

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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

Appeal No. 74/2018

Dr. K. K. Nadkarni,
84, Bendwada, Sanguem-Goa
403704

....Appellant

V/s

The Public Information Officer,
Directorate of Accounts,
Panaji-Goa 403001

.....Respondents

Filed on: 4/04/2018

Decided on: 18/06/2018

ORDER

1. The appellant, Shri Dr. K. K. Nadkarni has filed appeal on 26/03/2018 praying that information as requested by him vide his application dated 23/10/2017 be furnished to him correctly and for granting him compensation.
2. Brief facts leading to present appeal are that the appellant herein by the application dated 23/10/2017 filed u/s 6(1) of the Right To Information Act, 2005 sought certain information from respondent No. 1 Public Information Officer (PIO) regarding his GPF Account no. 1508563 for the years from 1994-95 till the GPF amount received by him under protest.
3. The said application was replied on 23/11/2017 by respondent no. 1 PIO thereby enclosing the information/reply dated 3/11/2017 obtained from the Director of Accounts, GPF Section. Vide letter dated 3/11/2017 of the Deputy Director of Accounts had informed that the records /ledgers in respect of appellant account no. 1508563 are not traceable in the Office.

4. According to the appellant the information as sought was not furnished, he filed first appeal on 28/11/2017 and the First Appellate Authority (FAA) vide order dated 3/01/2018 uphold the say of the Public Information Officer (PIO) that the information for the year 1994-95 is not available and also came to the finding that the copy of the statement indicating the GPF calculation of the appellant for the period from April 2013 to December 2013 is provided. The First Appellate Authority (FAA) disposed the first appeal by giving directions to PIO to furnish the copy of notification relating to Goa State Government Employees Group Insurance Scheme 1996 to the Appellant.
5. According to the appellant he received letter dated 12/01/2018 from Respondent no. 1 PIO thereby furnishing him the copy of the govt. notification relating to the Goa State Government employees group insurance scheme 1996. According to the appellant on receipt of the letter from , PIO , he vide letter dated 24/01/2018 he requested the PIO to provide him notification or the table of calculation vide which discounted value of saving fund in GSGE Group Insurance Scheme was transferred to GPF in 1996.
6. According to the appellant he received the reply to above letter on 12/02/2018 from Respondent No. 1 PIO informing him that the information/document sought by him is not available in his office.
7. As no information was received by the appellant and being aggrieved by the action of Public Information Officer (PIO) and First Appellate Authority (FAA), the appellant approached this Commission by way of second appeal filed under section 19(3) of the Right To Information Act, 2005 on the grounds raised in the memo of appeal.
8. The matter was taken up on board and listed for hearing. In pursuant to the notice of this Commission the Appellant opted to remain absent. PIO Shri Kishore Kothambikar appeared and filed his reply on 12/06/2018 and compliance report on

18/06/2018 of having sent the available information to the appellant.

9. The copy of the reply dated 12/06/2018 and the copy of the information annexed to the said reply could not be furnished to the appellant on account of his continuous absence. However, the PIO undertook to furnish him the same by speed post. The PIO directed by this Commission to intimate the next date of hearing on the forwarding letter and the appellant was required to verify the said information and report accordingly on the next date of hearing. Accordingly compliance report came to be filed by Respondent No. 1 on 18/06/2018. Since the appellant has not come out with any grievances in respect to the information furnished to him I presume that the said information is as per his requirement and satisfaction.
10. In the said reply filed by the PIO he has given the sequence of events pertaining to the filing of the application u/s 6(1) of the RTI Act. According to him the information sought was more than 20 years old. And the information for the year 1994 to 1998 is not available. According to him the part of the information was available and as such the statement indicating the GPF calculation of the appellant for the period from April 2013 to December 2013 and the copy of the notification relating to Goa state govt. employees group insurance scheme 1996 was furnished to appellant.
11. Vide said reply the PIO also enclosed the available information from the year 1999 to 2013.
12. The PIO thus has summed up his reply stating that the information of the year 1994 to 1998 is not available and the available information has been provided to the appellant on earlier occasions and also vide letter dated 12/6/2018. The PIO also attached the correspondence entered by the Deputy Director of Accounts GPF/FP section to the appellant. In the nutshell it is the case of the PIO that whatever information which was available has been furnished to the appellant and the

balance information which is not furnished is in view of the fact that said is not available.

13. Nevertheless, considering the extent of the act, non existing of information cannot be ordered to be furnished nor could be ordered to be created. On this expect the judgement is passed by the Hon'ble Apex Court in the case of

a) In civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya wherein it has been held at para 35

*"At this juncture, it is necessary to clear some misconception about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from the combined reading of section 3 and the definition of "information "and "right to information "under clause (f) and (j) of section 2 of the Act. **If the 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, to collect or collate such non available information and then furnish it to an applicant".*

and

(b) Peoples Union for Civil Liberties V/s Union of India AIR Supreme Court 1442 has held:-

"under the provisions of RTI Act of Public Authority is having an obligation to provide such information which is recorded and stored but not thinking process which transpired in the mind of authority which an passed an order".

14. In the above given circumstances I find that the information which is alleged to be not furnished cannot be ordered to be furnished due to its non existence.
15. Be that as it may, in the present case the appellant has not made out any case involving public interest in seeking information which would warrant a direction to the respondent authority to search the information sought at the cost of the day to day work of the authority. The Hon'ble Gujrat High Court based on the judgment of the Apex Court, in case of ***Pankesh Manubhai Patel V/S Chief Information Commissioner and others in Special Civil Application no.16480 of 2014***, while upholding the order of the Chief Information Commission, has observed :

"5.The commission has recorded reasons in para-4, which reads as under.

"4. We agree with the respondents that collecting this information would disproportionately divert their resources from the day to day work. The appellant has not established any larger public interest, which would warrant a directive to respondents to collect information, sought by him, even at the cost of diverting their resources from their day to day work. In the above context, we also note the following observations of the Supreme Court in central Board of Secondary Education and anr. Vs Aditya Bandopadhyay and ors."

"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted

into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

Having considered the relationship between the petitioner and the respondent authorities and the information asked for by the petitioner, this court finds that, the view taken by the commission in the facts of this case does not call for any interference. Further the commission has noted the observations of the Hon'ble Supreme Court of India, which would apply with full force in the facts of this case. This court does not see any infirmity in the impugned decision of the commission. This petition therefore needs to be dismissed."

16. Considering the above ratios laid down by Hon'ble High Court of Gujarat. Such an excise of conducting search of the records of more than 20 years cannot be ordered.
17. Since the available information has been furnished to the appellant, the relief (a) sought by the appellant becomes infructuous. And as such I find no intervention of this Commission is required there too. However the right of the appellant to seek further information on the same subject matter is kept open.
18. There is no sufficient and convincing evidence brought on record by the appellant showing the detriment and loss caused to him as such the relief sought at clause(b) in the memo of appeal cannot be granted.

19. In the backdrop of the above facts and circumstances the appeal stands disposed as dismissed.

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.

Proceeding stands close.

Sd/-

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

Kk/-