

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Appeal No. 235/2017

Mrs. Savitri Anjaneya Kote,
H. No. 21/452, Flat No. UG-I,
Arnav Apartments, Street No. 1,
Nagali Hills Colony,
N.I.O Post office Donapaula Goa.

.....Appellant

v/s

1. The Public information Officer,
O/o The Sate Registrar Cum Head of Notary Services,
Junta House, Ground floor, Panaji Goa.

2. The First Appellate Authority,
The Sate Registrar Cum Head of Notary Services,
7th floor, Shramshakti Bhavan,
Patto Panaji Goa.

3. Bharat Sanchar Nigam Limited,
Goa Sanchar Bhavan,
Patto Panaji Goa.

.....Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 30/06/2017

Decided on: 22/02/2018

ORDER

1. The brief facts leading to present appeal are that the appellant, Smt Savitri Kote by her application, dated 6/12/2016, filed u/s 6(1) of The Right to Information Act , 2005 sought from Public Information Officer of the office of state Registrar cum head of Notary services , Junta House , Panaji , information in respect of marriage registration no. 198/85 along with the details of the changed name of bride as entered in the sub-registrars records in the year 1985.
2. It is the contention of the appellant that her application was not responded by the PIO as such deeming the same as refusal, the

appellant filed first appeal to the respondent No.2 being the first appellate authority on 19/1/17 .

3. The Respondent No. 2 FAA by order, dated 20/2/17 disposed the said appeal thereby giving directions to the PIO to furnish the copy of Teor Marriage certificate bearing No. 198/85 free of cost to the appellant within a weeks time from the receipt of the order.
4. The Respondent PIO ,after the order of FAA again vide her letter 15/3/17 informed the appellant that no any endorsement of bride marriage name changed at that time in year 1985 is reflected in the original entry of book which has been scanned as the books of all original marriage entries of the said year 1985 is found to be totally mutilated . It is further specifically contended that there are no such marriage endorsement is seen to be carried prior to the said changed name endorsement in the year 2014.
5. In the above background the appellant being aggrieved by said response of PIO, has approached this commission in this second appeal u/s 19(3) of the act on 27/12/2017 with the contention that the complete information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for other reliefs.
6. Notices were issued to the parties, pursuant to which appellant was present in person. Respondent no. 1 PIO Mrs Arti Parvatkar appeared. Respondent No.2 FAA was represented by Mrs Shubha Dessai.
7. Reply filed by PIO on 2/2/18 inter alia contending that the office had issued a copy of the marriage records to the appellant as available in the digitized form wherein the endorsement of change of name is clearly mentioned. It is further contended that appellant has failed to produce copy of so called marriage certificate issued in the year 1985. It is also contended that copy

of the application that is made for change of name is not available despite of sincere efforts to trace the same.

8. Since the appellant contended that there are more documents stored in computer system of respondents which according to her are not furnished to her, the PIO graciously agreed to give inspection of the documents/information stored in their computer system to the appellant and accordingly on 25/1/2018 and on 9/2/2018 the inspection was carried out by appellant.
9. It is the contention of the appellant that Respondent have not conducted inquiry and fixed responsibility on a concerned person for a missing such document .
10. I have perused the records and also considered the submissions of the parties.
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. The PIO herein have contended that all the available information has been furnished to the appellant except the copy of the application that is made for change of name is not available despite of sincere efforts to trace the same.
12. It is not the contention of the PIO that the said information/ application that is made for change of name is destroyed based on any order or as per the law or that records are weeded out as per the procedure. Besides that mere claim of "non availability of records "has no legality as it is not recognized as exception under the RTI Act. If the file/documents are really not traceable, it reflects the inefficient and pathetic management of the public authority.

13. From the above it appears that the authority itself was not serious of preservation of records. Such an attitude would frustrate the objective of the act itself.
14. It is quite oblivious that appellant has suffered lots of harassment and mental agony in seeking the information and pursuing the matter before different authorities.
15. The Honble High court of Delhi in writ petition © 36609/12 and CM 7664/2012 (stay) in case of Union of India V/s Vishwas Bhamburkar has held

“ It is not uncommon in the Government departments to evade the disclosure of the information taking the standard plea that the information sought by the applicant is not available. Ordinarily, the information which at some point of time or otherwise was available in the records of the government should continue to be available to the concerned department unless it has been destroyed in accordance with the rules framed by the department for destruction of old records. Even in the case where it is found that desired information though available at one point of time is now not traceable despite of best efforts made in the regards, the department concerned must fix responsibility for the loss of records and take action against the officers /official responsible for the loss of records .unless such a course of action is adopted , it would not be possible for any department /office, to deny the information which otherwise is not exempted from the disclosure ”.

16. Considering the above position and the file/document /application for change of name is not traced till date, I am unable to pass any direction to furnish information as it would be redundant now. However that itself does not absolve the PIO or the public authority concerned herein to furnish the information to the

appellant. An appropriate order therefore is required to be passed so that the liability is fixed and records are traced.

17. The appellant have sought for invoking penal provisions against PIO for providing her false/misleading information, as such the onus was on appellant to prove the same with some substantial documentary evidence. No such convincing and cogent evidence has been placed on record by the appellant as such I am not inclined to grant any penal relief to the appellant.

In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following:

ORDER

a)Appeal partly allowed.

b)The Public authority concerned herein shall carry out the inventory of their records within 5 months and are hereby directed to preserve the records properly. The right of the appellant to seek the same information from the PIO free of cost is kept open, after the said file/document is traced.

With the above directions , 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

Ak/-