

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

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

Appeal No. 212/SCIC/2017

Dr(Ms) Kalpana V. Kamat,
Caldeira Arcade, 1st Floor,
Bhute Bhat, Vasco –Goa. Appellant.

V/s

- 1) PIO/(Vigilance) Sucheta Desai,
Office of the Sub Divisional Police Officer,
Vigilance, Panaji –Goa.
- 2) The First Appellate Authority,
S. P. , ABC,
Panaji –Goa. Respondents

Filed on :5/12/2017

Disposed on:15/05/2018

1) FACTS IN BRIEF:

a) The brief facts as stated by the appellant in the above appeal are that the appellant by her application, dated 13//9/2017 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO of Vasco Police station under several points therein.

b) According to appellant as per the reply, dated 10/10/2017, the PIO neither transferred the application to CID nor themselves conducted the investigation. The appellant therefore preferred the first appeal to the respondent No.2, being the First Appellate Authority (FAA).

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c) The FAA by order, dated 27/11//2017 dismissed the said appeal.

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 12/2/2018 filed her say to the appeal. Submissions of the PIO were heard. The appellant filed her written submissions.

2) FINDINGS:

a) I have perused the records and the contentions of the appellant. The appellant vide her memo of appeal has prayed for the information to query no.7. According to her as pleaded in the memo of appeal the PIO vigilance has not enquired as requested to be done, before giving the information under the act and that the FAA instead of instructing the PIO to register FIR has stated that the information is not available.

b) It is the contention of PIO vide her reply filed herein that the ACB branch of Directorate of Vigilance received the transfer application of appellant on 15/9/2017 from PIO Vasco Police Station under section 6(3) of the act. According to her the appellant wants the investigation to be done hence the same does not fall under the purview of the act. The PIO herein has referred to the procedure for registration of offences and that as the information was not available with ACB the same was responded accordingly. It is also according to PIO that the information sought was not point specific and was also not available.

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c) Considering the information sought at point (7) the appellant by referring to certain incidents and making grievance that no action has been taken, has ultimately requested the PIO to do investigation and transfer query under section 6(3) to closely concerned department. At the same breath the appellant has requested the PIO to give her the investigation report after conducting the investigation since several complaints are filed in the Vasco Police Station.

d) Thus from the above nature of requirement I find force in the submissions of the PIO that the information sought does not come within the purview of the act. The appellant requires firstly the complaint to be transferred to concerned department and thereafter to furnish the report to her after completion of investigation. Ordering the investigation in any incident is not under the scope of the act and the same may fall under the provisions of Criminal Procedure Code or any other act containing such provisions and forum but not under the act. The act does not provide to issue any direction for investigation of criminal offences.

Secondly even if one considers that by said request the appellant wanted the report of investigation, such a request is also beyond the scope of the act as it would amount to creation of information for the purpose of dispensation under the act. The Act provides access to all information that is available and existing. Act does not cast an

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obligation upon the public authority, to collect or create non available information and then furnish it to an applicant. If such an order is passed the same would be in contradiction to the principals laid down by the Hon'ble Supreme in **CIVIL APPEAL NO.6454 OF 2011 Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors**

- e) Considering the above situation I find that the request of the appellant was dealt with by the PIO appropriately initially as also the transferee PIO. I thus find no illegality in the order of the FAA. I therefore find no merits in the appeal and hence I dispose the same with the following:

O R D E R

The appeal is dismissed. However the rights of the appellant to seek the investigation report after the completion of investigation, if any, are kept open. Notify the parties.

Proceedings closed.

Pronounced in the open hearing.

Sd/-

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