

GOA STATE INFORMATION COMMISSION

Seventh Floor, Kamat Towers, Patto, Panaji – Goa.

Shri Prashant S. P. Tendolkar
Chief Information Commissioner

Appeal No. 219/2017/CSIC

Shri Digambar P. Talkar,
H. no.321, Chinch Bhatwadi,
Mayem, Bicholim –Goa. Appellant.

V/s

The State Information Officer,
Goa Tourism Development Corporation,
3rd Floor, Paryatam Bhavan,
Patto, Panaji –Goa. Respondents.

Filed on :13/12/2017

Disposed on:12/3/2018

1) FACTS IN BRIEF:

a) The appellant herein by his application, dated 16//5/2017 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 the appellant, the 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).

The FAA by order, dated 10/8/2017, allowed the said appeal and directed PIO to furnish the information.

c) According to appellant though he has prayed for information and also for penalty the later relief was not granted and as such he has approached this commission in this second appeal u/s 19(3) of the act.

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b) Notices were issued to the parties, pursuant to which they appeared. The PIO did not file any reply and opted to argue the matter. Accordingly the submissions of the parties were heard.

c) In the course of submissions it was clarified by the appellant that the information as sought by him is received after the order of the first appellate authority free of cost and that he wants the commission only to consider the relief that he is entitled in view of delay in furnishing information.

d) The PIO submitted that though the information was delayed initially in the first appeal after the order the same was furnished. According to him the order of FAA was passed on 10/8/17 to furnish the information within seven days and the same was accordingly furnished on 16/8/2017. He further stated that the appellant who was also represented by advocate, had no objection to receive the information as per the order of the FAA which was so recorded in the order.

g) He further pointed out that the appeal is after thought as after receipt of the information without grievance the appellant has sought the certified copies of the order of FAA after about two months only for creating an appeal.

2.FINDINGS:

a) Perused the records and considered the submissions of the parties. It is not in dispute that the information as sought for is furnished to the appellant free of cost. The only grievance of the appellant is that the same was delayed and furnished only after the order of the FAA. By the said order FAA has directed the PIO to

furnish the information within seven days and the same is accordingly furnished. The said order of FAA was acceptable to the appellant and to the knowledge of the appellant as the appellant was present before the FAA. Thus the appellant had succeeded in his claim before the FAA and hence the appellant had no grounds to challenge the said order by this second appeal. This view of mine is fortified by the ratio laid down by the High Court of Calcutta in the case of ***Metropolitan Cooperative Housing Society Ltd. and another V/S The state Information Commission and others (W.P.12292(W) of 2009)*** wherein it is held:

"16. I need not on this petition decide whether the second respondent correctly decided the issue as to whether the first petitioner is a public authority within the meaning of the RTI Act or not, for the reason that the appeal before him was not competent. A right of appeal must be traceable in a statutory provision is settled law. Section 19 of the RTI Act does not confer any right on an information seeker to prefer either first appeal or second appeal if information as claimed by him is directed to be furnished by the original authority or the first appellate authority, as the case may be. Here the first appellate authority allowed the claim of the fifth respondent. If anyone could be regarded as person aggrieved by the decision of the first appellate authority, it were the petitioners. The fifth respondent having succeeded in his claim before the first appellate authority, he could not have filed second appeal. The order dated 25/06/2009 is also not sustainable in law on this sole ground."

b) There is another aspect to be looked into. The appellant's grievance here is that the FAA has not ordered PIO to pay cost for not providing information within 30 days. He has also grievance against the FAA for not ordering action against the PIO for delay in furnishing information.

If one peruses the provisions of the act, at section 19(5) in any appeal, an opportunity is granted to PIO to prove that the denial of request was justified. Considering the fact that the order of FAA was passed without any further liability to PIO shows that the said authority had accepted the said justification. In this context the consent of the appellant before said authority is also significant.

c) The act provides that the delay in furnishing information is punishable but the same is not in each and every case. In the present case the appellant having succeeded in the first appeal cannot seek any penalty when the order of FAA was complied. It is also the grievance of the appellant that the order of the FAA was not posted to him and that he was furnished the same only on 12/10/2017 after he filed an application for certified copy. Though this fact appears to be correct the same is redundant for the purpose of this appeal as the appellant was personally present on the date of the order and the same was within his knowledge and the information was received by him within a week from the date of said order as ordered by the FAA. Moreover the information, as ordered by FAA was already received by appellant, much prior to seeking certified copy of the order of FAA.

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d) In the back drop of the above facts I find no merits in the appeal and consequently I proceed to dispose the same with the following:

O R D E R

The appeal is dismissed. The parties to be notified. Proceedings closed.

Pronounced in the open proceedings.

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