

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

Shri Prashant S. P. Tendolkar,
State Chief Information Commissioner

Appeal No:155/2018/CIC

Shri. Rabindra A. L. Dias,
Dr. Pires Colony, Block "B"
Cujira, St. Cruz, Tiswadi –Goa.

....Appellant

V/s

- 1) Public Information Officer,
O/o The Executive Engineer,
Works Division IX (PHE),
Public Works Department,
Fatorda, Salcete- Goa.
- 2) The First Appellate Authority,
O/o Superintending Surveyor of Works,
Public Works Department,
Altinho, Panaji-Goa.

....Respondents

Filed on: 26/06/2018

Disposed on 02/04/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 12/12/2017 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under twenty five points therein.
- b) The said application was replied on 08/01/2018 seeking clarification. However according to appellant the PIO refused to abide as per section 7(1) and (8) of the act. The appellant therefore filed first appeal to the respondent No.2.
- c) The First Appellate Authority (FAA) by order, dated 05/03/2018, allowed the said appeal and directed PIO to furnish the information within 10 days free of cost and file compliance report.

Sd/-

...2/-

d) According to appellant PIO failed to file compliance report and the appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 12/12/2018 filed reply to the appeal.

f) Vide said reply it is the contention of PIO that the information was sought pertaining to water connection released more than 30 to 40 years back. According to him the information was made available on 06/12/2018 and the first appeal was disposed off on 05/03/2018. The PIO has denied the allegations made against him by the appellant. Said reply is also accompanied by copies of the information furnished. A copy of the said reply was furnished to the appellant. The matter was thereafter posted for arguments. On all subsequent dates the appellant remained absent. Though opportunity was given to him, he failed to file even his written arguments.

g) As the PIO had failed to furnish some of the information due to non availability of documents, he was directed to prove such contention on an affidavit. Accordingly on 05/03/2019, PIO filed an affidavit.

2) FINDINGS:

a) Perused the records and considered the reply of PIO and the accompanying documents. The application of the appellant dated 12/12/2017 requires information on 27 points. The 27th point requires a negative declaration in case there is no correspondence.

Sd/-

...3/-

The PIO has replied the said application on 06/02/2018. As per said reply the information at points (7) to (15), (18) (25) and (26) is not furnished in view of non availability/non traceability of the information. The information at points (4) (22) and (23) is not furnished due to ambiguity. The rest of the information is furnished in the form of enclosures.

b) If one perused the appeal memo, the appellant has not sought any relief seeking information. The only prayer which the appellant seeks is to take cognizance of non abiding of sections 5, 6, 7 and (19) and also of the alleged lapses of the PIO. The appeal memo at para (18) puts up a grievance that copies of information which were made available, were certified by APIO. It is also the contention that the information is incomplete and misleading.

c) It is seen from the records that the order of FAA was passed on 05/03/2018. Being so, the second appeal to this Commission ought to have been filed on or before 06/06/2018. But the same is filed on 26/06/2010, and the delay is not explained though an application for condonation is filed with sketchy averments without substantiating the documentary evidence.

d) On considering the reply, dated 06/02/2018 u/s 7(1) of the act in the background of the above position, it is seen that the information at points (3), (5), (6), (16), (17) (19) to (21) & (24) is furnished. The information at points (4), (22) and (23) is not furnished due to ambiguity in question, for which the appellant had the opportunity to clarify.

Sd/-

...4/-

Regarding other points in respect of which information is not furnished due to non availability/non traceability, the PIO has filed the affidavit in support. I find no reasons to discard or disbelieve the said affidavit.

e) Considering the above reply, dated 06/02/2018 and the affidavit of PIO, I hold that the information as was available is duly furnished. The appellant has also not shown as to why he contends that the same is incomplete or misleading. I therefore find no grounds to order any further information.

f) Coming to the point of delay in furnishing information it is on record as per appeal memo that on receipt of the application u/s 6(1), the PIO has called the appellant for clarification by its letter dated 8th January 2018. The appellant has not clarified as to when he visited the PIO for inspection. Thus the delay in clarification might have contributed for delay. This appeal is also filed beyond the period of limitation without any justification.

Thus considering the contributory lapse of appellant and the principals of equity in view of non filing of the present appeal in time, I find no grounds to consider the relief of penalty.

g) In the afore said circumstances I find that the appeal has no merits. The same is thus required to be disposed accordingly, which I do with the following:

O R D E R

The appeal is dismissed. Notify parties. Proceedings closed.

Pronounced in open hearing.

Sd/-
(Shri. P. S.P. Tendolkar)
Chief Information Commissioner
Goa State Information Commission
Panaji -Goa

