

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

Appeal No. 230/2017/SIC-I

Kunda Kerkar,
Goa Legislative Assembly,
Porvorim Goa.

....Appellant

V/s

1)The Public Information Officer,
Smt. Ligia Godinho,
Under secretary,
Goa Legislative Assembly,
Porvorim-Goa.

2)First Appellate Authority,
N.B. Subhedar,
Secretary, Legislature,
Porvorim Goa.

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 18/12/2017
Decided on: 18/05/2018

ORDER

1. The brief facts leading to present appeal are that the appellant Mrs. Kunda kerkar herein by her application dated 18/8/2017 filed under section 6(1) of Right to Information Act, 2005 sought certain information on 9 points including inspection of the documents from the Respondent No. 1 Public Information Officer (PIO), Office of Goa Legislature, Secretariat , Porvorim Goa, as stated therein in the said application.
2. It is contention of the Appellant that the said application was responded by Respondent PIO on 18/9/2017 which according to her was unsatisfactory, vague, inconclusive and evasive as such she preferred 1st appeal on 4/10/2017 before the Secretary Legislature being First appellate Authority (FAA) .
3. The Respondent no. 2 First appellate authority by an order, dated 29/9/2017, partly allowed the said appeal and directed PIO to fix the time and date for inspection of certain documents

4. Being aggrieved by the action of PIO and order of First appellate authority the appellant have approached this commission by way of second appeal on the ground that incomplete and incorrect information was provided to her and till the date of filing of appeal no inspection of the file was permitted.
5. In this back ground the present appeal came to be filed before this commission on 15/12/2017 under section 19(3) of the RTI Act 2005 , there by seeking direction to PIO for furnishing her full and correct information and for invoking penal provisions including compensation .
6. Notice were issued to both the parties. In pursuant to which appellant was present in person alongwith Advocate Atish Mandrekar. Respondent No. 1 PIO Smt. Ligia Godinho was present.
7. The notice u/s 19(4) was issued to third party namely Shri Ramchandra Palyekar who filed his reply on 22/3/2018 contending that it is a personal information and it should not be provided.
8. The respondent PIO submitted that she doesn't desire to file reply.
9. The PIO during the proceedings submitted that she has filed application with the registry of this commission on 6/3/2018 thereby enclosing the copies of the pay bill register of the appellant from 2000 till February 2018 and vide said application it was also contended that the appellant has inspected her service book on 5/3/2018 . PIO also further provided additional Xerox copy of the paybill register of the appellant on 28/3/2018. The copy of the application alongwith the information purportedly at point No. 1 was furnished to the appellant.
10. PIO submitted that the information at point No. 1 i.e the paybill, the originals are sent to the Directorate of Accounts and no duplicate copy of the same is maintained in their office records. She further contended that the gist of the paybill of the employees are recorded in the paybill register and the copies are already furnished to the appellant. She further contended that other information is not provided being third party information and said third party namely Ramchandra Palyekar has objected for the same.

11. Since the original paybill are available with the directorate of Accounts the information at point no. 1 of the application was transferred to the concerned public authority u/s 6(3) of RTI Act with the consent of the appellant .
12. The appellant submitted that she is satisfied with the information at point no. 2, 3 and 7 and the part of the information at point No. 6 and her grievance is with regards to non furnishing information at point NO. 4,,5,8 and part of point no. 6 .As appellant submitted that information at point NO. 8 i.e the copy of the complaint dated 27/6/2016 bears the inward stamp of department of Legislature, as such the PIO was directed to verify the records and then to file appropriate reply.
13. The appellant submitted that the information at point NO. 1 i.e her paybill of each month since 1999 till 18/8/2017 are available with the public authority and the PIO have deliberately with malafide information had denied the same to her. As such she was directed to produce a convincing evidence on record in support of her above contention which was agreed by her and she undertook to file affidavit alongwith supporting documents.
14. No any convincing evidence is produced on record by the appellant in support of her contention that the paybills are available in the record of public authority and that PIO deliberately with malafide intention have denied her information at point No. 1. However she filed application dated 18/5/2018 thereby annexing the letter dated 12/4/2018 addressed to Respondent No. 1 PIO, by PIO of Directorate of Account thereby requesting the Respondent No. 1 to provide him the budget head to which the amount of bill is debited, voucher No. and date, amount of each bill , bill no. Date of submission of bill and date of passing the bill etc. The appellant submitted that the Respondent No.1 PIO have not provided the above details to the PIO of Directorate of Account, Panaji and as such no information was received by her from the PIO of Directorate of Account. She further requested for direction to PIO to furnish the details of the bill. Since whatever information is

available with public authority with regards to point (1) have been forwarded I find no intervention is required thereto. However by considering the intend of the RTI Act and as the information was originated from the office of PIO the PIO is required to furnish the such details to the PIO of Directorate of Account in order to facilitate the appellant in receiving the said information

15. I have scrutinize the records available in the file and also onsidered the submissions of the parties
16. The Hon'ble High Court of Delhi - Writ Petition (c) 3660/12 Union of India V/s Vishwas Bhampurkar has held:-

*“ The right to information Act is a progressive legislation aid at providing, to the citizens access to the information which before the said Act came into force, could not be claimed as a matter of right. **The intent behind enactment of the Act is to disclose the information to the maximum extent possible subject of course to contain safeguard and exemption. Therefore while interpreting the provisions of the Act, the court needs to take view which would advance the objective behind enactment of the Act, instead of taking a restrictive and hyper technical approach which would obstruct the flow of information to the citizen”.***

17. The Hon'ble high Court of Alahabad while deciding the writ number 45252 of 2005, Praveen Varma V/s Hon'ble High Court of jurisdiction reported in 2008 (1) RTI 137 has discussed ambit and scope of section 3, 4, and 6 and has held that:-

“the disclosure of information in regards to the functioning of Government must be rules and secrecy of as an exception.”

18. Yet in another dicsion in writ Petition (MD) No. 5427, V.V. Minerals V/s Director of Zeology at relevant para 12 has held that.

“When the third Respondent as an information officer, ordering notice to the petitioner and taking their objections and refusing to furnish the documents sought for by a citizen is clearly beyond the scope of the RTI Act. **If the information is available with the state and such information is in**

exclusive custody of the state, the question of seeking any opinion from the third party on such issues may not arisen, especially when they are public documents. By disclosure of such information, no privilege or business interests of the petitioner are effected. On other hand, such a disclosure may help any party to act upon those documents and take appropriate steps”.

19. Yet in another decision , Hon’ble Madras High Court in case of R. Anbazhagan Deputy Manager ... vs The State Information ... on 17 April, 2008 (MANU/TN/0638/2008)

“The petitioner receives his salary from a public sector undertaking and as stated in the counter filed by the respondents 2 and 3 it is subject to the provisions of Income Tax. Therefore, there is nothing secret about the income received by him. Further it also cannot be stated that the disclosure has no relationship to any public activity or interest.”

“In any event, the income received by an individual from a public sector undertaking cannot be private information. Information relating for example as to whether a particular person is tested HIV positive might be a matter which intrudes into the privacy of the individual, **but not the monthly income which a person is receiving from a public sector undertaking which is subject to income tax”**

20. If one could gather from above judgments it could be gathered that every member of public gets right to know the working of public servant , his honest integrity and devotion to duty his salary etc. Infact nothing remains personal while as far as discharging of duties, as salary paid from public exchequer/public funds.

21. In the present case what is sought by the appellant herein is payment statement, each increment order and the orders issued to Shri Ramchandra Palekar by the public authority herein. The said information are public document being issued to the third parties by the public authorities in the course of official duties and the public authority being

the originator of those documents issued to the third party, ought to be holding such information with them. However the information was sought at point 4 in the specific format, which cannot be considered under the Act. The PIO shall furnish the same in the nature as it exists.

Considering the facts that appellant was not entitled to the information in the format sought by her, and considering the facts the application was responded within stipulated time interms of section 7(1) of RTI Act, 2005. I am of the opinion that the relief of free information cannot be granted.

22. Based on the ratio laid down in the above decisions by the Hon'ble courts and taking into considering the facts of the present case I find merit in the appeal.
23. Considering the peculiar circumstances of the case I find no ground to invoke my right u/s 20(1) and 20(2) .
24. In the above background I, dispose the appeal with following order .

ORDER

1. Appeal partly allowed.
2. The Respondent PIO is hereby directed to furnish the information at point no. 4,5,8 and part of point No. 6 as sought by the appellant vide her application dated 18/8/2017 in the nature and in the form as it exist with Respondent Public Authority within 20 days from the receipt of this order.

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/-