

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

Appeal No. 78/2019/SIC-I

Shri Xavier A, Dias,
H. No. 477, Orel,
Assolna, Salcete-Goa

....Appellant

V/S

1. The Public Information Officer,
The Executive Engineer,
Division VI, PWD
Margao – Goa.

2. The First Appellate Authority,
Shri Anthony Mathew,
The Superintending Surveyor of Works,
PWD, Altinho, Panaji Goa.

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 27/03/2019

Decided on: 18/04/2019

Order

1. Facts in brief which arise in the present appeal are that the appellant Shri Xavier A Dias by his application dated 3rd January 2019, sought from the Respondent No.1 PIO of the office of Executive Engineer, Div VI, Margao Goa, certified copy of the land acquisition plan produced and attached to the submission dated 30/4/2018 by Executive Engineer before court in civil suit no. 31/2013/II. The said information was sought in exercise of appellant's right under sub-section(1)of section(6)of RTI Act, 2005.

2. It is the contention of the appellant that he did not received reply within a stipulated time of 30 days as such deeming the same as rejection he preferred First appeal on 19/02/2019 as

contemplated under section 19(1) of RTI Act before the superintendent of survey of works being first appellate authority who is the Respondent No. 2 herein and the Respondent No. 2 First Appellate Authority vide order dated 07/03/2019 came to the finding that available Xerox copies of the document is already provided to the appellant and no any relief as sought by the appellant was granted.

3. Being not satisfied with the order dated 07/03/2019 passed by the Respondent No.2 First Appellate Authority and aggrieved by the action of both the respondent, the appellant approached this commission on 27/03/2019 by his second appeal interms of section 19(3) of RTI Act, 2005 thereby contending that information sought by him is still not provided by the respondent PIO.
4. In the second appeal the appellant has sought for direction for providing him information as sought by him vide his application dated 03/01/2019.
5. The matter was taken up on the board and was listed for hearing. In pursuant to notice, of this commission appellant appeared in person. Respondent No. 1 PIO was represented by Shri Nilesh Khanolkar and Respondent No. 2 FAA was represented by Shri Dilip Khaute.
6. Reply was filed by both the respondents on 15/04/2019. Additional reply was filed by Respondent No. 1 PIO on 18/4/2019. The copy of the same were furnished to the appellant herein.
7. Vide reply dated 15/04/2019 the respondent PIO contended that he had informed the appellant vide his letter bearing no. PWD-VI/ADM/F.R.T.I/18-19/2594 dated 21/02/2019 to visit their office and to collect the available information upon payment of Rs. 50/- and also informed that the original land acquisition file was available with the Deputy Collector and S.D.O., Margao- Goa.

8. It was further contended that their office is only having Xerox copy of the land acquisition plan and as such the same was furnished to the appellant. It was further contended that he has also submitted the above contention with the Respondent No. 2 First Appellate Authority also and the Respondent no.2 First Appellate Authority after taking note of the said facts had disposed off the first appeal vide order dated 7/3/2019.
9. It was further contended that the respondent had not denied the information, nor hiding the information and already provided the documents/information held by their office to the appellant.
10. The appellant during the hearing submitted that only Xerox copies are provided to him and what was sought by him were certified copies of the said land acquisition plan. He further submitted that if the certified copies are not available with them then the PIO should have collected the same from the Deputy Collector and S.D.O. Margao for onward submission to him.
11. The representative of the PIO during the hearing submitted that certified copies of land acquisition plan as sought by the appellant is not available in their office records and only the Xerox copy of the same is available in their office records and the appellant has already inspected the said file. He further submitted that the Deputy Collector and S.D.O., Margao are the custodian of the originals of land acquisition files and hence the original of the said plan is in their possession.
12. The PIO vide his reply dated 28/4/2019 undertook to transfer the same application to the concerned authority upon receipt of the order in the present appeal and the appellant submitted that he has no any objection if his application is transferred u/s 6(3) to the Deputy Collector and S.D.O.,Margao.
13. I have scrutinised the records available in the files so also considered the submissions of both the parties.

14. Hon'ble Delhi High Court in LPA No. 24/2015 and CM No. 965/2015; The registrar, Supreme Court V/S Comondore Lokesh K. Batra & others has held ;

"As already noticed above, "right to Information" under section 2(j) means only the right to information which is held by any public authority . We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the appellant ".

15. The Supreme court of India in civil appeal No. 6454 of 2011; Central Board of Secondary Education and Anr. Vs Aditya Bandopadhyay and others has held;

" 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 of the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority , to collect, and collate such non-available information and then furnish it to an applicant".

16. The High Court of Patna also expressed a similar view in Shekar Chandra Verma V/S state information Commissioner Bihar in letters appeal No. 1270 of 2009 in civil writ jurisdiction case No. 11913/2009 and observed that;

"The RTI contemplated furnishing only such informtion which is available and held in record, but it does not go so far as to require and authority to carry out any inquiry and to collect, collate information and then make it available to the applicant".

17. In view of the ratio laid down by above courts, no directions can be issued to Respondent PIO to collect, collate the said information for the purpose of furnishing it to the information seeker.
18. Since the available information as exist on the records of the public authority concerned herein have been already furnished and as the original record as submitted by the Respondent PIO since are available with the Deputy Collector and S.D.O. at Margao-Goa, I find ends of justice will meet with appropriate direction to the Respondent PIO to transfer the same in terms of section 6(3) of RTI Act. Hence the following order;

ORDER

The Respondent no. 1 PIO, of Office of Executive Engineer, PWD, work Division-VI ,Fatorda, Margao-Goa is hereby directed to transfer the RTI application dated 3/1/2019 filed by the appellant herein to the PIO of office of Deputy Collector & S.D.O. at Margao-Goa interms of section 6(3) of RTI Act,2005.

With above direction 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