

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No.158/SIC/2013

Shri Sainath Gaonkar,
Flat No.6/F-1,
Models Estate II,
Caranzalem, Tiswadi – Goa.

..... Appellant

v/s

1. Public Information Officer,
Superintendent of Police (North),
Porvorim, Bardez-Goa.

2. First Appellate Authority,
Dy. Inspector General of Police,
Police Head Quarters,
Panaji – Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 28-08-2018

Date of Decision : 28-08-2018

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 20/06/2013 sought certain information u/s 6(1) from the Respondent PIO, Superintendent of Police (North), Bardez-Goa. The information about FIR No. 289/11 dated 28/09/2011 and charge Sheet No.63/2013 dated 07/06/2013 and the appellant is seeking to issue certified copy of the statement given by the following witnesses in the crime register (1) Shri Sharad Gawas, (2) Shri. Shailesh Phaldessai, (3) F. Rodrigues (4) Shri Ranjit Kundaikar.
2. The PIO vide reply No.SP/North/RTI-793/914/2013 dated 04/07/2013 as per section 7(1) furnished the information in tabulation form by enclosing copies of statement of three witnesses.
3. Not satisfied with the reply of the PIO, the Appellant filed a First Appeal before the First Appellate Authority (FAA) dated 01/08/2013 and the First Appellate Authority (FAA) vide his Order dated 19/09/2013 upheld the reply of the PIO and dismissed the First Appeal. ...2

4. Being aggrieved with the Order of the First Appellate Authority, the Appellant has approached the Commission by way of a Second Appeal filed on 14/11/2013 on the ground that the First Appellate Authority has decided the matter ex-parte without giving an opportunity to the Appellant to present his case.
5. **HEARING:** This matter has come up before the Commission on numerous previous occasions and hence at the request of the Advocate for the Respondent PIO is taken up for final disposal. During the hearing the Appellant is absent. It is seen from the Roznama that the APPELLANT has remained absent right since 08/09/2016. It appears that the Appellant is not interested in pursuing the said Appeal case. The Respondent PIO is represented by Advocate K. L. Bhagat.
6. **SUBMISSIONS:** Adv. K.L. Bhagat submits that on receipt of the RTI application dated 22/06/2013, the PIO has furnished correct and complete information vide his letter No. SP/North/RTI-793/914/2013 dated 04/07/2013 by also enclosing copies of statement of three witnesses namely Shri. Sharad Gawas, Shri Shailesh Phaldessai and Shri Ranjit Kundaikar and whereas the information Regarding the statement of Shri F. Rodrigues could not be furnished as the same was not available in the records.
7. It is further submitted that the Appellant had filed a First Appeal dated 01/08/2013 and the First Appellate Authority (FAA) vide his Order dated 19/09/2013 has upheld the reply of the PIO and dismissed the First Appeal. It is finally submitted that as whatever information was available in the records has been furnished.
8. **FINDINGS:**The Commission on perusal of the material on record finds that the PIO has furnished statements of three witnesses Shri. Sharad Gawas, Shailesh Phaldessai and Ranjit Kundaikar and whereas the information regarding statement of F. Rodrigues at point no 3) could not be furnished as the same was not available in the records. ...3

9. As stipulated in the RTI Act, the role of the PIO is to provide information as available from the records. The PIO is not called upon to research or to analyze the information or to create information as per the whims and fancies of the Appellant. The very fact that the PIO has furnished information is sufficient to prove the bonafide that there was no malafide intentions on the part of the PIO to deny the information.
10. Further the FAA has also upheld the reply of the PIO and dismissed the First appeal. The plea taken by the Appellant in the Appeal memo that the order was passed ex-parte without hearing the appellant is not acceptable. Under the RTI act, an appellant or complainant need not remain present and can opt to remain absent, the FAA is however bound to dispose the matter on merits within 30 days and cannot postpone the case only because the Appellant was not present during the hearing.

No intervention is therefore required with the Order of the First Appellate Authority which is a correct and justifiable order. Consequently the Appeal being devoid of any merit accordingly stands dismissed.

All proceedings in Appeal case 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

