

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Appeal No. 132/2018/SIC-I

Shri Jawaharlal T. Shetye,
H.No. 35/A, Ward No. 11,
Khorlim, Mapusa- Goa.

.....Appellant.

V/s.

1. Public Information Officer,
Mr. Narayan Karekar (President)
Shantivan Smashan Bhumi,
Prabhavati Building,
Opp. Akshay Durga Co.Op. Society,
Khorlim Mapusa Goa.

2. First Appellate authority,
Inspector General of Societies,
The District Registrar, North,
Junta House, Panaji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 25/5/2018

Decided on: 02/08/2018

ORDER

1. The brief facts leading to present appeal are that the appellant Shri Jawaharlal T. Shetye, by his application, dated 15/12/2017, filed u/s 6(1) of The Right to Information Act, 2005 sought from Respondent No. 1 PIO / the President of Shantivan (Hindu) Smashan Bhumi , Khorlim, Mapusa-Goa certain information on 8 points as stated therein in the said application .
2. According to the appellant the above application was responded by Respondent No. 1 on 30/1/2018 interlia submitting that his application dated 15/12/2017 does not come under the purview RTI Act, 2005 and he is not entitled for the said information.

3. The appellant being not satisfied with the said reply of Respondent No. 1, and deeming the same as rejection, preferred first appeal on 6/3/2018 before the respondent No. 2 / The Inspector General of Societies, District Registrar (North) at Panajim being first appellate authority.
4. According to the appellant he received the notice of hearing issued by the Respondent No. 2 FAA but no copy of the order passed by the Respondent No. 2 was received by him. As such he being aggrieved by the action of both the Respondents, is forced to approach this commission.
5. In this back ground the present appeal came to be filed by the appellant on 25/5/2018 in terms of section 19(3) of the RTI Act, 2005 with the contention that the information still not provided and seeking order from this commission for direction to respondent No. 1 PIO for providing him the information as sought by him vide his application dated 15/12/2017 and for invoking penal provisions.
6. The matter was taken up on board and was listed for hearing. In pursuant to notice of this commission appellant opted to remain absent despite of due service of notice. Respondent No. 1 was represented by Advocate Kewal Sawant. Respondent no. 2 Shri Suraj Vernekar was present.
7. Reply filed by Respondent no. 1 and 2 respectively on 25/07/2018. Copy of the same could not to be furnished to the appellant on account of his absence. However the opportunity was given to him to collect the same and argue the matter.
8. Since appellant did not appear and showed any interest in the matter in the present appeal proceedings, arguments of the Respondents were heard.
9. The prime contention of the Respondent no. 1 is that the Shantivan Smashan Bhumi is neither a public authority nor any designated

PIO is appointed. It was further contented that Respondent No. 2 had dismissed the first appeal on the ground that first appellate authority is not the competent authority under the RTI Act. It was further contented that the appellant had neither appeared before the first appellate authority nor before this commission and as such it is that contention that appellant is bent upon to harass Respondent No 1 for the reasons and benefits best known to him. He further submitted that the original RTI Application so also the first appeal filed before Respondent No. 2 was not maintainable and on the said ground he prayed for dismissal of the present appeal with exemplary cost.

10. The Respondent No 2 contended that he had dismissed the first appeal filed by the appellant before him on the ground that they are not the FAA and that the appellant should have sought the said information from their office under the RTI Act. He further submitted that the contention of the appellant that the respondent No. 2 did not passed any order in first appeal is false and baseless. It was further contented that the appellant did not even bother to appear before the Respondent No. 2 . He further contended that this commission should take judicial note that the appellant is habituated in filing RTI application and appeals and does not bother to pursue the same, and a such a conduct on his part speaks that appellant is only bent to harass the public authorities and its functionaries.
11. In the nutshell, both the Respondent have contended that the respondent nO.1 is not an public authority nor an PIO. The said averments made by both the respondents are not disputed nor rebutted by the appellant herein. The appellant herein have also not produced any cogent and convincing evidence substantiating his case that respondent no. 1 is a public authority u/s 2(h) of the RTI Act 2005 nor produce any documents showing that the Respondent No. 1 is declared as public authority. The appellant herein is also failed to exhibit any larger public interest in seeking

the said information of the Respondent No. 1 as such no any direction can be given to respondent no. 1 to furnish the information, consequently the relief sought at I & II cannot be granted.

12. In the facts and circumstances of the present case, as discussed above I find that the appeal proceedings filed by the appellant herein are not maintainable and hence the same are here by dismissed.

The appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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.

Sd/-

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