

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

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

APPEAL NO. 115/ SCIC/2017

Shri Nelson Fernandes,
H. No. 30, Fernandes Building,
Behind Cine Metropole,
Margao – Goa 403601.

..... Appellant

V/s

1) Public Information Officer,
South Goa Planning Development Authority,
Margao – Goa 403601.

2) First Appellate Authority,
South Goa Planning Development Authority,
Margao – Goa 403601.

..... Respondents

Filed on: 28/07/2017

Disposed on: 22/01/2018

1) FACTS IN BRIEF :

a) The appellant herein by his application, dated 26/5/2017, filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought information from the Respondent No.1, PIO under four points therein.

b) The said application was replied on 5/6/2017 informing appellant to collect information at points (1) to (4) on payment of the fees of Rs. 78/-. Said amount was paid on 8/6/2017 upon which PIO

... 2/-

Furnished certain information. However according to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2 being the First Appellate Authority (FAA).

c) According to appellant the FAA, till date, has failed to hear the matter and hence he has approached this commission with this second appeal u/s 19(3) of the act.

d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 26/10/2017 filed his affidavit in reply cum legal submissions. The PIO has also filed the additional affidavit in reply cum arguments on 14/12/2017. Oral arguments of the appellant were heard.

e) Considering the material on record as admitted by parties, the short point that arises for my determination is whether the information purportedly furnished by PIO constitute the information as sought by appellant.

2) **FINDINGS:**

(a) I have considered the application filed u/s 6(1) as also the reply to the same of PIO u/s 7(1) of the act. I have also considered the replies filed by PIO here as also the submissions of the PIO. I have also considered the submissions of the appellant.

(b) By his application, dated 26/5/2017 the appellant has four requirements. At **no. 1** is the certified copy of the complaint filed by Mr. Nelson Fernandes under reference mentioned therein. The said

...3/-

information according to appellant has been furnished and hence I find no need to deal with the said point no.1.

(c) Vide **point no.2** the appellant requires the certified copy of the intimation sent to respondent informing the date of inspection based on complaint filed by Mr. Nelson Fernandes .

I have gone through the copies of information furnished. It contains intimation to said Mr. Nelson Fernandes to meet one Mr. Bhagat for site inspection on 19.05.2017. said intimation is dated 15/5/17. This is the information which was required by appellant, which is furnished.

(d) At **point (3)** of the application u/s 6(1) is the certified copy of the extract/order appointing officials under their designation for arranging inspection relating to said complaint.

In fact the said intimation dated 15/5/2017 clarified that the person appointed is Mr. Bhagat who is the Planning Assistant (P.A). Hence the said information is furnished.

(e) Coming to **point (3)**, I find that the PIO has filed on record the copy of the complaint dated 4/5/2017 filed by said Shri Nelson Fernandes to the PDA. Said complaint contains 5 annexures. Copies of said annexures are also found furnished. According to appellant all the said copies were furnished on 8/6/2017 simultaneous to payment of the fees. Said documents to my mind is the information sought being the copy of complaint and annexures, which is furnished in response to the application of appellant.

(f) Coming to the information at **point (4)**, it is seen that at said points the appellant has sought for the copies of the rules

regulations and procedures. The procedures of any public Authority cannot be beyond the prescribed law in the form of acts, rules, regulations etc. Such laws are public records and the same are available and can be accessed by public, notwithstanding the Right to Information Act.

In the aforesaid circumstances as the appellant herein has sought the copies of law which are in public domain, the same need not be granted under the Act.

(g) In the affidavits filed by PIO, he has tried to justify the F.A.A for not passing the order. I fail to understand as to how it is open for PIO to justify the delay on the part of FAA, when the later has nothing to say in the matter inspite of service of notice. It is also contended by PIO that as the orders were not passed by FAA due to reasons pleaded by PIO, the matter should be remanded to the F.A.A for fresh hearing. In support of these contentions, the PIO has relied upon the orders passed by colleague Commissioner of this Commission for remand of such matters.

(h)The Hon'ble High Court of Calcutta in the case of ***Kashi Nath Munshi v/s the State of West Bengal and others Writ Petition No. 4775(w) of 2011***, has held that the appellant acquires a right to lodge a second appeal u/s 19(3) on expiration of forty five days. It is observed there in as under :

"-----
--In view of the Section 19(6) of RTI Act, the first appellate authority was required to give his decision in the appeal within thirty days of the receipt of the appeal

or within such extended period not exceeding a total of forty five days from the date of filing thereof, as the case might be, for reasons to be recorded in writing. Hence on expiration of forty five days from the date of filing of the appeal the petitioner acquired a right to lodge a second appeal under Section 19(3) of RTI Act. Petitioner is not entitled to approach the High Court under Article 226 of Constitution as remedy, if any, was to lodge a second appeal with the State Commission – Petition dismissed”.

From the above ratio laid down by Hon'ble High Court of Calcutta, the Commission assumes jurisdiction on the 46th day from the date of filing of first appeal before the F.A.A, if the said appeal is not disposed off. The order of this Commission as relied upon by the PIO thus appears to be *per incuriam*.

(i) Considering the above facts and the provisions of law, I find that PIO has furnished the information as sought by the appellant. The appellant though has contended that information is not satisfactory, he has not pointed out as to why he contends so. He has not pointed out if anything exist beyond the information furnished to him. Hence I am unable to accept the contention that it is not satisfactory.

The information at point (4) need not be furnished being in the form of public legislation. In the light of above findings, I dispose the present appeal with the following :

O R D E R

The appeal stands dismissed. However the right of the appellant to seek inspection of records and to seek further information if any, beyond the one supplied, are kept open.

Parties to be notified.

Proceedings closed.

Pronounced in open hearing.

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