 22/01/2016, required the PIO to give information pertaining to 958 files and as the information was voluminous the same could not be furnished. It is according to the PIO that the first appeal was disposed without hearing the PIO.

i) The PIO also filed additional reply and the appellant filed rejoinder .

j) As the present proceedings involved 2 applications seeking information under section 6(1) of the Act being dated 2/11/2015 and 20/1/2016 and as the information sought in both the said applications was different, the appellant was asked to clarify whether he requires the information under both the applications or only under one of the applications. Accordingly, by memo dated 06/12/2016 the appellant clarified that the information which he is insisting upon is as sought by application, dated 02/11/2015 at points 3 to 6. Hence while dealing with this appeal I would consider the request of the appellant as per his said application, dated 2/11/2015.

FINDINGS:

a) Admittedly according to the appellant the information at point 1 and 2 of the said application dated 02/11/2015 has been furnished hence it is necessary to consider the requirements at points 3 to 6.

b) In the reply given by the PIO to the said application, dated 02/11/2015, it is the contention of PIO that the said information is not available in this directorate as the said office has not maintained the register of files with reference to the name of the surveyor. In other words according to PIO the information as is sought is not available in the same form and such as that the same has to be compiled. Section 7(9) requires the PIO to provide the information in the form in which it is sought. The said provisions reads:

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Section 7(9) :

“An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.”

c) Considering the nature of information that is sought, the appellant has sought for information pertaining to one surveyor by name Shri Shikant B. Patil, the records of survey conducted by said surveyor are sought. According to PIO there are no such records maintained with specific reference to the respective surveyors. According to the PIO vide his reply, dated 04/07/2015, that the said surveyor Shri Patil has joined his duty in the year 2009. Hence for the purpose of furnishing the information in the form as sought, it would be necessary to compile the same for the last about six years. This would involve the diversion of staff in summarizing the records and prepare the information in the format of the appellant.

d) 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

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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.....”

e) Thus considering the scope of information that the appellant herein would be entitled to seek, I find that the PIO was justified in not furnishing the information to queries 3 to 6, being not in existence in the form as was sought by the appellant.

f) However, this by itself cannot debar the appellant from seeking the information as it exist , with specific reference to the documents pertaining to such information. Such an exercise can be undertaken by the appellant by inspecting the records and seek further information by referring to the file number /page number /reference number/date etc. which would sufficiently identify such documents .

g) In the backdrop of the above facts and the law, I find that

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the present appeal cannot survive and hence is required to be disposed with the following:

ORDER

The appeal is dismissed. However the appellant shall be entitled to seek further information by referring to the file number/page number /reference number/date etc. which would sufficiently identify such existing documents/information after inspecting the files after fixing a mutually convenient date.

In case such application is filed for inspection or information, the PIO shall decide the same afresh in accordance with the provision for Right to information Act 2005 and the rules framed there under.

Order to be communicated to the parties.

Proceedings closed.

Pronounced in the open proceedings.

Sd/-

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