

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No. 106/2019/SIC-II

Shri. Savio J.F. Correia
SS-1, Newton Apartments-II
Mangor Hill,
Vasco da Gama, Goa. 403 802

..... Appellant

v/s

1. Public Information Officer,
Superintendent of Fisheries,
(Aquaculture & General Branch),
Directorate of Fisheries,
Dayanand Bandodkar Marg, Panaji-Goa.

2. First Appellate Authority,
Director of Fisheries
Directorate of Fisheries,
Dayanand Bandodkar Marg, Panaji-Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 21-08-2019

Date of Decision : 21-08-2019

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 31/01/2019, sought certain information under Section 6(1) of the RTI Act, 2005 from the Respondent PIO, Directorate of Fisheries, Government of Goa, Panaji-Goa. The Appellant is seeking information with reference to communication addressed to him under No. DF/GB/RTI-ACT/32/2018/5358 dated 23/01/2019 wherein at Pg N/2 notings of the draft Memorandum of Understanding was referred to Law Department for vetting so that the same could be signed by the Principal Secretary and to furnish the certified copies of all correspondence, notings and/or records containing the opinion or vetting of MoU by the Law Department.
2. It is the case of the Appellant that the PIO vide reply no. DF/GB/RTI-ACT/05/2019/5984 dated 27/04/2019 informed that the information sought cannot be furnished as the same falls under section 8(1)(J) of the RTI Act, 2005.

3. Not satisfied with the reply of the PIO, the Appellant filed a First Appeal on 13/03/2019 and the First Appellate Authority (FAA) vide Order dated 12/04/2019 upheld the reply of the PIO and dismissed the First Appeal.
4. Being aggrieved with the order passed by the FAA, the Appellant has filed the present Second Appeal before the Commission registered on 26/04/2019 and has prayed that the respondent PIO be directed to furnish the information as sought in the RTI Application dated 31/01/2019 free of cost and for imposing penalty u/s 20 of RTI Act, 2005 and other such reliefs.
5. **HEARING:** During the hearing the Appellant Shri. Savio J.F. Correia is present in person. The Respondent PIO Smt. Megha S. Kerkar, Supdt. Of Fisheries (Aquaculture and General Branch), Directorate of Fisheries, Panaji-Goa is present in person.
6. **SUBMISSION:** At the outset Appellant submits that the PIO denied information by wrongly applying section 8(1)(J) of the RTI Act, 2005. It is submitted that the information sought is not personal information but public documents. It is also submitted that the FAA without proper application of mind upheld the reply of the PIO and dismissed the First Appeal.
7. The Appellant finally submits that the information sought in the RTI application was also asked in the Goa Assembly and answer was given which is available on the website. The Appellant questions that if the same public authority can furnish the information in the assembly question then how can the same information be denied under RTI? The Appellant vehemently argues that penalty should therefore be imposed for the harassment caused in make him run from pillar to post for justice.
8. The PIO submits that she is ready to furnish the information and that the reply no. DF/GB/RTI-ACT/05/2019/5984 dated 27/04/2019 was given in good faith and the said reply was also upheld by the FAA. The PIO therefore request the Commission to take a lenient view. ...3

9. **FINDINGS**: The Commission after perusing the material on record and hearing submissions of both parties indeed finds that the PIO has wrongly applied the Section 8(1)(j) of the RTI Act, 2005. The said information pertains to the correspondence, notings and/or records containing the opinion or vetting of MoU by the Law Department and certainly such information falls under the domain of public documents and cannot be construed as personal information u/s 8(1)(j) of the RTI Act. The Commission also finds that FAA has passed an erroneous and mechanical order by upholding the reply of the PIO without proper application of mind. The impugned order of the FAA is accordingly quashed and set aside.
10. The Appellant presses for the penalty, however the Commission finds that there was no malafied intention on the part of the PIO to intentionally deny the information and that the reply given by the PIO was in good faith and as such section 21 of the RTI Act is applicable which gives protection for action taken in good faith. Consequently the prayer for imposing penalty u/s 20 of RTI Act, 2005 and other such relief stands rejected.
11. **DECISION**: The Commission accordingly directs the PIO to furnish certified copies of all correspondence, notings and/or records containing the opinion or vetting of MoU by the Law Department by speed post to the Appellant within 15 days of the receipt of this order free of cost.

With these directions the Appeal case stands disposed.

The Commission recommends that the PIO and the FAA both be sent for a short training course in the RTI act 2005.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner

