

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

Appeal No.169/2018/SIC-I

Shri Mahesh Kamat,
CD Seasons Cooperative,
Housing Society, Murida,
Fatorda Salcete Goa.

.....Appellant.

V/s.

1. Shri Sanjay Ghatе,
Public Information Officer
Kadamba Transport Corporation Ltd.,
Porvorim Goa.

.....Respondent

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

Filed on: 13/07/2018
Decided on: 19/03/2019

ORDER

1. By this appeal the Appellant assails the order dated 15/6/2018, passed by the first appellate authority of Kadamba Transport Corporation Limited, Porvorim, Bardez-Goa in appeal No. KTC/RTI/3/2018, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Shri Mahesh Kamat vide his application dated 11/4/2018 had sought certain information pertaining to his suspension and compulsory retirement, final settlement and other information as listed therein and also sought for inspection of the files maintained by the PIO in respect of 6 applications. The said information was sought from the PIO of the office of Kadamba transport Corporation Ltd., Porvorim, Goa in exercise of appellant right is under sub-section (1) of section 6 of Right to Information Act, 2005.
3. It is contention of the appellant that he received a reply from Respondents no. 1 PIO herein on 7/5/2018 interms of section 7(1) of RTI Act wherein he was informed that the inspection has been carried out by him earlier and has also received the information as

per his requirement and the same have been reflected in a order dated 26/3/2018 at para 9 in appeal No. 33/2018. The reference number and the date on which the information was submitted to the appellant was also mentioned in the said reply.

4. It is the contention of the appellant that he was not satisfied with the reply of respondent PIO and also aggrieved by the conduct of PIO, hence he preferred first appeal on 17/5/2018 before the Managing Director of KTC being the first appellate authority interms of section 19(1) of the Right To Information Act, 2005.
5. It is the contention of the appellant that the First appellate authority by an order dated 15/6/2018 dismissed 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 aggrieved with the order dated 15/6/2018 passed by First appellate authority and reasoning given by First appellate authority, the Appellant approached this Commission on 13/7/2018 on the ground that PIO failed to provide him correct, compete , fair and clear information and on the other grounds raised in a memo of appeal.
7. In this back ground the appellant has approached this commission with a prayer for directions to Respondent PIO for furnishing correct and complete information, free of cost, for direction to PIO to file an affidavit explaining the status of record classified as not available, invoking penal provisions and for compensation.
8. In pursuant to the notice of this commission, appellant was present in person. Respondent No.1 PIO Shri Sanjay Ghate appeared.
9. Reply dated 23/8/2018, and affidavit in reply dated 25/9/2018 alongwith the enclosures were filed by the PIO. The copy of the reply alongwith the enclosures was furnish to the appellant.
10. Written augments were also filed by the appellant on 22/10/2018 and on 21/12/2018.

11. It is the contention of the appellant that he was ex-employee of KTCL and he has been given compulsory retirement and as such he is seeking the information nothing beyond the records of the process established by Law. It is his case that order of penalty originated without inquiry proceeding, without charge sheet and without participation of the charged officer in disciplinary proceedings. It is his contention that the established procedure of law are not followed in his case and as such he deserves to be properly informed and provided with desired information and merely replied that information "*not available*" is not sufficient and not enough. It is his contention that the information given by the PIO as "*not available*" is his individual opinion and such act of the PIO leads to indirect way of refusal/denial of information. It is his contention that the inspection of the documents was offered to him and in pursuance thereof he had carried out the inspection on 12/3/2018 and 27/4/2018 and having provided him the copies of the available information. It is his contention that PIO exhausted the action of inspection only to prove that information sought by the appellant is totally absent and nil in the records of public authority. It is his contention that the suspension order dated 8/6/2007 with predefined suspension period, inquiry and penalty initiated by Shri Netto is neither available in the files maintained by Shri Netto nor they are circulated down the lines.
12. In the nutshell it is the case of the appellant that the gross abuse and misuse of powers under CCS, CCA and fundamental rules committed by Shri Sanjay Goyal and Shri Derrick Pereira Netto in his case and the appellant is seeking to know through RTI application as to what PIO intends to communicate by using the expression "*not available*"
13. Vide reply the Respondent has contended that appellant is a chronic applicant and has filed multiple applications after the decision of his compulsory retirement was taken by the KTCL,

seeking the same and voluminous information pertaining to same subject matter under RTI Act amount to misusing the powers given to the citizens to have benefits under the act in public interest. It was further contended that the appellant who has been given compulsory retirement, in order to take revenge has taken RTI as a tool of vendetta against the Department and has been seeking to irrelevant information under the RTI Act and the first appellate authority have dismissed the first appeal by judgment dated 15/6/2018 with the observation of his repeated applications and compliance given by PIO. It was further submitted that the Hon'ble High Court of Bombay at Goa has also passed strictures and made observations against the conduct and attitude of the appellant herein in writ petition No. 569 of 2008 and he placed on record the above Judgment .

14. It was further contended by the PIO that in their reply dated 7/5/2018 they have mentioned the reference number and the dates of his earlier replies where application seeking same and or similar information which was already furnished to him including the inspection.
15. The PIO also filed affidavit in replies dated 22/11/2018 contending that information in respect of the subject matter of RTI application of the appellant, all the documents which exists with the corporation are given by the PIO to the appellant and documents which does not exists in files/records are replied as "*not available*". It was also contended that no any documents are concealed by him.
16. The PIO in his affidavit has also affirmed that no documents from the files are missing or are misplaced and the documents "*not available*" means the documents are not in existing in the files with the KTCL as well as with him.
17. In the nutshell it is the case of the Respondent PIO that all the available information from the records have been provided to the

appellant and the documents replied as "*not available*" means the documents are not existing in the file with a KTCl.

18. I have perused the records available in the file and also consider the submissions and pleadings of the parties.
19. It is admitted fact by both the parties that multiple applications were filed by the appellant pertaining to same subject matter and the inspection of the file maintained by the PIO was provided to the appellant. It is also admitted fact that after inspection available information was furnished to the appellant. The PIO in his reply u/s 7 have also given the reference Number to his earlier replies on earlier application seeking same or similar information. The same averments have not been categorily denied by the appellant herein.
20. The Hon'ble High Court of Punjab and Haryana in CWP No. 5456 of 2011, Kamarjit Singh and others V/s State information commission Punjab and another's has held that

"the State information commissioner Punjab was right in declining supply of same information time and again."
21. In other words the Hon'ble High Court of Punjab and Haryana has held the information sought can be denied if the same information is already furnished.
22. By subscribing to the above ratio I do not find any irregularity in the reply given by the PIO interms of section 7 (1) of RTI Act .
23. Be that as it may ; the PIO during the hearing before this commission filed an compliance report on 19/3/2019 submitting that their website is updated and all the information including the information of Shri Mahesh Kamat have been uploaded on a website and the appellant have been already informed about the same.
24. An application also came to be filed on 19/3/2019 by appellant and appellant also submitted that note dated 4/6/2007 and minutes of

Board meetings from 154th till 157th are not uploaded. He further submitted that information mentioned by him at point No. 16 and 18 are not uploaded.

25. The PIO in reply to above submission of appellant contended that the minutes from 154th till 157th are already uploaded on KTC website at page No. 47 and 48. He once again undertook to verify the website to see whether note dated 4/6/2007 is uploaded or not and then he undertook to upload the said note in case the same is not uploaded. He further submitted that information as mentioned by appellant at para 7(6) of his application dated 19/3/2019 was not sought by appellant in his RTI application dated 11/4/2018 and hence he is not bound to furnish him the same.
26. The Hon'ble High Court of Delhi in 444/2012 and CM No. 10451/2012; Premlata V/s Central Information Commission and others at para 23 has held that;

“To hold that notwithstanding the public authority, at a huge expense, having suo moto made information available to the public at large, is also to be burdened with dealing with request for the same information, would amount to huge waste of resources of the public authority. Experience of operation of the act for the last merely 10 years has shown that the officers of the public authority designated as CPIOs have other duties also and the duties to be discharged by them as CPIOs is an additional duty. It cannot also be ignored that dealing with request for information is time consuming process . If it were to be held that information already made available under section 4 will have to be again provided under section 6 and 7, it will on the one hand not advanced the legislative intend in any way and on the other hand may allow misuse of the provisions of the Act for extraneous reasons and allowing harassment of CPIOs by the miscreants”.

27. Since the information sought by the appellant is available on the website and is in public domain, I find no intervention of this commission is required for the purpose of furnishing information as the appellant could fulfil his requirement by accessing the same from the website of the KTC.
28. The Respondent PIO has responded application of the appellant promptly on 7/5/2018 well within stipulated period of 30 days. There is no evidence on record produced by the appellant attributing malafides intention of the PIO. On the contrary the records reveals that the PIO was diligent in performing his duties under the RTI Act and there was no denial of information from his side
29. In my considered opinion the facts of the present case does not warrant levy of penalty on the PIO. Hence the relief sought by the PIO of penal nature are not granted.

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