

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

Appeal No.10/2019/SIC-I

Shri Dattaprasad Prabhu Gaonkar,
House No. 234 Maxem ,
Canacona,Goa

...Appellant

V/s

1. The Public Information Officer,
Captain of Ports Department,
Panajim Goa.
2. First Appellate Authority,
Captain of Ports,
Captain of Ports Department,
Panajim Goa.

.....Respondents

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

Filed on: 14/01/2019
Decidedon:05/03/2019

ORDER

1. By this appeal the Appellant assails the order dated 7/12/2018, passed by the Respondent No. 2 Captain of Ports, Goa and First Appellate Authority (FAA), in first appeal No. 7/2018/4013, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Shri Dattaprasad Prabhu Gaonkar vide his application dated 27/8/2018 had sought information as listed at serial No. 1 to 4 therein. The said information was sought from the PIO of the office of Captain of Ports Department, Panajim, Goa in exercise of appellant right under sub-section (1) of section 6 of Right To Information Act, 2005.
3. It is the contention of the appellant that the said application was responded by the Respondent No. 1 PIO on 25/9/2018 wherein

the information was denied to him in terms of section 8(1) (j) of the RTI Act 2005.

4. It is the contention of the appellant that he being aggrieved by such a response of Respondent no.1, filed first appeal before the Captain of Ports, Panjim on 11/10/2018 being first appellate authority who is the respondent no.2 herein interms of section 19(1) of the Right To Information Act, 2005.
5. It is the contention of the appellant that the Respondent No. 2 First appellate authority by an order dated 7/12/2018 disposed his first appeal by upholding the say of PIO. No any further relief was granted to the appellant by the First appellate authority.
6. Being not satisfied with the order dated 7/12/2018 passed by Respondent No. 2 first appellate authority and reasoning given by Respondent No.2 first appellate authority, the Appellant approached this Commission on 14/1/2019 on the ground raised in the memo of appeal and with a contention that information still not provided to him by the Respondent No. 1 as was sought by him.
7. In this back ground the appellant has approached this commission with a prayer for directions to Respondent No.1 PIO for furnishing correct and complete information.
8. In pursuant of notice of this commission, appellant appeared in person. Respondent No. 1 PIO Rama Asare Gupta was present. Respondent No. 2 was represented by Smt. Luciana Fernandes.
9. Reply filed by Respondent No.1 PIO on 21/2/2019 there by furnishing/enclosing the copies of information as was sought by the appellant. The copy of the reply alongwith the enclosures were furnished to the appellant and he was directed to verify the information submitted to him by the PIO and report accordingly on subsequent date of hearing.

10. On subsequent date of hearing i.e on 25/2/2019 appellant filed application. The copy of the same was furnished to both the Respondents.
11. It is the contention of the appellant that the information requested by him is purely about profession qualification and ability to perform in the senior position. It is his contention that the qualification of the Government official responsible for technical decisions with huge public interest involved cannot be said to be personal information and must be available to the members of the public in the interest of ensuring that public interest is not compromise due to the absence of necessary qualification. It is his contention that such type of information must be available in public domain to prevent corruption in the recruitment system. It is his further contention that Shri Sagar Chandra Ray is a public servant and he getting salary from State exchequer which come from the general public from Goa and therefore the requested information has to be in the public domain. It is his further contention that the information pertaining to Hydrographic Surveyor Mr. Sagar Chandra Ray was required by him in a larger public interest in order to approach and produce the same before appropriate authority. It is the contention of the appellant that the some of the documents furnished to him are not readable and the information pertaining to memos, appraisal report, disciplinary action, showcase notices, Departmental inquires are not finished to him. He further submitted that great prejudice will be caused to him if the readable copies are not furnished to him.
12. The Respondent PIO filed the counter reply to the above application of the complainant on 5/3/2019. The copy of the same was furnished to the appellant .
13. The Respondent PIO submitted that on verification of the personal file of Shri Sagar Chandra Ray, there were no memos, appraisal

report, disciplinary action, showcause notices, Departmental inquires etc. were not found there in their office record as such the information is stated as nil. It is the contention of the Respondent PIO whatever the information is available from the records of the office have been furnished to the appellant herein. He further submitted that if the appellant produces before him the copies of the documents which are not clearly readable he is ready and willing to provide fresh copies to him. He further submitted that then PIO has retired from the services on attaining his superannuation and he placed on record his order dated 31/12/2018 in support of his contention.

14. Keeping in view the objective that the act seeks to achieve and purpose for which the said information is sought, Commission feels that legible/readable copies are required to be furnished to the appellant.
15. The appellant vide his application dated 25/2/2019 has also sought for initiating proceedings against both the respondents interms of section 20(1) of RTI Act 2005 . The said relief was not sought earlier by the appellant herein vide his memo of appeal.
16. In the present case undisputedly the then PIO Shri Sagar Chandra Ray has retired as such as of today is entitled for pension. Section (11) of pensions act so also section 60 (1) (g) of Civil procedure code grants immunity to the pension holder against its attachments. So also the Hon'ble Apex court in appeal (civil) 1874 of 1999 Gorakh university and other V/s Shri Shilpa Prasad Nagendra and(ii) in civil appeal No.6440/41of 2008 Radhye Shyam Gupta V/s Punjab National Bank, has held that the benefits received under pension, gratuity by retired person are immured from attachment. Under such circumstances the Commission neither empowered to order any deductions from his pension or gratuity amount for the purpose of recovering penalty if awarded.

17. As per the provisions of the RTI Act, only the PIO can be penalized u/s 20 and not the First Appellate authority. Hence the prayer as sought by the appellant vide his application dated 25/2/2019 in the present appeal proceedings cannot be granted.
18. In the above given circumstances I find the ends of justice will meet with following order ;

Order

No intervention of the Commission required for the purpose of furnishing information as the available records have been duly furnished to the appellant. The appellant may approach the PIO with a copies of the documents which are not clearly readable within 10 days from the receipt of this order and the PIO is hereby directed to furnish fresh legible copies of the same to the appellant within 4 days thereafter.

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