

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Shri Perpetuo A.R.Fernandes,
H.No. 237, Souza Vado, Candolim,
Candolim, Bardez - Goa.

Appeal No. 158/2018/SIC-I

.....Appellant.

V/s.

1. The Public Information Officer,
Village Panchayat Candoim,
Candolim Bardez- Goa.
2. First Appellate Authority ,
Block Development Officer (B.D.O.)
Mapusa Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 29/6/2018

Decided on: 20/07/2018

ORDER

1. The appellant Shri Perpetuo A.R. Fernandes has filed the present second appeal on 29/6/2018 against the PIO of the Village Panchayat, Candolim, interms of section 19(3) of RTI Act 2005. In the present second appeal the appellant has prayed for direction for finishing necessary information as earliest and for initiating action against the PIO for dereliction of duty .
2. The brief facts leading to present appeal are as under;
 - a. The appellant vide his application dated 22/2/2018 had sought information as set out in the said application under the RTI Act, 2005 from Respondent NO.1 PIO which was replied by Respondent no. 1 PIO on 20/03/2018.
 - b. Being not satisfied with the reply of Respondent PIO , the appellant sought additional information vide his application dated 21/3/2018 and yet another three application dated 19/4/2018 , 16/5/2018 and 20/5/2018. The same was also responded by the Respondent PIO on 15/5/2018, 15/6/2018

and 27/6/2018 respectively. Thus there were total 5 application were filed by the appellant.

c. The appellant being not satisfied with the replies and the information furnished to him, have approached this commission with the present appeal.

3. During the hearing before this commission the appellant was present in person. Respondent PIO was represented by Advocate S.P Desai. on Behalf of FAA Shri Keshavrau S. Naik was present.
4. Advocate S. P. Desai pointed out that the present appeal is filed directly without preferring first appeal and as such it is his contention that the present appeal is not maintainable.
5. I perused the records and also considered submission made on behalf of both the parties.
6. On verification of the memo of appeal along with the enclosure it is seen that various applications of the various dates dated 22/2/2018, 21/3/2018, 19/4/2018,16/5/2018 and 28/5/2018 were filed by the appellant u/s 6(1)of RTI Act 2005 which were duly replied independently on 20/3/2018,15/5/2018,15/6/2018 and 27/6/2018 respectively. In some the information is either furnished or not, thus each application constitute an independence cause of action for appeal with reference to relief and limitation. In this appeal the appellant has clubbed several applications u/s 6(1) of RTI Act. This applications starts from February 2018 till May 2018 i.e spread over nearly for four months. Though the subject matter is common, each application constitute a distinct and separate cause of action for the purpose of grant of relief. It is not permissible to club all the application together. Such and exercise would take away the valuable right of defense which is accrued in favour of opponent and may result in grant of time barred relief .
7. I am of the opinion that the appeal which involves a defect in nature of misjoinder of cause of action, would not be maintainable.

8. Be that as it may; in the present case the appellant has not preferred appeal before the FAA and as such not exhausted his first remedy before the FAA. The role of Commission as prescribed u/s 19(3) by way of second appeal and there to is only against the decision of FAA. In other words the role of commission would come and play only after the issue is decided only after the FAA. The appellant has fairly admitted that he had not preferred first appeal and showed his willingness and desire to exhaust his first remedy in respect of his above RTI Application and the replies given by the PIOs thereto. However he sought lieu to approach this commission if aggrieved by the decision of the FAA.
9. In the above given circumstances I feel ends of justices were meet with following order is passed.

Order

- a. The appellant may approach the first appellate authority by way of first appeal in terms of section 19(1) of the RTI Act, 2005 in respect of his application dated 22/2/2018, 21/3/2018, 19/4/2018, 16/5/2018 and 20/5/2018 and the FAA directed to deal the matter in accordance with law.
- b. The right of the appellant to approach this Commission by way of second appeal or complaint is kept open if aggrieved by the decision/order of the first appellate authority.

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