

GOA STATE INFORMATION COMMISSION
Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal no 199/SCIC/2017

Shri Rabindra A. L. Dias,
Dr. Pires Colony,
Block "B" Cujira,
St. Cruz, Tiswadi –Goa

....Appellant

V/s

- 1) The Public Information Office,
O/o the Mamlatdar of Tiswadi,
Govt. of Goa, Panaji-Goa..
- 2) The First Appellate Authority ,
O/o the Dy. Collector,
Panaji –Goa.

....Respondents

Filed on: 23/11/2017

Disposed on: 31/07/2018

1) FACTS IN BRIEF:

a) The appellant herein by his application, dated 28/04/2017 filed u/s 6(1) of The Right to Information Act 2005(Act for short) sought information from the Respondent No.1, PIO in the form of photo copies of records as also inspection of records pertaining to matríz No.78 and No.28 of Calapor Village, Tiswadi Goa.

b) The said application was replied by PIO on 16/05/2017. By said letter the appellant was informed that the matríz records are mutilated and that there is no other index and hence the information could not be furnished. According to appellant the information as sought was not furnished and hence he filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

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c) The appellant has not clarified in his memo of appeal whether any order was passed by the FAA, but at para (7) he states that he was compelled to pray photo copies vide letter dated 14/09/2017, to which it was informed by Dy. Collector that the file was not traceable. It is not clarified whether such application was a fresh one u/s 6(1) or in any other nature.

It is also the contention of appellant that PIO has failed to give appropriate reply u/s 7(8) on the denial. The appellant has referred to annexure A to E in his appeal memo but no such annexures are found attached to appeal memo.

By citing several judgments of Central Information Commission and some provisions of the act, the appellant has approached this Commission with this second appeal u/s 19(3) of the Act.

d) The PIO was notified and she filed reply on 28/06/2018. Vide her reply it is contention of PIO, Smt. Sapna Bandodkar that the application dated 28/04/2017 was responded on 16/05/2017 informing that the records are mutilated. According to her the office has no person conversant with Portuguese language and no photo copies are issued. The PIO further submitted that permission is sought from the collector to take photos of the Matriz records and issue the same duly certified, but till date no reply is received. The PIO has filed on record the photos of the books of matriz records as kept with the respondent Authority.

e) The appellant remained absent inspite of notice. Though on two occasions he filed application seeking adjournment he failed to remain present for hearing. As inspite of giving opportunity the appellant failed to appear for hearing, submissions of the PIO were heard.

f) In her submissions, PIO submitted that the information sought is pertaining to matriz records, which were prepared during Portuguese regime. According to her the records are in Portuguese language and the office does not have any staff conversant with said language. By pointing to the photos of the books she submitted that the books are totally mutilated and cannot be even lifted or taken for xeroxing. According to her in this situation the information cannot be furnished.

2) FINDINGS:

a) Considered the pleadings and perused the records. Commission has also perused the photographs produced by PIO showing the state of the books pertaining to matriz records. Commission finds that the said books are beyond the stage of shifting or moving out. If said books are removed out of office further damage may occur. Judicial note is also required to be taken that the records are more than 50 years old.

b) Considering the peculiar position the copies, that can be made available would be only in the form of photos of the related pages. However such an exercise may involve additional expenses for taking photograph. The appellant therefore cannot be held entitled to benefit of section 7(6) of the act.

c) Considering the above situation Commission finds that in the interest of justice and to meet the requirement of appellant it would be appropriate to direct the PIO to locate the concerned pages of the books and thereafter assess the expenses involved in obtaining photos of the same, to be deposited by the appellant and thereafter the PIO to furnish the same.

d) In the backdrop of above, this Commission disposes the present appeal with the following:

ORDER

The appeal is partly allowed. PIO shall get assessed the cost/expenses to be incurred for taking photos of the pages pertaining to matriz No.78 and 28 of Calapor village, Tiswadi taluka and intimate the same to the appellant within fifteen days from the date of receipt of this order by her. The Appellant shall deposit said amount within fifteen days from the date of receipt of such intimation by him.

The PIO shall furnish the photos of the said pages to the appellant within 10 days from the date of deposit of amount.

Rests of the prayers are rejected. Notify the parties.
Proceedings closed.

Pronounced in open hearing.

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

