

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

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

Appeal No. 202/SCIC/2017/

Shri Julio F. Heredia,
Casa Heredia, 353,
Feitorim – Piedade,
Divar – Goa 403403.

..... **Appellant**

V/s.

1) The Public Information Officer,
Goa Industrial Development Corporation,
Panaji – Goa.

2) The First Appellate Authority,
GIDC, Patto,
Panaji – Goa.

..... **Respondents**

Filed on : 27/11/2017

Disposed: 22/06/2018

1)FACTS IN BRIEF:

a) The appellant herein by his application dated 29/8/2017 filed u/s 6(1) of the Right to Information Act 2005 (Act for short) sought certain information from the Respondent No. 1, PIO under several points therein.

b) The said application was replied on 15/9/2017 instructing him to collect the information on payment of Rs. 6/- towards documents. It is further according to appellant that he collected the information on 18th September 2017. However, according to appellant the information as sought

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was not furnished with information collected by him. He therefore filed first appeal to the respondent no, 2 , being the First Appellate Authority (FAA) but inspite of issuing notice FAA failed to pass any order on the said appeal.

c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 24/1/2018 filed reply to the appeal. Arguments were heard.

e) In his arguments, it is submitted by the appellant that he has noticed certain irregularities in construction within Verna Industrial Estate and for the purpose of verification he has sought the information. According to him the PIO is liable to furnish the said information.

f) It is the contention of PIO in brief is that by his application, the appellant has sought the specifications and requirements for undertaking constructions. According to him all constructions are required to be undertaken as per the building regulations and the act of I.D.C with reference to construction are governed by such regulations and that copy of such regulation are furnished to appellant. According to him the information sought was pertaining to engineering section and hence was sought from said section and provided to appellant. The information sought was technical in nature and the specific information is highlighted in the document provided.

FINDINGS :

a) Perused the records and considered the submission of party. A perusal of the application filed by appellant u/s 6(1) shows that at point (a) appellant want to know as to

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what is the maximum height permissible for building. He has sought for latest Gazette. At point (b) (c), he wants to have an opinion, apparently based on the governing regulations, at (d) regarding number of floors allowed for constructions. Again at point (e), he seeks an opinion whether FAR is required to be maintained. The appellant also wants to know the rules and regulations which company is required to follow and lastly to know the bases on which modification/alterations are approved.

b) All the above requirements of appellant are pertaining to the legal requirements of constructions in IDC plot at Verna and are in the form of opinion or advise. The respondent authority being a public authority has to function and regulate all its activities as per the mandate of the rules and regulations governing such authority. In the instant case, the respondent Authority i.e. Industrial Development Corporation, being governed by certain regulations, the PIO has furnished the copies of the regulations. He has also replied that for applying occupancy certificate and for approval of alterations and modification of projects or plans the provision of the Goa (Regulations of Land Development and Building Construction) Act 2008 and Regulations 2010 are followed :

c) 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 :

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“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 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. A public authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But

that is purely voluntary and should not be confused with any obligation under the RTI Act.”

d) PIO is responsible to furnish the information as it exist. He is not liable to give any opinion as the PIO may not be the creator of information. The information sought may be technical in nature and PIO may not possess any technical knowledge to give any opinion. In the present case, PIO has furnished/clarified the legal provisions governing the construction. Considering the same, and by applying the ratio in the case of *Central Board of Secondary Education and others* (Supra) this Commission holds that the information as was due and dispensable under the act has been furnished.

In the circumstances, the requirements of appellant having been fulfilled, the Commission finds no grounds to deal further with this appeal. The appeal is therefore disposed with following :

O R D E R

The appeal stands dismissed. However right of appellant to seek further information with reference to any specific case, are kept open. Proceedings closed. Notify the parties.

Pronounced in open proceedings.

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

