

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No. 100/2019/SIC-II

Shri Joao C. Pereira,
H. No. 40, Acsona,
Utorda, Majorda, Salcete - Goa.

.... Appellant

v/s

1. Public Information Officer,
Office of Directorate of Fisheries,
D.B. Marg (Planning & Statistics)
Panajii-Goa. 403 001.
2. Public Information Officer,
Office of Directorate of Fisheries,
D.B. Marg (Aquaculture & General)
Branch), Panajii-Goa. 403 001
3. First Appellate Authority,
Office of Directorate of Fisheries,
D.B. Marg, Panaji-Goa. 403 001

.... 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 13/11/2018, sought certain information under Section 6 (1) of the RTI Act. 2005 from the Respondent PIO O/o Directorate of Fisheries , Panaji Goa. The Appellant had sought information at 14 points including *inter alia* the details of all the trawler owners registered with the Goa Fisheries Department alongwith their Name and address and Registration number of the Trawlers from the year 2000 till date, the details of the subsidies released to all the registered trawler owners while purchasing the trawler by the fisheries department through Government of Goa and Government of India, details of kerosene and diesel subsidy and other such related information as in the application.
2. It is seen that the PIO by letter dated 11/01/2019 had informed the Appellant to collect the information from MPEDA and vide another letter dated 04/02/2019 transferred the RTI application to two PIOs, namely PIO, Planning & Statistics and PIO, Aquaculture & General Branch, in the Directorate of Fisheries.

3. It is further the case of the Appellant that the PIO vide letter dated 05/02/2019 has furnished information at point no 4 & 6 and further the PIO, Aquaculture & General Branch also furnished information at point no.5 vide reply no. DF/GB/RTI-ACT/31/2018/5089 dated 14/01/2019 by enclosing the information documents, however has not given any information at point no.3. It is also the case of the Appellant that the PIO, Planning & Statistics furnished a reply dated 20/03/2019 by stating that information at point no.4, 9 & 10 are not available.
4. It is also the case of the Appellant that he had filed a First Appeal on 06/02/2019 and the First Appellate Authority (FAA) vide an Order dated 03/04/2019 dismissed a First Appeal on the ground that the information was rightly denied by the PIO by applying section 8(1)(J) which is personal information and that the information does not fall under the ambit of larger public interest .
5. Being aggrieved with the Order of FAA, the Appellant has approached the Commission by way of a Second Appeal registered on 17/04/2019 and has prayed to quash and set aside Order of the Respondent No.3 passed in Appeal No. 02/2019/5659 and to direct the Respondent No.1 to furnish information at point No. 4, 9 & 10 and the Respondent no.2 to furnish information at point. No.3 & 5 and initiate disciplinary proceedings and imposed Penalty and other such reliefs.
6. **HEARING:** During the hearing the Appellant Shri. Joao C. Pereira is present in person. The Respondent No.1 Shri. Sudesh Volvoikar, Research Assistant, Dte. of Fisheries (Planning & Statistics) is present in person. The Respondent No.2 Smt. Megha Kerkar, Superintendent of Fisheries, Dte. of Fisheries (Aquaculture & General Branch) is also present in person.
7. **SUBMISSIONS:** At the outset Appellant submits that that he has not received information at point no. 3, 4, 9 & 10 and that the Order passed by FAA is erroneous and deserves.....

..... to be quashed and set aside as he has wrongly upheld reply by both PIO's wherein they have taken a plea later on by submitting that the information falls u/s 8(1)(J) personal information contrary to the reply filed by both PIO's initially.

8. Respondent No.1 submits that information as available in the records were furnished to the Appellant and information at point. No. 4, 9 & 10 is not available. The said PIO files a written declaration confirming the facts which is taken on record. The Respondent No.2, the PIO, Aquaculture & General Branch also submits that information as available at point No. 3 was furnished.
9. When the Commissioned questioned as to why a sudden plea was taken before the FAA by submitting that the information is being u/s 8(1)(j) more so when such decision was not taken in the replies dated 14/01/2019 & 20/03/2019? Both the PIO's had no answer. The Appellant however at this juncture does not press for information at point at point no. 4, 9 & 10 and submits that he is interested in receiving information only at point no 3.
10. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record finds that the appellant does not want to pursue information at point no. 4, 9 & 10 and the only remaining information is regarding point no 3 which is held by the Respondent No.2, PIO, Aquaculture & General Branch and which during the course of the arguments the said PIO has agreed to furnish.
11. The Commission also finds that the First Appellate Authority (FAA) was wrong in upholding the replies of the PIO who erroneously applied section 8(1)(j) only at the hearing held by the FAA belatedly.
12. The FAA being a quasi judicial body should have applied his mind and come to a conclusion whether the information sought by the Appellant in the RTI application indeed.....

..... falls within the ambit of Personal information and whether the disclosure can be exempted from u/s 8 (1)(J) of RTI Act. The public have a right to know about subsidies and other benefits given to trawler owners by the Government and all such information falls under the ambit of larger public interest.

13. **DECISION:** The Commission accordingly directs the Respondent No.2, PIO, Aquaculture & General Branch, Dte of Fisheries to furnish information at point No. 3 as is available in the records within 15 days of the receipt of this Order by speed post to Appellant. Consequently the erroneous order dated 03/04/2019 passed by the First Appellate Authority by upholding the replies of the PIO who wrongly applied section 8(1)(j) before the hearing held by the FAA belatedly and as after-thought is hereby quashed and set aside.
14. The Commission recommends that both PIO's and the FAA be deputed for RTI training immediately. The Commission also directs the Public Authority to implement Sections 4(1) (a) and 4 (1) (b) of the RTI Act, 2005 as the said information which was sought by the Appellant falls under these sections.

With these directions the Appeal case stands 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