

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

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

Appeal No .04/2018/SCIC/

Shri Jawaharlal T. Shetye,
H. No. 35/A Ward No.11,
Korlim, Mapusa –Goa.

-----Appellant

V/s

- 1) The Public Information Officer,
Sub-Divisional Police Officer,
Panaji –Goa.
- 2) The First Appellate Authority,
Superintendent of Police (North)
Porvorim –Goa.

-----Respondents

Filed on : 08/01/2018

Disposed on: 12/04/2018

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 20/10/2017, 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) According to appellant said application was not responded to by the PIO within time and as such deeming the same as refusal appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA). According to him though he appeared initially before FAA subsequently he requested to dispose the appeal in his absence.
- c) The FAA by order, dated 15/12/2017, dismissed the said appeal.

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c) According to appellant in the meantime on 07/12/2017 he received the information from the PIO.

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

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 28/02/2018 filed reply to the appeal. Arguments were heard.

f) In his arguments the appellant submitted that information at points 1, 4, and 5 is not satisfactory and there is delay in responding the application u/s 6(1).

g) The PIO in his submissions stated that the information which can be furnished is furnished to appellant and that at points (1) and (5) cannot be furnished as it is pending inquiry. Information at point (4) is not generated hence not furnished.

2. FINDING:

a) I have perused the records and considered the submissions of the appellant and the PIO. Considering the rival contentions two issues are required to be resolved herein. Firstly whether the PIO has furnished the information as was sue under the act and secondly whether there was delay in communicating the response u/s 7(1) of the act.

b) The information which according to appellant that is not furnished is as sought at points 1, 4 and 5. The answer regarding points (1) and (5) of PIO is that the application is under inquiry.

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Since 8(1) (b) of the act grants a right to PIO to refuse the information which would impede the process of investigation or apprehension or prosecution of offenders. Whether such a situation exist or not is to be assessed by the PIO. In the present case the information which is sought is the action taken report and the progress report in respect of complaint dated 29/03/2017. According to PIO said complaint is under enquiry. Thus the action of PIO refusing to furnish information in the background of the fact that the complaint is under enquiry does not appear to be denial of information.

c) Coming to point (4), it is the response of PIO that the concerned information is not available as no FIR has been registered. In other words as the information is not generated the same was not furnished.

Considering the above position, I find no illegality or irregularity on the part of PIO non issuing the information at points 1, 4 and 5 as the same was either not generated in records or due to pendency of inquiry.

d) Regarding the delay in responding the application, it is seen that the application was filed on 20/10/2017. According to appellant it is received by him on 07/12/2017. Thus there appears a delay in responding the application. According to PIO the delay might have occurred as the response was forwarded to be served through PI Mapusa Police Station.

The act has prescribed only two parties in the process of dissemination of information i.e. the seeker and the PIO. The intention of act appears clear that the application u/s

6(1) in ordinary course is required to be responded and received by seeker within 30 days. Considering the circumstances which may require additional time like cases falling under 6(3), the act has provided additional time. No such extra period is prescribed in the cases where the delay is likely to be caused due to procedure adopted by the public authority. It may be a routine of the public Authority herein to route correspondence through PI of the concerned Police Station. But considering the intent of act, the time prescribed u/s 7(1) is specific not withstanding any procedure adopted by any public Authority. The act expects a direct communication from the PIO to the seeker. I therefore find some force in the submission of appellant that there was a delay in receiving the response. The PIO ought to have sent the response directly to the appellant either in person or by post instead of routing through other office. However, such a delay caused due to the procedure adopted by PIO by itself cannot lead to draw an inference of malice or intent on the part of PIO to delay the information.

e) In the backdrop of the facts and the provisions of the act I find that the due information is furnished and the information at points (1) and (5) shall be available to appellant after conclusion of enquiry. I also do not find any intentional or deliberate delay in furnishing the information to invoke my powers under section 20(1) and or 20(2) of the act.

f) As prayed for by appellant and considering the requirements of the act that as a public authority the office of PIO was required to comply with the requirements of

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section (4) thereof, I find it appropriate to direct the respondent public Authority to comply with the said requirements.

g) In the light of above findings and observation, I dispose the present appeal with the following:

O R D E R

Appeal is partly allowed. The office of Sub Divisional Police Officer, Panaji is hereby directed to strictly comply with requirements of section (4) of the Right to Information Act 2005. PIO is directed to furnish to the appellant the information at points (1) and (5) after conclusion of inquiry.

Rest of the prayers are rejected.

Notify the parties

Pronounced in open proceeding.

Proceeding closed.

Sd/-

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