

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

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

Appeal No.05/2018/SCIC/

Shri Sudesh P. Tivrekar,
H. No.198 Ward No.18,
Kasarwado, Kholim,
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. Respondent

Filed on : 08/01/2018
Disposed on:12/04/2018

1) FACTS IN BRIEF:

- a)** The appellant herein by his application, dated 14/10/2017 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)** The said application was replied on 18/11/2017. However according to appellant the information as sought at points 3, 5, 8, 10 & 11 was not furnished and hence the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).
- c)** The FAA by order, dated 15/12/2017, dismissed the said appeal. It is also the contention of appellant that the said first appeal is disposed without hearing him.

d) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act, with prayer to furnish information as also for penalty and for implementation of section (4) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 28/12/2018 filed reply to the appeal . Arguments were heard.

f) It is the contention of appellant that the PIO has failed to furnish the information at points 3, 5, 8, 10 and 11 and that the FAA failed to consider his submissions and passed the order mechanically.

g) The PIO submitted that whatever information that was available to be furnished under the act is furnished and the one beyond the purview of act was not furnished. According to him the first appeal was dismissed as appellant failed to appear on the date of hearing. PIO, by relying on the order passed by Commission in appeal No.53/2014, submitted that the information due is furnished and that the appeal be dismissed.

2. FINDING:

a) I have perused the records and considered the submission of the parties. In the present case, the grievance of the appellant against PIO is due to non furnishing of information at points 3, 5, 8, 10 and 11 of his application dated 14/10/2017.If one perused the said application u/s 6(1), at point (3) the appellant wanted the information regarding the personal dispute as was learnt by PSI Paresh Ramnathkar.

It is to be noted that as per the annexure attached by appellant to his application u/s 6(1) are the brief facts of case as reported by one Paresh Ramnathkar. In the said brief facts said Mr. Ramnathkar narrated his impression, observations or conclusions arrived at by him. Said observations are his personal ones. The said annexure of the appellant speaks for itself. Seeking information from PIO would amount to seeking interpretation and analysis of a report prepared by other person. Such information would be only in the form of inferences drawn by PIO.

b) At points (5), the appellant sought the opinion of PIO whether the Mapusa Municipal Council is a Government office. Similarly at point (11), the appellant has sought opinion of PIO whether some person i.e. Shri Tushar Lotlikar has informed any third person. Such information being to the knowledge of the persons so mentioned cannot be the records of the respondent Authority to be dispensed by PIO.

c) Coming to point nos. (8) and (10), the PIO has answered that said information is not available in the public authority. Considering the nature of information sought the same can be dispensed only if held by the authority. Passing of information from the office to journalist will not necessarily be a designated work under work order of office. The information may be collected by journalist from any one or more officials either officially or unofficially. Like the officials designated, the Right to Information Act 2005, any public Authority does not have any such designated person to interact with journalist.

Thus any such information unless borne out of records will not be available to PIO for dispensation.

d) Considering the above facts, I find that unless the information as sought is in the form of records with public authority the same does not constitute as information for being dispensed to a seeker u/s 7 of the act.

e) While considering the extent and scope of information that could be dispensed under the act, the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para 35 has observed :

“35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act

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does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

f) In the light of the above, I dispose the appeal with the following:

O R D E R

The appeal is partly allowed. The respondent Authority i.e. the office of Sub Divisional Police officer is hereby directed to strictly comply with the requirement of section (4) of the Right to information Act 2005 by adhering to the limitation contained therein. Rest of the prayers is dismissed. Parties to be notified.

Pronounced in open proceedings.

Proceedings closed

Sd/-

(Mr. Prashant S. P. Tendolkar)

State Chief Information commissioner

Goa State Information Commission

Panaji-Goa

