

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.80/SCIC/2013

Engr. Rabindra A.L. Dias ,
Dr. Pires Colony, Block "B"
Cujira, St. Cruz , Tiswadi Goa-

..... Appellant

v/s

1.State Public Information Officer,
O/o the Government Polytechnic,
Altinho, Panaji-Goa.

2.First Appellate Authority,
Director of Technical Education,
Government of Goa,
Alto Porvorim–Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 29-01-2019

Date of Decision: 29-01-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 27/09/2011 addressed to the PIO, Office of the Principal Chief Engineer, Public Works Department, Altinho, Panaji-Goa, sought certain information under section 6(1) of RTI Act, 2005.
2. It is seen that information with regard to points No.54 to 58 was transferred u/s 6(3) of the RTI ACT 2005 to the PIO, Government Polytechnic, Altinho, Panaji-Goa.
3. It is also seen that the PIO, Government Polytechnic, vide letter No.GPP/PIO/RTI-ACT/01/C/2011-2012/3934 dated 29/11/2011 informed the appellant that the respective Heads of Departments have been requested to furnish copy of syllabus regarding information at points No. 54 to 56, and with regard to point No.57 and 58 the appellant was informed that the same are not available in the institute and that the information may be collected from the Goa College of Engineering, Farmagudi which offers the degree courses in Electrical and Civil Engineering.

4. It is further seen that the PIO, Government Polytechnic, vide letter No.GPP/PIO/RTI-ACT/01/C/2011-2012/3016 dated 06/12/2011 informed the Appellant the total number of pages of the said information at points No.54 to 56 is 224 pages and to collect the information by paying an amount of Rs.448/- at the rate of Rs.2/- per copy.
5. Not satisfied with the reply of the PIO, Appellant filed a First Appeal dated 07/06/2012 on the grounds that there is delay in furnishing information and the same should be provided free of charge. The First Appellate Authority vide his Order dated 26/07/2012, however upheld reply of the PIO and dismissed the First Appeal. The FAA in his order observed thus: 'I do not consider it appropriate to direct the Respondent PIO to furnish certified copies of information sought, without collecting prescribed fees, as such there is no deficiency on his part in performing his duties prescribed by the Act'
6. Being aggrieved with the Order of First Appellate Authority (FAA), the Appellant subsequently filed a Second Appeal before the Commission registered on 27/06/2013 and has prayed to direct the PIO to furnishing of the information free of charges and for penalty and other such reliefs.
7. **HEARING:** This matter has come up for hearing before the Commission on numerous previous occasions and hence taken up for final disposal. During the hearing the Appellant Shri Rabindra A.L. Dias is present in person. The Respondent PIO, J.M.R. Noronha, Workshop Superintendent is present in person.
8. **SUBMISSION:** The Appellant at the outset submits that he was informed by the PIO vide letter on 06/12/2011 that 224 pages of information documents are available with regard to information at points No.54 to 56 and to collect the information by paying Rs.448/- at the rate of Rs.2/- per copy and that this information be furnished free of charge. The appellant also raises the issue that an application dated 26/07/2017 was filed before the Commission for review before full bench which is pending for disposal.

9. The Respondent PIO submits that the Appellant was informed by a letter No.GPP/PIO/RTI-ACT/01/C/2011-2012/3016 dated 06/12/2011 to collect the information by paying an amount of Rs.448/- for 224 pages of information documents and the Appellant failed to collect as he did not want to pay for the information. It is further submitted that the Appellant also filed a First Appeal dated 07/06/2012, however the First Appellate Authority vide his Order dated 26/07/2012, has upheld reply of the PIO and dismissed the First Appeal.
10. The Respondent PIO further submits that there is no delay on the part of the PIO in furnishing the information as the transferred RTI application was received from the PIO, O/o Principal Chief Engineer, PWD, on 14/11/2011 and the Appellant was initially sent two letters dated 29/11/2011 and 06/12/2011 well within the 30 days time period.
11. **FINDINGS:** The Commission after hearing the submission of the respective parties and scrutinizing the case file finds that the RTI application of the appellant to furnish information from points No.54 to 58 was transferred u/s 6(3) by the PIO, O/o Principal Chief Engineer, PWD and the same was received by the PIO, Govt. Polytechnic, Altinho, Panaji on 14/11/2011 and within 15 days the PIO informed the Appellant vide letter dated 29/11/2011, that information at point No.54 to 56 regarding copies of syllabus would be furnished and fees for the same will be communicated and that information at points 54 and 57 is available with Goa College of Engineering, Farmagudi.
12. It is also seen that by another letter No.GPP/PIO/RTI-ACT/01/C/2011-2012/3016 dated 06/12/2011, the PIO also informed the appellant to collect the information by paying an amount of Rs.448/- for 224 pages and which the Appellant neglected to collect because he did not want to pay the amount and instead filed a First Appeal praying that information should be provided free of charge due to delay. The Commission finds there is no delay on the part of the PIO to furnish the information and the PIO cannot be faulted in anyway.

13. The Commission finds that the First appellate authority (FAA) has upheld reply of the PIO. The FAA in his order has opined thus: 'I do not consider it appropriate to direct the Respondent PIO to furnish certified copies of information sought, without collecting prescribed fees, as such there is no deficiency on his part in performing his duties prescribed by the Act'.
14. **DECISION:** No intervention is required with the Order of the FAA which is a reasoned and justifiable order. The Appellant may collect the information on payment of the prescribed amount of Rs.448/- for 224 pages of information from the office of the PIO, within 15 days of the receipt of this order, if he so desires.

The Appeal is devoid of any merits and stands dismissed.

15. **OBSERVATIONS:** Before parting, the Commission has also perused an Application of Shri Rabindra A.L Dias dated 29/01/2019 (i.e same day after the passing of the order) requesting to refrain from passing any order as the same will be infructuous in view of the review application dated 26/07/2017. The Commission at the outset holds that the said application has been filed with the sole objective to thwart the order of this Commission and to keep postponing this old matter of the year 2013 without justifiable reason.
16. There is no provision under the RTI act 2005 to refrain or withhold an order once pronounced and passed by the Commission at the conclusion of the hearing before the parties present. The Commission takes a serious view of the Appellant using such pressure tactics to browbeat by using the term 'infructuous' merely on the basis of an erroneous assumption. Consequently, the said application is dismissed as not maintainable.
17. The Commission also wishes to place on record that it has become a habit with the appellant to keep filing repeated applications one after the other seeking postponement of the case each time the matter comes up for hearing. The Appellant in the present case has filed twelve such applications on flimsy grounds citing reasons of having to attend a police case or a civil case at Margao, or under excuse of pending application for review before full bench and as a result of which the matter kept being dragging.

18. The Commission reiterates that there is no application for review pending with the full bench. The Appellant should learn to respect the decision of the Commission and it is improper of the appellant to raise flimsy objections and then demand a full bench review by filing frivolous applications. The Appellant should also note that there is no provision for review of a decision taken by the presiding Commissioner under the RTI act 2005.
19. The Appellant has raised a hue and cry only because during a hearing held on 05/07/2017, the new First appellate authority (FAA), Shri Luis Fernandes, Principal, Govt. Polytechnic was present and to which the Appellant had objected by stating that this FAA cannot represent the Director of Technical Education. The Commission had overruled the objections of the Appellant and allowed Shri Luis Fernandes to be marked present more so as the FAA is a formal party and it is not mandatory for the FAA to be personally present for the hearings.
20. The FAA passes orders on First Appeals as per 19(1) and the Commission can either uphold or set aside the order of the FAA without the FAA being present. It is not the case that Shri Luis Fernandes was to argue the matter or has substituted for the Director of Technical education. Shri Luis Fernandes, being the new FAA attended the said hearing and the Commission found no impediment in allowing him to remain present.
21. In any case the PIO was absent on that day and the matter was adjourned. It is seen that there were ten more hearings held after the date 05/07/2017 and Shri Luis Fernandes has never appeared as the FAA in the matter. In fact at a hearing held on 26/07/2018, Shri Vivek B Kamat, former FAA, Director of Technical Education was present.

The Commission expects that the Appellant shall in future maintain the dignity, decorum and respect of the Commission.

With these observations all proceedings in the appeal case stand closed. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-

(Juino De Souza)
State Information Commissioner