

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No. 101/2019/SIC-II

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

.... Appellant

v/s

1. Public Information Officer,
Office of Directorate of Fisheries,
D.B. Marg (Enforcement & Offshore),
Panajii-Goa. 403 001.
2. First Appellate Authority,
Office of Directorate of Fisheries,
D.B. Marg, Panajii-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 PIO O/o Directorate of Fisheries, Panaji Goa. However the present Appeal case concerns with information sought at point No. 1 & 2 of the RTI application, as other information at other points were dealt separately in Appeal No.100/2019/SIC-II which has been disposed.
2. The Appellant *inter alia* is seeking information regarding (1) 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 (2) 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 from the year 2000 till date.
3. The PIO vide reply No.OFFS & ENF/RTI-ACT/62/2018-19/4563 dated 11/12/2018 informed the Appellant that the information sought at points No.1 & 2 are not specific and thereafter the Appellant vide his letter dated 09/01/2019 has clarified the date from which the said information is required and called upon the PIO... ..2

..... to furnish the information sought at point No. 1 & 2. The PIO vide another letter No.OFFS & ENF/RTI-ACT/62/2018-19/5366 dated 24/01/2019 informed that the appellant that the RTI application cannot be considered under Section 27 (3) RTI Act, 2005.

4. Not satisfied with the reply of the PIO, the Appellant filed a First Appeal on 28/01/2019 and the First Appellate Authority (FAA) vide an Order dated 25/03/2019 dismissed a First Appeal by upholding the reply of the PIO in claiming exemption u/s 8 (1)(j) –Personal Information during the hearing of the First Appeal.
5. Being aggrieved with the Order of FAA, the Appellant has subsequently approached the Commission by way of a Second Appeal registered on 17/04/2019 and has prayed to quash and set aside the reply of the Respondent No.1 dated 24/01/2019 and Order dated 25/03/2019 of the Respondent NO.2 passed in First Appeal No. 01/2019 and to direct the Respondent No.1 to furnish correct information at point No. 1 & 2 and to initiate disciplinary proceedings and for Penalty and other reliefs.
6. **HEARING:** During the hearing the Appellant Shri. Joao Pereira is present in person. The Respondent PIO, Smt. Megha Kerkar, Superintendent of Fisheries, Dte. of Fisheries (Aquaculture & General Branch) is present in person.
7. **SUBMISSIONS:** The Appellant submits that the PIO has given a wrong reply by stating that information sought is not specific in the initial reply dated 11/12/2018. It is further submitted that the PIO by her second reply dated 24/01/2019 rejected the information by wrongly applying Section 27(3) of the RTI act 2005 when there is no such section mentioned in the act.
8. The Appellant also submits that at the level of the First Appellate Authority, the PIO suddenly submitted another reply stating that the information sought is personal information and claimed exemption u/s 8(1)(j) during the hearing before the FAA and the FAA without applying his mind upheld the said reply and dismissed the First Appeal and that such wrong Order of FAA deserves to be quashed and set aside. ...3

9. The Appellant vehemently argued that the information sought at point No. 1 & 2 is very clear and the information is about the details of all the trawler owners registered with the Goa Fisheries Department alongwith their Name and address and Registration number of the Trawlers and 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 and that the Commission should give directions to the PIO to furnish the said information and also impose penalty and initiate disciplinary action against the PIO.
10. The PIO submits that after receipt of the RTI application there was no clarity with respect to the date from which the information was sought and as such in good faith she informed the appellant by a reply dated 11/12/2018 that the information sought at point No. 1 & 2 is not specific. It is further submitted that the Appellant by his letter dated 24/01/2019 had clarified that the information sought is from the year 2000 till date. The PIO also submitted that once again in good faith she was of the opinion that the Appellant has to pay the necessary RTI application fee of Rs.10 and which is why she applied section 27 (3) and admits it was a wrong interpretation.
11. The PIO finally admits that at the level of the First Appellate Authority she was under the impression that the information sought pertains to personal information and therefore claimed exemption u/s 8(1)(J) by enclosing Supreme Court Citation Girish Ramchandra Deshpande V/s Central Information Commr. & others in good faith.
12. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record indeed finds that the PIO has faulted in her reply dated 24/01/2019 wherein she applied Section 27(3) which was uncalled for and unwarranted. The fee payable is only on the initial RTI application when filed.

13. Also it was an error on the part of the PIO to have suddenly changed her stance and claim exemption under Section 8 (1)(j) in the reply before FAA belatedly when no such decision was taken in the earlier initial reply.
14. The Commission finally finds that the First Appellate Authority (FAA) without proper application of mind has mechanically upheld the reply of the PIO in claiming exemptions u/s 8(1)(j). 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. Certainly 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. The impugned Order is accordingly hereby quashed and set aside.
15. **DECISION:** The PIO is hereby direct to furnish information at point No. 1 & 2 within 15 days of the receipt of this Order by speed post to the Appellant. Consequently, the reliefs sought of disciplinary action and Penalty stands rejected as the Commission finds that the PIO has acted in good faith and is thus entitled for protection for action taken in good faith under Section 21. The Commission recommends that both PIO and FAA be deputed for RTI Training. The PIO is warned to be diligent and cautious in future while dealing with the RTI applications.

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

