

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

Appeal No.97/2019/SIC-I

Miss Elvina Barreto,
H.No. 553, Colsor,
Galgibaga, Canacona, Goa.

....Appellant

V/s

1. Shri Serafin Dias,
The Public Information Officer,
Dy. Superintendent of Police(South),
Margao- Goa.

2. Shri A.K. Gawas, I.P.S.,
First appellate authority,
Superintendent of Police(South HQ),
Margao Goa.

.....Respondents

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

Filed on:15/4/2019
Decided on:07/05/2019

ORDER

1. By this appeal the appellant assails the order, dated 9/4/2019, passed by the respondent No.2 first appellate authority in first appeal No. 08/2019 , filed by the appellant herein .
2. The facts in brief which arises in the present appeal are that the Appellant Miss Elvina Barreto, vide her application dated 04/03/19, sought certain information as stated therein at serial No.(i) to (iv) pertaining to the complaint dated 11/2/19 .The said information was sought from the PIO of the office of Director General of police, police Head quarters, Panaji-Goa in exercise of appellant's right under sub-section(1) of section 6 of Right To Information Act, 2005.

3. It is contention of the appellant that the PIO of the office of Director General of police , police Head quarters , Panaji-Goa vide his letter dated 05/03/2019 transferred her RTI application to the Respondent no. 1, the PIO of the office of deputy superintendent of Police (HQ) , Margao- Goa, and also to the PIO of office of SDPO, Quepem interms of section 6(3) of Right To Information Act, 2005 with a request to provide the information directly to the applicant.
4. It is the contention of the appellant that she received a reply from Respondents no. 1 PIO herein on 19/03/2019 interms of section 7(1) of RTI Act there by informing her that the requests pertains to records of Canacona Police Station .
5. It is the contention of the appellant that since she was not satisfied with the above reply, and as no information was received by her ,hence she preferred first appeal on 25/03/2019 in terms of section 19 (1) of RTI Act, 2005 before the superintendent of Police (South) being the first appellate Authority .
6. It is the contention of the appellant that the Respondent No. 2 First appellate authority disposed her first appeal on 09/04/19 by upholding the say of respondent No.1 PIO and coming to the findings that information is not available at APIO/SP(South). No any further relief was granted to the appellant by the First appellate authority.
7. It is the contention of the appellant she being aggrieved by the action of both the respondents ,had approached this Commission on 15/04/2019 in the present second appeal as contemplated under sub section (3) of section 19 of the RTI Act on the ground raised in the memo of appeal and with the contention that information as sought still not provided to her .

8. In this back ground the appellant has approached this commission with a prayer for directions to Respondent No.1 PIO for furnishing her correct and complete information as sought by her .
9. The matter was taken up on board and was listed for hearing .In pursuant to the notice of this commission, appellant appeared in person. Respondent No. 1 PIO Shri Serafin Dias appeared. Respondent No. 2 first appellate authority opted to remain absent.
10. Reply filed by Respondent No. 1 PIO on 06/05/2019 with the registry of this commission which was inwarded vide inward No. 741 was placed before me on 7/5/2019. The copy of the same was furnished to the appellant.
11. Arguments were advanced by both the parties.
12. It is the contention of the appellant that the information is denied to her by single statement that is it not applicable and it pertains to records of Canacona Police Station.
13. It is the contention of the Respondent PIO that the required information sought by the appellant is not available in the office records of DYSP(H.Q), South and the same pertains to records of Canacona Police station and Adm. Branch D.G.Ps office, PHQ, Panajim had already transferred RTI application to sub-Division Police officer Quepem to furnish the required information directly to the appellant.
14. I have scrutinized the record available in the file so also considered the submissions made by the both the parties.
15. In the contest of the nature of information that can be sought from PIO the Hon'ble Supreme Court in case of 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 records 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, the Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant.** A public authority is also not required to furnish information which required drawing of inferences and/or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice to an applicant. ”

16. Yet in another decision , the Apex court in case of peoples Union for Civil Liberties V/s Union of India, AIR Supreme Court 1442 has held

“under the provisions of RTI Act ,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”.

17. Hence according to above judgment of the Apex court, the PIO is duty bound to furnish the information **as available and as exist in the office records**. PIO has clearly stated and affirmed that the information is not available in their office records as it pertains to Canacona Police Station. The same stand was also taken by the Respondent PIO in the reply given interms of section 7(1) of RTI Act. So also before the first appellate authority.
18. The Delhi High Court in L.P.A. No.14/2008, Manohar Singh V/s N.T.P.C. has held;

“The stand taken by PIO through out for which a reference is made to earlier communication issued to the appellant by PIO. It will be clear that even on that day also specific stand was taken that there is no specific documentation made available on the basis of which reply was sent and hence the directions to furnish the records if the same is not in existence cannot be given.”
19. By subscribing to the ratios laid down by the Hon'ble Courts, since the information is not in existence/not available in the records of the office of the Deputy Superintendent of Police (HQ), Margao Goa, the same cannot be ordered to be furnished and hence the reliefs sought at serial No.(a) by the appellant cannot be granted.
20. Needless to say that, since the said application is also already transferred to the PIO/SDPO Quepem interms of section 6(3) of the RTI Act by the PIO of Adm. Branch DGPs Office (PHQ), it is for that PIO to deal the same in accordance with law. The appellant if so desire may pursue it with the PIO of the office of sub-division Police office at Quepem.
21. In the above given circumstances and as discussed above I do not

find merits in the appeal and hence the same is liable to be dismissed which I hereby do.

Appeal disposed accordingly. Proceedings stands closed.

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