

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

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

Appeal No.36/2018/CIC

Shri Ganapat V. Sidhaye,
Add. H. NO.45, Matvwado,
Britona, Bardez -Goa.
Pin: 403101.

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Appellant.

V/s

- 1) The Public Information Officer,
Town and Country Planning Department,
Mapusa -Goa,
Pin: 403507.
- 2) The First Appellate Authority,
Senior Town Planner (North),
Town and Country Planning Department,
North Goa District Officer,
Mapusa -Goa.

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Respondents.

Filed on: 31/01/2018

Disposed on: 03/09/2018

1) FACTS IN BRIEF

a) The appellant herein by his application, dated 27/12/2016 filed u/s 6(1) of The Right to Information at 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 23/01/2017. Vide said reply it was informed to appellant that the information sought at serial No.1, 2 & 4 sought is voluminous and time consuming. It was also informed to appellant to visit the office for inspection of information to be collected after payment of fees. It was also informed to appellant to collect information at point 3 on payment of fees. However according to appellant the information

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As sought was not furnished and hence deeming the same as refusal, the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA)

c) The FAA by order, dated 21/09/2017, which according to appellant was passed after 220 day, allowed the said appeal and directed PIO to furnish the information if the same is available.

d) According to appellant, inspite of said order, information is not furnished. The appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 26/03/2018 filed reply to the appeal.

f) In his reply PIO, Shri S. P. Surlakar submitted that the application u/s 6(1) of the act, dated 27/12/2016, was received by him. As the information sought was voluminous appellant was directed to inspect the records and collect the information on payment of fees. In spite of such reply the appellant filed first appeal. Even after order of first appeal the appellant was called to inspect records to locate information but he failed to do. According to him the information is voluminous and hence disproportionately divert the public resources, hence was denied.

g) In view of the submissions of PIO that the information is voluminous, in the course of hearing before the Commission, he was directed to prepare the estimated cost of the information. Accordingly such estimate was submitted on 14/5/2018. As per said submission the cost

of information was estimated to be approximately Rs. 254400/-

h) The appellant through his advocate was asked by the Commission to inform whether he is ready to collect the information at the said cost. The appellant has filed his written submissions on 29/08/2018. vide his said submissions, it is his contention interalia that the information was sought for to find out the number of conversion of land sanad issued by respondent authority during the period of operation of order, dated 04/06/2012, by Chief Town Planner putting ban for issuance of conversion Sanad. It is according to appellant that he does not require the documents like form I & XIV, document of title, site plans, noting sheet etc and that he requires information only pertaining to the reports, recommendation and memorandum requesting such reports and recommendations.

2)FINDINGS

a) Perused the records and considered the rival contentions. In the present case the information is not furnished on the ground that it is voluminous and would divert the resources. It is the contention of appellant that he should get the information free of cost as the PIO has failed in statutory duties and that the FAA has ordered to furnish the information.

b) Considering the information as offered by the PIO in response to the appellant's application, dated 27/12/2016, is detailed by him in his submissions dated 14/05/2018. It is running to about 127200 pages. By applying the fees as per the Goa Right to information (Regulation of fees and cost) Rules 2006 the said fees

...4/-

would work out to be as given by the PIO i.e. Rs,254400/-.

It is the contention of appellant that he does not require document like sale deeds, form I & XIV, notings etc. However, the PIO cannot presume such exclusion nor can segregate the information unless it is requested specifically. In the present case it is also seen that the PIO had called upon the appellant to inspect the records. Had it been inspected, the appellant could have located the required information specifically as it exist in the file. Such an opportunity was not availed by the appellant inspite of the same being offered. Had it been done he could have pointed out the specific information which he required.

c) The act envisages dispensation of information to show transparency in functioning of the Public Authority. In that direction the dispensation of information is a rule and with holding of the same an exception. As held by the High Court of Punjab and Haryan in the case of ***Dalbir singh V/S Chief Information Commissioner Haryana & others WP©No.18694 of 2011, wherein it is observed:***

“There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek

extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner.”

d) While dealing with the scope of dispensing voluminous information the Hon'ble Apex Court in the case of **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) has observed :

"-----The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties."

e) Keeping in mind the ratio laid down in both the cases (supra), this commission on considering the volume of information involved, finds that any order to furnish the same free of cost would disproportionately divert the resources of the respondent authority . Even otherwise the PIO has responded to the appellant's request within the stipulated time, there by showing his bonafides. The commission thus finds no strength in the submissions of the appellant to furnish him the information free of cost.

f) Commission has scrutinized the order passed by the FAA. In the present case the PIO had responded within time and hence there was no scope for the appellant to seek information free of cost nor there was any question of searching the information. The FAA has also failed to consider the exceptions under which the information can be furnished free of cost. It is also seen from the records

that the FAA has failed to dispose the appeal within the time granted u/s 19(6) of the act and took his sweet time. Such a gesture on the part of FAA appears to be casual and is condemnable and not in tune with the true spirit of the act. In the above circumstances this Commission proceeds to dispose the present appeal with the following:

ORDER

The appeal is partly allowed. The appellant shall deposit the said amount of fees as indicated by the PIO within fifteen days from the date of receipt of this order. The PIO shall furnish to the appellant the information within 45 days from the date of such deposit.

In case the appellant considers such fees charged as unreasonable, the appellant's right to file complain u/s 18(1) (d) of the act are kept open

Rest of the prayers are rejected. Notify parties.
Proceedings closed.

Pronounced in the open proceedings.

Sd/-

(P. S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission
Panaji - Goa