

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

Appeal No. 234/2017

Dr. Kalpana Kamat,
Caldeira Arcade, 1st floor,
Bhute Bhat, Mestawado,
Vasco-Da-Gama, Goa.

.....Appellant

V/s.

1. The Public Information Officer (PIO),
Dy. Superintendent of Police(Special Branch),
Panaji Goa.

2. First Appellate Authority (FAA),
Superintendent of Police (Special Branch),
Panaji Goa .

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 22/12/2017

Decided on: 2/02/2018

ORDER

1. The appellant , Dr. Kalpana Kamat has filed the present appeal on 22/12/2017 praying that the information as requested by the appellant in her application dated 13/9/2017 be furnished to her correctly and for invoking penal provisions .
2. The brief facts leading to the present appeal are as under :-
That the appellant, vide her application, dated 13/9/2017 addressed to the public information officer (PIO)of the office of the Vasco Police Station, Vasco-Da-Gama requested to furnish the certain information on the point No. (1) to (8) and also sought for inspection of the documents and also C.C Camera footage. The said application was filed u/s 6 of RTI Act, 2005
3. PIO of the office of the Vasco Police Station, Vasco Da Gama vide letter dated 14/9/2017 transferred the said application to the Respondent NO. 1 PIO of Dy. SP, Special Branch Panaji to deal with the said application U/s 6(3) of the Right to Information Act.

4. The respondent no. 1 PIO vide letter dated 22/9/2017 informed the appellant that the information sought is not on the records of the Special Branch Panaji.
5. The appellant being not satisfied with the said reply received from Respondent No. 1 PIO, as such the appellant on 27/11/2017 preferred first appeal as contemplated u/s 19(1) of RTI Act with the Respondent No. 2 Supdt. of Police Special branch at Panaji being the first appellate authority .
6. The Respondent No. 2 FAA by an order dated 15/12/2017 dismissed the said appeal of the appellant by upholding the say of the PIO.
7. As no information was received by the appellant and being aggrieved by the action of both the respondents, the appellant approached this commission on 22/12/2017 by way of second appeal filed u/s 19(3) of the RTI Act on the grounds as raised in the memo of appeal.
8. In pursuant to the notice of this commission appellant was present in person. Respondent PIO Shri Loren D'Souza appeared and filed his reply on 2/2/2018 thereby by resisting the appeal and also submitting that information could not be provided to the appellant as a same was not available in their office records. Vide said reply it was further contended that as per notification No. DI/RTI/BILL/PT/7867 dated 30/1/2009 issued by the Director of Information and Publicity, Panajim, the special Branch is exempted u/s 4 of RTI Act 2005
9. I have perused the record available in the file also considering submissions of the both the parties.
10. From the scrutiny of the records, it is seen that the Respondent PIO right from the inception has informed that information is not available in their office.

11. PIO is duty bound to furnish the information as available on record of the public authority . PIO is not required to create the information for the purpose of furnishing the same to the information seeker. The said observations of mine are based on the ratio laid down by the Apex court in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya.
12. In the above given circumstances Since the information is not available with the public authority concerned herein, the same cannot be directed to be furnished.
13. I also do not find any cogent and convincing evidence against Respondent PIO for invoking penal provisions and for granting compensation. As such the prayer of penalty sought by the appellant also cannot be granted.

The appeal disposed accordingly the proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-
(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa

Ak/-