

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No. 145/2017

Shri Sushant P. Nagvenkar,
H.No.- C -312, Fondvem,
Ribandar – Goa, 403006.

..... **Appellant**

v/s

The Public Information Officer,
Shri. Mukund G. Khandeparkar,
Under Secretary (Estt.),
Law Department,
Secretariat, Porvorim–Goa.

..... **Respondent**

Relevant emerging dates:

Date of Hearing : 29-08-2018

Date of Decision : 29-08-2018

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 23/06/2017 sought certain information u/s 6(1) from the Respondent PIO, Office of Department of Law (Legal Affairs), Secretariat Porvorim Goa.
2. The information sought is at 03 points. The Appellant is *inter alia* seeking information at regards (1) Appointment /allocation of Advocates to various departments and sub-ordinate offices in RTI and quasi-judicial matters/appeals for the period from June 2015 to June 2017 as per the enclosed format; (2) legal/administrative authority under which the said appointments are made; (3) Head to which the remuneration paid to the advocates in the matters ibid is booked/charges. The Appellant has enclosed a format for furnishing the information.
3. The PIO vide reply No.10/5/2017-LA-109 dated 29/06/2017 transferred the RTI application u/s 6(3) to the PIO, Law Department (Establishment Section), Secretariat, Porvorim-Goa. It is seen thereafter that the PIO, Law Department, (Establishment) vide letter dated 03/07/2017 furnished reply as per 7 (1) on all 03 points of the Appellant RTI application.

...2

4. In point No. 1 it was stated that the request is not specific as per the provisions of RTI Act, 2005 and hence request cannot be considered. In point No.2 it was stated that this Department issues appointment letters to the Advocates in the concerned department's file after obtaining legal opinion from the Law Department (Legal Affairs), with the approval of the administrative Secretary, i.e. Law Secretary. In point No.3, the remuneration is paid to the Advocates under Demand No.62, 2014-Administrative of Justice, 114-Legal Advisor and Counsel, 01-Government Pleader (NP), 28-Professional Services.
5. Not satisfied with the reply the Appellant filed the First Appeal before the FAA on 13/07/2017 and the First Appellate Authority vide an Order dated 14/09/2017 dismissed the First Appeal on the ground that information at point No.1 is not held by the public authority.
6. It is the case of the Appellant and as no Order was passed by the First Appellate Authority within the mandated 30 days period a Second Appeal was therefore filed before this Commission registered on 19/09/2017. The Appellant has prayed that although the appeal was heard, no Order was passed by the First Appellate Authority and as such to direct the respondent PIO to provide information on point No.1 and for other reliefs.
7. **HEARING:** This matter has come up before this Commission on six previous occasions and by consent of the parties is taken up for final disposal. During the hearing the Appellant Suhant Nagvekar is present in person. The Respondent PIO is represented by Shri. Chandrashekar, Legal Officer, O/o Law Department, (Estt.), Secretariat, Porvorim.

8. **SUBMISSIONS:** At the outset Shri. Chandrashekar Naik submits that the First Appellate Authority had passed an Order dated 14/09/2017 and the copy is already on record of the Commission alongwith a reply dated 04/05/2018. He further submits that as information at point No.1 is not held by the public authority, the same could not be furnished. The information at point No. 2 & 3 are already furnished. It is also submitted that the FAA has dismissed the First Appeal and has upheld the reply fo the PIO dated 03/07/2017.
9. The Appellant Shri Suhant Nagvekar submits that he filed the Second Appeal because he had not received the Order of First Appellate Authority which has now been furnished. It is further submitted that he is satisfied with the information provided at point No. 2 & 3 and only point remaining to be furnished is information at point No.1 which is held by the public authority and it should have been furnished, but is being denied.
10. It is submitted that the information may be either held with this public authority or with some other authority, but the information should be furnished. It is finally submitted that the Order of the First Appellate Authority has been passed belatedly much later and that all other previous First appeal Orders are received timely by post, except the present one.
11. **FINDINGS:** The Commission after hearing the submission of the parties and perusing the material on record finds that the First Appellate Authority has indeed passed an Order 14/09/2017 although the same has not been received by the Appellant. The copy of the Order has been furnished to the appellant by the PIO during the proceedings before the Commission. The only point remaining for consideration before the Commission is regarding information at point No.1 which is not furnished.

12. **DECISION:** In this connection, the Commission directs the appellant to approach the office of the PIO and take inspection of the relevant files and collect the information at point no 1, if held by the public authority within 30 days of the receipt of this order i.e latest by 4th October 2018, if he so desires. In such an event the PIO will render all assistance to the appellant in searching the said information and shall place all such relevant files before the Appellant for inspection.
13. The PIO, if need be, shall seek assistance under 5(4) & 5(5) from any other officer including the Head of the Department. The Appellant will visit office of the PIO at the mutually convenient date and time after taking prior appointment of the PIO.
14. In the alternative if the said information is not available in the records of this Public authority, but is held by some other authority, it is open for the Appellant, if so advised, to file a fresh RTI application to the concerned PIO of the concerned Public Authority to seek the information.

With these directions the Appeal case accordingly stand disposed.

All proceedings in Appeal case stands closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner

