

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 30/2019/SIC-II

Shri Nikhil M. Narvekar,
H.N 189/10, Durgawado,
Duler, Mapusa ,Bardez Goa.

..... Appellant

v/s

1. The State Public Information Officer,
Executive Engineer T/C-RTI
Electricity Department,
Vidyut Bhavan, Panaji Goa.

2. First Appellate Authority,
Superintending Engineer –II(N),
Electricity Department,
Vidyut Bhavan, Panaji Goa

.... Respondents

Relevant emerging dates:

Date of Hearing: 08-07-2019

Date of Decision: 08-07-2019

ORDER

1. **Brief facts of the case** are that the Appellant has vide an RTI application dated 23/10/2018 addressed to the PIO, Electricity Department, Vidyut Bhavan, Panaji-Goa sought certain information under section 6(1) of the RTI Act on nine points.

2. The Appellant *inter alia* is seeking names and designation of all staff appointed on regular basis for the period from year 2012 to till date, their date of joining, category under which they applied for the post, dates on which they answered oral interviews, copy of advertisement with reference to which they applied for the job, copy of residence certificate submitted at the time of job application, copy of any new valid residence certificate submitted at the time of oral interview, copy of OBC certificate submitted at the time of job application by all the staff appointed on regular basis under OBC category and other such related information for the period from year 2012 to till date including Recruitment rules.

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3. It is seen that the PIO vide letter No.CEE/ESTT-34-1-98/2018-19/2823 dated 27/11/2018 informed the Appellant that the information requested is voluminous and requires sufficient time to furnish the same and the cost towards the supply of information is estimated to be Rs.20,000/- approximate and the cost may increase depending upon the actual copies to be supplied and requested to the Appellant to make a payment of Rs. 20,000/- in advance towards charges of providing certified copies. The PIO also informed the Appellant that certified copies will be furnished within 90 days from the date of receipt of the advance payment.
4. The Appellant not being satisfied with the reply furnished by the PIO, issued a letter dated 27/11/2018, calling upon the PIO to furnish the information free of cost as the same is not been answered within the time limit and to sent the information through by speed post /Registered AD at the earliest.
5. The PIO again vide another letter No.CEE/Tech/SPIO/RTI /81/229 dated 05/12/2018 informed the Appellant to pay the amount of Rs. 20,000/- being approximate cost towards the supply of available information in the office of the Joint Director of Accounts', 4th floor, Vidhut Bhavan, Panaji-Goa after which the certified copies of information document will be furnished within 90 days.
6. The Appellant being aggrieved with the fact that the PIO has not furnished the information free of cost, thereafter filed a First Appeal on 05/12/2018 and the First Appellate Authority (FAA) after issuing notice on 07/12/2018, fixed the Appeal on 20/12/2018 and after hearing both the Appellant and the Respondent PIO passed an Order directing the PIO to furnish the information free of cost to the Appellant within 45 days. The FAA observed that the Appellant has stated that he has received the intimation regarding the payment of Rs.20,000/- after the due date and no break-up of charges are given in the letter.

7. Being further aggrieved that despite the Order of the First Appellate Authority, the PIO has not furnish the information free of cost. The Appellant subsequently approached the Commission by way of a Second Appeal registered on 08/02/2019 and has prayed to direct the PIO to furnish the information as mentioned in the RTI application dated 23/10/2018 free of cost and for penalty and other such reliefs.
8. **HEARING:** During the hearing the Appellant Shri. Nikhil M. Narvekar is present in person. The Respondent PIO is represented by Shri Prakash Redkar, Office Superintendent, Electricity Department Panaji. Also present is Shri Prachodh P. Naik, L.D.C with the public authority. The representatives for the PIO undertake to file letter of authority
9. **SUBMISSIONS:** At the outset the Appellant submits that he needs the information immediately and there has been lot of delay providing the information and action has to be taken against the PIO. When the Commission enquires with the Appellant, if he is willing to pay for information, the Appellant replies in the negative and states that the information should be given free of cost due to the delay.
10. The representative for the PIO, Shri Prachodh Naik submits that information sought was voluminous and vast and that the Appellant was informed vide letter dated 27/11/2018 to make a payment of Rs.20,000/-and that he has not paid and hence information was not furnished.
11. It is also submitted that if the Appellant is willing to pay an amount of Rs.20,000/- as advance towards the estimated cost of providing information, then the information can be furnished. It is finally submitted that the information has to be collected from around 2500 files and involves 10,000 pages of information documents which is time consuming and therefore it was mentioned that a period of 90 days would be required for taking out Xerox copies.

12. At this juncture, the Appellant argues that as per the Order of the First Appellate Authority (FAA), it was the duty of the PIO to have furnished the information free of cost by complying with the Order of the First Appellate Authority and which has not been done. However Shri Prachodh Naik submits that the appellant was telephonically informed that part information is ready, but the Appellant replied that he does not want part information but the full information.
13. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record including the order of the FAA finds at the outset that the information sought by the Appellant is general information on scores of matters and is vast and voluminous. The information sought is on recruitment of all the staff of the Electricity Department right from the period of 2012 till date and entails information on residence certificates, OBC certificates, Minutes of the selection Committee, recruitment rules, interview marks, etc which according to the representative for the PIO has to be obtained after scrutinizing nearly 2500 files and is a time consuming affair.
14. The Commission also finds that after receiving the RTI application dated 23/10/2018, the PIO had given an intimation to the applicant on 27/11/2018 as per section 7(3) calling upon the Appellant to pay an amount of Rs.20,000/- being the estimated cost for 10,000 pages of information in accordance with the fees provided as per section 7(1) and which amount works out to Rs. 2/- per page as Xeroxing cost
15. If the Appellant was serious in receiving the information, then he should have as per section 7(5) paid the additional fees asked by PIO and which in the present case is an advance amount of Rs.20,000/-. The appellant at least should have paid this deposit amount under protest and then put up a claim for refund, instead he raised the issue of delay which is of a mere three days and sought information of 10,000 pages of information documents which Xeroxing cost works to Rs.20,000/- free of cost and which the PIO disallowed. ...5

16. The Commission finally finds that the First Appellate Authority has without proper application of the mind passed an arbitrary, perverse and mechanical order. The First Appellate Authority (FAA) in the first place after hearing both parties should have passed a speaking Order purely on merit by giving justifiable reasons for the decision arrived at.
17. It was the bounden duty of the First Appellate Authority to have ascertained from the PIO, the reason for delay of three days and perhaps the PIO would have given a valid and this was not done. Also the FAA, it appears, has not scrutinized the RTI application to understand whether the information sought is truly vast and voluminous and whether such information of 20,000 pages can be furnished free of cost and that too within 15 days of the date of Order.

The Hon'ble Supreme Court of India in Civil Appeal No.6454 of 2011, Central Board of Secondary Education & others v/s Aditya Bandopadhyay & others has held as follows:-

"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information.

The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest official striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure on the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing at the cost of their normal and regular duties".

18. **DECISION:** In view of the foregoing, the Commission comes to the conclusion that the excuse of a delay of mere three days cannot entitle the Appellant to receive information of 10,000 pages which Xerox copying works to Rs 20,000/- free of cost. If such requests are entertained, it will cause a big drain on the public exchequer.
19. The Commission accordingly quashes and sets aside the order dated 20/12/2018 of the First Appellate Authority (FAA) and hereby directs the Appellant, if he is still interested in receiving the information to deposit the amount of Rs 20,000/- with the Jt Director of Accounts in the Electricity Department and show the original receipt of the payment to the PIO within 30 days of the receipt of the Order (in any case latest by 20th August 2019), if he so desires. If such an event the PIO after verifying the receipt of payment, shall proceed with Xeroxing of the copies of the information documents and shall furnish the same to the Appellant within 30 working days thereafter from the date of the receipt of the payment.

With these directions the Appeal case stands disposed.

20. Before parting, the Commission would appreciate if the Chief Electrical Engineer, Electricity Department, Govt of Goa takes note at the manner in which the First Appellate Authority (FAA) who in the present case is an officer of the rank of Superintending Engineer, Electricity Department has dealt with the First Appeal case by not passing a proper speaking order as is required as per 19(1) of the RTI act 2005. The Commission recommends that the concerned officer be sent on a short training course in RTI.

With these observations, 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