

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No. 84/SCIC/2017

Mr. Suraj Borkar,
H.No.705, SBI Colony,
Alto Torda, Porvorim,
Bardez-Goa. Appellant

V/s

- 1) The Public Information Officer,
Dy. S. P. HQ, North,
Porvorim –Goa.
- 2) First Appellate Authority,
Superintendent of Police (North)
Porvorim –Goa.
- 3) Shri Dattaram Gawandi,
Buckle No. 3709 attached to Traffic cell,
Panaji –Goa. Respondents.

Filed on: 21/06/2017

Decided on: 17/10/2018

ORDER

1) The facts in brief as are pleaded by appellant are that by his application, dated 08/03/2017, he sought information on (8) points as contained therein. The said application was filed to PIO, SP. Headquarters Panaji Goa. The said application was also transferred u/s 6(3) to two other offices viz. PIO Jt. Director of Accounts and PIO Dy. S.P. North Panaji Goa.

By reply dated 27/03/2017, the PIO, Office of DGP informed appellant that the information sought by him is not available with it and that it is available in office of S. P. North Porvorim Goa.

By other reply dated 04/04/2017, the PIO office of Dy. S. P. Police (HQ) North Porvorim information at points (1) (3) to 7 is not available with it and at points (2) and (8) was rejected u/s 8(1) (j) of the RTI Act.

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2) The appellant filed first appeal on 27/04/2017 which was disposed with a direction to PIO to give inspection of the concerned file to appellant.

3) Being aggrieved by the order of first appellate Authority the appellant has filed this second appeal u/s 19(3) of the RTI Act.

4) Being notified, the PIO Shri Serafina Dias, filed the reply. vide said reply it is contended by PIO that information at point (2) and (8) were rejected u/s 8(1)(j) of the Act and the information at points 1, 3 to 7 is not available.

5) The PIO was directed to prove the non existence of information on points 1,3 to 7 on an affidavit. Accordingly Shri Serafina Dias, the then PIO filed his affidavit on 10/07/2018. Vide said affidavit the PIO has affirmed that the information at points 1,3 to 7 is not available in its records and that the information at points (2) and (8) were rejected u/s 8(1)(j) of the act being personal in nature.

6) Adv. A. Kamat for the appellant was furnished with the copy of the said affidavit on 07/08/2018. Adv. Kamat for appellant submitted that this commission may pass the order based on the affidavit filed.

7) Perused the records. The response of the PIO u/s 7(1) was that the information at points 1,3 to 7 is not available and hence cannot be furnished. This fact is affirmed now by the PIO on the directions of this commission, under rule (5)(i) of the Goa State Information Commission (Appeal Procedure) Rules 2006. The appellant has not rebutted the said affidavit by filing any counter. Therefore find no reason to discard or disbelieve the said affidavit.

8) Hon'ble Supreme court in the case of Central Board of Secondary Education and another V/s Aditya Bandopadhyay and others, 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 does not cast an obligation upon the public authority, to collect or collate such no 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 of assumptions.”

In the light of the above ratio as laid down, I find that the information at points 1,3 to 7 is beyond dispensation as non existing.

9) Coming to information at point (2) and (8) it is seen that the same is rejected on the ground that it is personal and hence exempted from disclosure u/s 8(1)(j) of the act.

Point (2) and (8) of the application dated 08/03/2017 requires the PIO to furnish the financial details including

current salary/compensation of Dattaram Gawandi, the respondent no.3 and that of his spouse and dependants. It also seeks the copies of Income Tax returns filed by him. If one considers the said request it is to be noted that financial details of any Government staff are personal in nature, as it may contain his assets, liabilities investment etc. Over which the public Authority or Government as employer has no concern. What is related to the public exchequer is the salaries paid to him. Thus what can be dispensed is the details of the payment made to him and not how he has utilized the same. Thus by applying the principles of severance as contained in section (10) of the RTI Act, the appellant can be furnished only the details of the salaries paid to the respondent no.3 by severing the deduction made therefrom.

10) In the above circumstances, the appeal is partly allowed The PIO to furnish information at point (2) to the extent of present pay scale of respondent no.3 by severing the deduction made in salary sheet if any. The request at point (VIII) is rejected being personal in nature. The request for information at point 1,3,4,5,6 and 7 cannot be granted as not available.

However the right of appellant to seek the same, if it exist at anytime later, are kept open.

Pronounced in open hearing. Proceeding closed.

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