

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

Appeal No. 220/2018/SIC-I

Mrs. Shobha Sawant Dessai,
W/o Mr. Narendra Swant Dessai,
Dhamemol, Bomdamol-Fatorpa,
Quepem Goa-403703.

.....Appellant

V/S

1. The Director/ First Appellate Authority,
Directorate of Health Services,
Campal, Panaji, Goa-403001.
2. The PIO/Health Officer,
Primary Health Centre,
Balli Quepem, Goa-403703.

..... Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner.

Filed on: 12/09/2018
Decided on: 2/11/2018

ORDER

1. By this appeal the Appellant assails the order dated 15/06/2018, passed by the Director of Health Services and First Appellate Authority (FAA), in first appeal No. 6 of 2018, filed by the Appellant herein.
2. The facts in brief which arises in the present appeal are that the Appellant Smt. Shobha Sawant Dessai vide her application dated 13/03/2018 has sought information on 12 points as set out in the said application under the Right To Information Act, 2005 from Respondent No. 2 Public Information Officer (PIO) of the Office of the Primary Health Center, Balli Quepem-Goa.
3. It is contention of the appellant that she received reply of the Respondent No. 2 PIO on 9/04/2018. However, according to her, she was not satisfied with the answer given at point No. 5 and 6 wherein she was informed that the files pertaining to the application for water/electricity connection under the provisions of Goa Public Health Act from year 2013 onward shall be made available to her

and she may deduce all the information from the said files on her own.

4. It is contention of the appellant that on receipt of the above letter dated 9/04/2018 she again made correspondence to the PIO vide letter dated 12/04/2018 requesting PIO to kindly furnish certified documents in all the files and she is ready to pay the amount as per the guidelines.
5. It is contention of the appellant that despite of above letter no information came to be furnished to her as such she being aggrieved by the action of Respondent No. 2 PIO preferred 1st appeal on 8/05/2018 before the director of Health Service, Panjim being FAA who is Respondent No. 1 herein.
6. The Respondent No. 1 FAA by an order dated 15/06/2018 directed PIO of PHC Balli to Calculate the cost of information as held by PIO and to inform the same to the appellant within 15 days from the date of hearing and to furnish the information to the appellant within 15 days from the date of payment of fees.
7. Being not satisfied with the order dated 15/06/2018 passed by Respondent No. 1 FAA and reasoning given by Respondent No. 1 FAA, the Appellant approached this Commission on 10/09/2018 on the ground raised in the memo of appeal.
8. In the present appeal appellant sought direction as against Respondents to furnish information as sought by her and for invoking penal provisions.
9. In pursuant to the notice of this Commission the appellant appeared in person alongwith Advocate Shivram Desai. Respondent No. 1 FAA was represented by Advocate Pallavi Mulgaonkar Respondent No. 2 PIO Dr. Vandana Desai was present.
10. The reply was filed by both the Respondents on 15/10/2018 alongwith enclosures. The copy of the same was furnished to the appellant.

11. It is contention of the appellant that FAA ought to have directed PIO to provide information as early and not as specified in the order. It was further contended that no reasons were specified for granting one months time. As such it is contention of appellant that it is against the principle of justice and against the RTI Act, 2005.
12. The Respondent No. 1 First Appellate Authority (FAA) by reply dated 15/10/2018 submitted that since the information asked was voluminous, on mutual agreement between parties 15 days were given to the PIO to calculate the cost of information sought by the appellant. It was further submitted that the order of FAA have been wrongly interpreted by the appellant to the effect that one month time was granted to the PIO for furnishing information. It was further submitted that the Office of the PIO is Health Centre providing emergency Health Care Services to the Citizens and catering to emergency Health related cases and taking into such facts and considering the information sought was voluminous 15 days time granted which according to him was justifiable.
13. Respondent No. 2 vide reply submitted that the application of the appellant filed in terms of section 6(1) of the RTI Act, 2005 was responded on 9/04/2018 thereby providing information well within stipulated time of 30 days.
14. It was further submitted that in compliance to the order of First Appellate Authority (FAA), the PIO vide letter dated 26/06/2018 informed appellant that information pertaining to point No. 5 and 6 is ready and consist of 4349 pages and it shall be Xeroxed after payment of Rs. 2/- per page and will be made available within 15 days from the receipt of payment. It was further submitted that till date the appellant has neither visited P.H.C. Balli for information nor has applicant made any payment for Photostat copies of information.
15. I have considered submissions made on behalf of the parties and also scrutinise the records available in the files.

16. The Appellant during the hearing raised grievances only with respect to point No. 5 and 6 as sought by her vide application dated 13/3/2018. As such I shall only restrict myself in giving findings to those points.
17. On perusing the reply dated 9/04/2018 given by the Respondent No. 2 PIO interms of section 7(1) of RTI Act, the information as sought by the appellant at point No. 5 and 6 has not been specifically provided by the PIO. On the contrary the PIO has directed the appellant to inspect the file and collect the information for herself. The Conduct and the approach of the Respondent PIO in instructing appellant to deduce the information from the files on her own is not in accordance with the provisions of RTI Act. It is contention of PIO as stated in reply that those files are in the custody of Sanitary Inspector, being said position and in such circumstances the PIO could have sought the assistant of the concern Sanitary Inspector in terms of section 5(4). There is nothing on record placed by her that, she has sought such assistance from the concerned Sanitary Inspector. Further section 5(3) of the RTI act speaks that PIO shall render reasonable assistance to the person seeking such information. The conduct on the part of the Respondent PIO appears to be casual.
18. On going through the application dated 13/03/2018, it is seen that at point No. 5 and 6, no any certified copies of the documents/applications have been sought by the appellant and what has been sought for is the only the total number of application which were received, rejected and allowed for obtaining electricity and water connection under the provision of Goa Daman and Diu, Public Health Act, 1985 for the period from 2013 till the date of filing application alongwith the names and the address of the applicants.

19. Since the information at point No. 5 and 6 is still not provided and as the Advocate for the Appellant submitted that being appellant a layperson will not be able to access the said information even if the files are offered to her for inspection, hence I find the intervention of this Commission is required thereto for the purpose of providing information at point No. 5 and 6 as sought by the appellant vide his application dated 13/3/2018. The appellant herein intends to know the data/statistics of the application received, granted and rejected for obtaining NOC of Electricity and water connection under the provisions of Goa Daman and Div Public Health Act 1985. The said data is bound to be available with the public Authority concerned herein. It is not the case of PIO that said is not available. The only objection raised by the PIO is that it is voluminous.

20. The apex Court in S.P. Gupta V/s Union of India, AIR 1982 SC 149 has observed in tents of RTI Act.

*" No democratic Government can Survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government, that an open Society is the new democratic culture towards which every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of freedom of speech and expression guaranteed under Article 19(1) (a). Therefore, disclosure of information in regards to the **functioning of the Government must be the rule, and secrecy an exception**, justified only where the strictest requirement of public interest so demands".*

21. In another land mark case *Reserve Bank of India and others V/s Jayantilal N. Mistry and others; (Civil) Original Jurisdiction in transferred case (Civil) No. 91 of 2015 (Arising out of transfer petition (Civil) No. 707 of 2012)*.

As held at para 75 by Apex Court that:-

"The ideal of 'Government by the people' makes it necessary that people have access to information on matters of public concern. The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government. It creates a condition for 'open governance' which is a foundation of democracy".

22. Based on ratios laid down by the above courts and in the facts and circumstances of the case, I am of the opinion that the appellant is entitled for the information sought by her at point No. 5 and 6 as the same is not exempted under the provisions of section 8 of RTI Act,2005.
23. Never the less as the appellant vide her letter dated 12/4/2018 and during the hearing before this commission have volunteered to have certified copies of the documents of all the files on payment of fees as mentioned by PIO in her letter dated 26/6/2018, the same could be provided to the appellant only after the payment is effected by the appellant herein.
24. There is nothing brought on record by the appellant that the PIO knowingly with the malafide intention had denied her information. On the contrary the record shows that the PIO have responded to her application well within stipulated time of 30 days there by offering her information so also by complying the order of FAA, as such I am of the opinion that this is not the fit case warranting levy of the penalty on PIO. Hence, relief sought by the appellant which are in penal nature cannot be granted.
25. In view of the above discussions I pass following order:-

ORDER

- a) Appeal is partly allowed.
- b) The Respondent No. 2 PIO is hereby directed to provide specific information at point No. 5 and 6, free of cost as sought by the appellant vide her applications dated 13/3/2018 within 15 days from the date of the receipt of the order.

- c) As agreed herein, the appellant is hereby directed to deposit the charges as informed to her by the PIO vide letter dated 26/6/2018 within 15 days from the date of the receipt of this order for the certified copies of the documents of all the files as mentioned by appellant in a letter dated 12/4/2018 and the PIO thereafter shall furnish the said certified copies to the appellant within 8 days, after depositing the charges by appellant .

With the above directions 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