

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

Appeal No. 32/SIC/2013

Dr. Kalpana Kamat,
Caldeira Arcade, 1st floor,
Bhute Bhat, Mestawado,
Vasco-Da-Gama, Goa.

.....Appellant

V/s.

1. The Public Information officer,
(Minister of Urban Dev. &
Dy. Chief Minister/Chief Minister of Goa.)
Under Secretary (GA-I),
Secretariat –Porvorim Goa.

2. First Appellate Authority,
(Minister of Urban Dev. &
Dy. Chief Minister/Chief Minister of Goa.)
Joint Secretary (General Administration),
Secretariat –Porvorim Goa

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 13/03/2013

Decided on:13/10/2017

ORDER

1. The appellant , Dr. Kalpana Kamat has filed the present appeal praying the information as requested by the appellant in her application dated 4/1/2013 be furnished to her correctly and for invoking penal provisions .
2. The brief facts leading to the present appeal are as under :-
That the appellant , vide his application , dated 4/1/13 addressed to the public information officer (PIO) of the office of the Minister of Urban Development and Dy. Chief Minister Secretariat Porvorim, Goa requested to furnish the certain information on the point No. (1) to (14) and also sought for

inspection of the documents in respect to her 12 letters inwards with covering letter dated 4/12/2012. The said application was filed u/s 6 of RTI Act, 2005.

3. The PA to Dy. Chief Minister vide letter dated 19/02/2013 transferred the said application to the Joint Secretary (GA) Secretariat Porvorim Goa to deal with the said application. The applicant was also informed by the P.S. to the Hon'ble Chief Minister vide letter dated 21/1/2013 that no information was available in their office.
4. The appellant being not satisfied with the said reply received from Respondent No. 1 PIO, as such the appellant on 4/2/13 preferred first appeal as contemplated u/s 19(1) of RTI Act with the Respondent No. 2 Minister of Urban development and deputy CM being the first appellate authority.
5. The Respondent No. 2 FAA by an order dated 26/3/2013 dismissed the said appeal of the appellant on the ground that the information sought by the appellant was not covered within the ambit of RTI Act, 2005.
6. As no information was received by the appellant and being aggrieved by the action of both the respondents, the appellant approached this commission on 13/3/2013 by way of second appeal filed u/s 19(3) of the RTI Act on the grounds as raised in the memo of appeal.
7. Reply was filed by the Respondent PIO on 11/7/2014 thereby by resisting the appeal and also submitting that information could not be provided to the appellant as a same was not available in the office of Deputy Chief Minister. Vide said reply it was further contended that whatever applications received in the office of Deputy Chief Ministers were forwarded to

respective Government Department for necessary action and the appellant was requested to approach them for the purpose of redressing her grievances . It was further contended that information sought is only the queries and not the information as contemplated in the RTI Act .

8. After the appointment of this commission fresh notice were issued to both the parties .In pursuant to the notice of this commission Appellant was present in person. Respondent No. 1 PIO Maria Fatima R Disa was present along with Advocate Arun Talaulikar . Respondent No. 2 FAA absent.
9. Additional Reply also filed by the present PIO on 9/10/2017 interalia submitting that she has verified the records and that no such information is available.
10. I have perused the record available in the file also considering submissions of the both the parties.
11. From the scrutiny of the records , it is seen that the Respondent PIO right from the inception has informed that information is not available in their office.
12. PIO is duty bound to furnish the information as available on record of the public authority . PIO is not required to create the information for the purpose of furnishing the same to the information seeker. The said observations of mine are based on the ratio laid down by the Apex court in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya.
13. In the above given circumstances Since the information is not available with the public authority concerned herein, the same cannot be directed to be furnished.

14. I also do not find any cogent and convincing evidence against Respondent PIO for invoking penal provisions and for granting compensation. As such the prayer of penalty sought by the appellant also cannot be granted.

The appeal disposed accordingly the proceedings stands closed.

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

Ak/-