

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 156/2017

Shri Ligorio Pereira

Power of Attorney Joao e Pereira,
R/o H. No. 40, Acsona, Utorda,
Margao – Salcete – Goa.

.... Appellant

v/s

1. The Public Information Officer,

The Superintendent of Survey & Land
Records, Panaji – Goa.

2. First Appellate Authority,

The Director,
Settlement and Land Records,
Panaji – Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 14-02-2018

Date of Decision : 14-02-2018

O R D E R

1. Brief facts of the case are that the Appellant filed an RTI application u/s 6(1) dated 08/04/2017 addressed to the PIO, O/o Directorate of Settlement & Land Records, Panaji-Goa pertaining to a Survey conducted along the Goa Coast jointly with the other Departments with regard to demarcation of HTL line, 200 mts and 500 mts as per the directions of Hon'ble High Court of Bombay Order passed in Writ Petition No.150/98 in the year 2006.
2. The information sought is at 03 points (a) Is demarcated HTL and 200 mts HTL line shown on the PT sheet prepared as per directives of Hon'ble High Court of Bombay in the year 2006 by your Department alongwith other Departments. Is it notified by the Government of Goa till dated? (b) Has your Department demarcated 500 mts. HTL line on the P.T. Sheet prepared in the year 2006 as per the directives of Hon'ble High Court of Bombay? (C) Give me the details based on which PT Sheet number your office has delineated 500mts. HTL line on the survey plan of the property bearing Survey No.37/1, Village Utorda and issued your Department's Report alongwith the plan showing 500 mts, HTL line vide your office letter No.19/DSLRL/Recovery Cell/CRZ-Sea/68/07/74201 dated 23/11/2007.

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3. The Respondent PIO vide letter dated 08/05/2017 informed the Appellant that with regard to information at point (a), there is no Notification available in this office records and with regard to information at point (b) & (c) that the PIO is not supposed to give explanation, opinion, reasoning and is required to furnish information which already exist held by the public authority and that the information does not fall under section 2(f) of the RTI Act.
4. Not satisfied with the reply the Appellant thereafter filed a First Appeal on 29/09/2017 and that the First Appellate Authority vide an Order dated 12/07/2017 upheld the reply of the PIO and dismissed the First Appeal. The First Appellate Authority in the Order on page no 2, last para has mentioned "It appears that the Appellant is aggrieved about how the 500 meters coastal line was shown to be passing through his property and has posed his queries in that context. I accept the submission of the PIO that he two queries are in the domain of interpretation of judgments and rules, and therefore do not fall under purview of RTI Act. The contention of the Appellant is a legal point that can be settled before the Court of Law and not through RTI.
5. Being aggrieved in the Order of the First Appellate Authority the Appellant thereafter has filed a Second Appeal registered on 29/09/2017 and has prayed to quash and set aside the Order of the First Appellate Authority to quash and set aside the reply dated 08/05/2017 of the Respondent 1 with regard to queries 'b' and 'c' given to the appellant and to direct the Respondent PIO to furnish correct information and for any other relief.
6. During the hearing the Appellant is absent. The Respondent PIO (Smt) Domiana Nazareth, Superintendent, Directorate of Settlement & Land Records is present. Smt. Anisha Matondkar, Asstt. Survey and Settlement Officer, Panaji is also present on behalf of the FAA.

7. At the outset the PIO submits, that the Appellant has filed an RTI application wherein queries at point 'b' and 'c' were sought to be asked in question form and as such the same were rejected as the same do not constitute and fall under the purview of section 2 (f) of the RTI Act.
8. Domiana Nazareth further submits that respect to queries at 'a' it was informed to the Appellant that there is no Notification issued by the Government till date in the office records. She further submits that the Appellant has moved the First Appellate Authority who has upheld the reply of the PIO and dismissed the First Appeal. She reiterates that the information sought is in question form and as such cannot be furnished and request the Commission to dispose off the Second Appeal.
9. The Commission on perusal of the material on records and after going through the submissions of the PIO as well as the Order of the First Appellate Authority finds that the Appellant in the RTI application dated 08/04/2017 had indeed sought information at point 'b' in question form by asking the question..has your Department. However with regard to information at point 'c' regarding the details on which P.T. Sheet number the office has delineated 500mts. HTL line on the survey plan of the property bearing Survey No.37/1, Village Utorda, the same cannot be construed as asking information in question form and therefore not falling under purview of section 2(f).
10. If such information details were available in the records of the Public Authority, then the PIO should have furnished the same without delay. According to Section 2(f) of the RTI Act, information means any material in any form, including records, documents, memos, e-mails, press releases, circulars, contracts, samples, models, data held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law in force. The Commission also finds that the First Appellate Authority (FAA) has erred in upholding the reply of the PIO with regard to information at point 'c' by stating that this does not fall under purview of RTI Act. The order of the FAA is quashed and set aside to this extent. ...4

11. When the PIO was questioned by the Commission whether details of information regarding point 'c' were available, it was informed that there are some details available. The Commission accordingly directs the Respondent PIO to furnish all available information details regarding point 'c' to the Appellant free of cost within 20 days of the receipt of this Order i.e on or before 18nd March, 2018.

12. A compliance report should be furnished to the Commission alongwith one set of the information documents furnished to the Appellant.

With these directions the Appeal case stand disposed.

All proceedings in Appeal case stands closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

**Sd/-
(Juino De Souza)
State Information Commissioner**