

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

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

Appeal No. 174/2017/SCIC

Mr. Shrikant Naik Simepurushkar,
R/o Flat No.F2,
Ananta Apartment, Angod Waddo,
Mapusa Bardez-Goa. Appellant

V/s

The Public Information Officer,
Dy. Collector & SDO,
Mapusa Bardez –Goa. Respondents

FILED ON:26/10/2017

DECIDED ON:27/3/2018

O R D E R

1. In the course of hearing of this appeal on 7/2/2018, the PIO filed on record a copy of the letter, dated 13/10/2017 addressed to the appellant by the PIO. The said letter contained the information sought by the appellant by his application, dated 9/8/2017 filed u/s 6(1) of the act.

2. The appellant admitted having received the said letter dated 13/10/2017 and the entire information sought by him. However according to the appellant the said information was furnished about 15 days after the order of the First Appellate Authority. Hence he requested that the further reliefs be considered.

3. I have perused the records. Vide the appeal memo the contention of the appellant is that the PIO has not

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given satisfactory reply to his application. He therefore filed the first appeal to the First appellate Authority. The First Appellate Authority redressed the grievance of the appellant by order, dated 29th September 2017. Accordingly by reply, dated 13/10/2017 the information is admittedly furnished. The order of the First Appellate Authority has not specified any time for furnishing of information. Even otherwise the date of service of the said order of First Appellate Authority is not on record. In this context it cannot be held that there is any deliberate delay in furnishing the information.

4. The said order of FAA was acceptable to the appellant. If one peruses the provisions of the act, at section 19(5) in any appeal, an opportunity is granted to PIO to prove that the denial of request was justified. Thus the appellant had succeeded in his claim before the FAA and hence the appellant had no grounds to challenge the said order by this second appeal. This view of mine is fortified by the ratio laid down by the High Court of Calcutta in the case of **Metropolitan Cooperative Housing Society Ltd. and another V/S The state Information Commission and others (W.P.12292(W) of 2009)** wherein it is held:

“16. I need not on this petition decide whether the second respondent correctly decided the issue as to whether the first petitioner is a public authority within the meaning of the RTI Act or not, for the reason that the appeal before him was not competent. A right of appeal must be traceable in a statutory provision is settled law. Section 19 of the RTI Act does not confer any right on an information

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seeker to prefer either first appeal or second appeal if information as claimed by him is directed to be furnished by the original authority or the first appellate authority, as the case may be. Here the first appellate authority allowed the claim of the fifth respondent. If anyone could be regarded as person aggrieved by the decision of the first appellate authority, it were the petitioners. The fifth respondent having succeeded in his claim before the first appellate authority, he could not have filed second appeal. The order dated 25/06/2009 is also not sustainable in law on this sole ground.”

5) The act provides that the delay in furnishing information is punishable but the same is not in each and every case. Such an order can be passed while deciding a complaint or an appeal and not independently. In the present case as held above in the case of *Metropolitan Cooperative Housing Society Ltd. (supra)* as the appeal itself is not maintainable, no orders therein can be passed on the other reliefs therein.

6) In the back drop of the above facts I find that the appeal is not maintainable and consequently I proceed to dispose the same with the following:

O R D E R

The appeal is dismissed. The parties to be notified.

Proceedings closed.

Pronounced in the open proceedings.

Sd/-

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

