

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No: 233/2018/SIC-II

Grenville Dias,
D-3/4, Venusta Classic,
Aquem – Alto,
Margao, Salcete – Goa

.... Appellant

v/s

1. Public Information Officer,
Dt. of Food & Drugs Administration,
"Dhanwantari",
Opp. the Shrine of Holy Cross,
Bambolim,
Goa-403 202
2. First Appellate Authority,
Dt. of Food & Drugs Administration,
"Dhanwantari",
Opp. the Shrine of Holy Cross,
Bambolim,
Goa-403 202

.... Respondents

Relevant emerging dates:

Date of Hearing : 03-01-2019

Date of Decision : 03-01-2019

ORDER

1. Brief facts of the case are that the Appellant vide an RTI application dated 23/07/2018, sought certain information under the provision of Life and Liberty clause to be provided within 48 hrs. "The information pertains to photocopies of all outward Register books from 1st June 2017 till 23rd July 2018 from the office/desk of Director of FDA".
2. The PIO vide letter No.187(002)/DFDA/Admn/RTI/2018-19/3122 dated 24/08/2018 informed the Appellant that the information sought is very voluminous; spread over a large number of registers and requested the Appellant to visit office of PIO with prior intimation and verify the records maintained and then seek copy of relevant documents' as desired. The Appellant in the meanwhile by another letter dated 27/08/2018 informed the PIO to furnish the information whether the same is voluminous or not and to provide photocopy of outward register books from 01st June 2017 till 23/07/2018 from officer/desk of Directorate of FDA.

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3. It is seen thereafter the PIO, vide second letter No. 187(002)/DFDA/Admn/RTI/2018-19/3417 dated 04/09/2018 called upon the Appellant to make a payment of Rs.3360/- and to obtain the information from the Directorate after making the payment. It is seen that the Appellant paid the necessary amount vide receipt No.4752/34 dated 12/09/2018.
4. It is the case of the Appellant that despite making the payment the information was not provided and as such he filed a First Appeal dated 27/08/2018 with the First Appellate Authority (FAA) praying that information should be provided free of cost and other such reliefs. The First Appellate Authority vide an Order dated 07/09/2018 has upheld the reply dated 24/08/2018 of the PIO and stated that as the PIO had filed the reply within 30 days the question of providing information free of cost does not arise.
5. Being aggrieved with the Order of First Appellate, the Appellant has challenged the same by way of a Second Appeal registered with the Commission on 01/10/2018 and has prayed that total amount of Rs.3360/- to be refunded to him and for penalty and other such reliefs.
6. During the hearing the Appellant is present in person. The Respondent PIO, Medha Desai, Asstt Drugs Controller is present.
7. The Appellant submits that the PIO kept delaying the furnishing of information by first sending a letter dated 24/08/2018 asking to take inspection of the files which was not sought and therefore he was compelled to inform the PIO by letter dated 27/08/2018 that inspection was never sought while demanding that the PIO furnish complete information as sought in the RTI application. The Appellant further submitted that the PIO sent another letter dated 04/09/2018 calling upon him to deposit the fees of Rs 3360/- for the information of 1680 pages and that the said amount was paid on 12/09/2018 vide receipt no 4752/34 dated 12/09/2018.

8. The appellant vehemently argued that despite making payment, he did not received information even after 13 days and therefore once again he had to approach the office of the PIO on 26/09/2018 along with original receipt of payment to enquire why the information is being delayed and finally information was received on 03/10/2018.
9. The appellant stated that he was made to run from pillar to post and was made to visit the office of the PIO at Panaji on three different occasions, and thus had to bear the cost of travel from Margao to Panaji, besides waste of his time and because of unreasonable delay of 21 days in furnishing the information he has prayed that information should be furnished free of cost and has claimed refund of the amount paid by him.
10. The Appellant also submits that the FAA did not issue any notice and has disposed the First Appeal without hearing the appellant and passed an order behind the back by upholding the statements of the PIO and that such order is improper and should be quashed and set aside.
11. The PIO in her submissions stated that the RTI applicant has sought information under life and liberty clause within 48 hours and that the relevant section is not applicable in his case. It is further submitted that the information sought was voluminous and as such a letter dated 24/08/2018 was sent to the Appellant asking him to take inspection of the files and then collect whatever relevant information documents, he so required, however instead of complying with the request of the PIO, the Appellant sent a letter dated 27/08/2018 stating he has not sought inspection and demanded that the information as sought in the RTI application be furnished to him.
12. The PIO further submitted that therefore a second letter dated 04/09/2018 was sent to the Appellant asking to make a payment to deposit an amount of Rs.3,360/- for 1680 pages and that.....,

... although the RTI applicant effected the payment on 12/09/2018, he did not bother to approach the office of the PIO to collect the information by producing the payment receipt and visited the office of the PIO visited on 26/09/2018 asking for the information documents and wanted that the same be posted to him and which copies were dispatched on the same day and which the Appellant has received on 03/10/2018. The PIO therefore argued that the Appellant is not entitled to any refund.

13. The Commission has heard the respective parties and also perused the material on record. The Commission at the outset finds that after receiving the RTI application dated 23/07/2018, the PIO on 24/08/2018 wrote an unnecessary letter asking the Appellant to take inspection which was not sought and which led to dashing of another letter dated 27/08/2018 by the Appellant informing that he has not sought inspection and calling upon the PIO to provide information. The Commission finds that such exchange of correspondence has caused the delay.
14. The Commission is of the considered opinion that the PIO in the first letter dated 24/08/2018 itself should have called upon the Appellant to deposit the amount and after receiving the payment furnished information to the appellant by the next five days. However this was not done. Instead the PIO wrote 04/09/2018 asking the Appellant to deposit an amount of Rs.3,360/- for 1680 pages and which payment was effected by the appellant on 12/09/2018 and yet failed the PIO failed to furnish the information even after fifteen days.
15. This delay led the Appellant to visit the office of the PIO on 26/09/2018 and after reminding the PIO, the information was dispatched to the Appellant and received on 03/10/2018. Thus the Commission finds that there is a total delay of 21 days in furnishing the information to the Appellant after receiving payment from the appellant.

16. The excuse given by the PIO that the information was voluminous and hence he was called to take inspection and that the Appellant on 12/09/2018 deposited the amount of Rs.3,360/- with the cashier and the Appellant did not approach the PIO immediately after making payment is not acceptable.
17. It was the bounden duty of the PIO to have instructed the concerned cash clerk to bring to the notice of the PIO if the payment is received. There has to be coordination and communication between the cashier and the PIO.
18. The Commission also observes that the First Appellate Authority (FAA) has not issued any notice to the Appellant and instead passed an ex-parte order without hearing the Appellant.
19. The FAA being a quasi judicial body and an officer senior in rank to the PIO should have followed the procedure as laid down in section 19(1) of the RTI act 2005 and applied her mind and if the PIO had committed some lapses then the same could have been rectified and corrected by passing a speaking Order after hearing both the PIO and Appellant and which has not been done as such the Order of the First Appellate Authority is hereby a quashed and set aside.
20. The Appellant has prayed for total refund, but such a request cannot be considered in view that the information sought was voluminous consisting of 1680 pages and which cannot be given free of cost. However in view that the Appellant has incurred expenses in travelling long distances from Margao to Panaji on three different occasions after which the information was furnished, the Appellant is entitled to be compensated for the expenses incurred due to no fault of his. Accordingly the Commission orders a partial refund of an amount of Rs.2000/- to be paid to the Appellant out of the amount of Rs. 3360/- already paid for the information documents.

21. The PIO is directed to instruct the accounts department of the Public authority to draw a cheque for an amount of Rs 2000/- in the name of Grenville Dias who is the Appellant herein within 15 days of the receipt of this order. The said cheque shall be posted to the appellant by Speed Post or Registered Post with AD immediately thereafter. A compliance report should be submitted to the Commission by enclosing a Xerox copy of the Cheque.

22. It is made clear that the PIO was correct in not entertaining the RTI application of the Appellant under the life and liberty clause as the said clause is not applicable in his case.

Consequently, the prayer of the Appellant for penalty and other reliefs stand rejected

With these directions the Appeal case stand disposed.

All proceedings in Appeal case stands closed. 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