

GOA STATE INFORMATION COMMISSION
Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.195/2019/CIC

Mr. Uday B. Vaigankar,
Khalchawada –Harmal,
Pernem-Goa.403524.

....Appellant

V/s

- 1) The Public Information Officer,
DYSP. Mapusa Div,
Mapusa Police Station,
Mapusa –Goa.403521.
- 2) The First Appellate Authority
O/o The S.P. (North)
Porvorim-Goa. 403501.

....Respondents

Filed On: 19/06/2019

Disposed On: 24/09/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 07/03/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the respondent no.1, being the Public Information Officer (PIO) under seven points therein.
- b) The said application was replied on 03/04/2019. By said reply the PIO furnished information to points (1), 3 (part), (4), (5), (6). Information at points (7) was refused as not coming under section 2(f) of the act. In respect of information at points 2 & 3 (part) the PIO refused to furnish the same on the ground that the records are bulky.

According to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent no.2, being the First Appellate Authority (FAA).

Sd/-

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- c) The FAA by its order, which is undated as per the copy filed herein, directed PIO to allow the appellant to inspect the related information and further directed PIO to furnish copies, if required, on payment.
- d) The appellant being aggrieved by said order of FAA has 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 14/08/2019 filed his reply to the appeal. By admitting the sequence of events up to disposal of the first appeal, the PIO submitted that pursuant to order of FAA, the appellant was called at Pernem Police station for inspection of documents. That accordingly he remained present and the records were placed before him but appellant left without inspecting the same. The PIO has attached a copy of station diary relating to visit of the appellant.
- f) On 29/08/2019, Adv S. Vaingankar appeared on behalf of appellant and undertook to file vakalatnama on behalf of appellant. But the same is not filed till date.
- g) On perusal of the records it was noticed that the information at points (2) and 3(part) was not furnished by PIO as according to him the record were bulky. With a view of assessing the volume of information, PIO was directed to file a memo giving the number of pages involved and the cost of copies. Accordingly on 10/09/2019 the PIO filed a memo submitting that the information runs in 563 pages and the cost as

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Rs. 1126/-. As none appeared on behalf of appellant on 13/09/2019 when matter was taken up for hearing, submissions on behalf of PIO were heard and the present matter was adjourned for orders.

Subsequently on same day Adv. Radhika Kandur appeared on behalf of the appellant under a letter of authority of the appellant. She submitted that the sole point which is required to be considered is that the appellant is entitled to have the information free of cost as initially same was not furnished within thirty days as contained in section 7(1) of the act. At the request of Adv. Kandur, liberty was granted to appellant to file written submissions if any on or before 17/09/2019, by giving advance copy to the PIO.

h) Accordingly on 18/09/2019 appellant filed his submissions alongwith a copy duly acknowledged by PIO. Vide said submission it is contended by appellant that the fact that information is bulky running into 563 pages is informed beyond the period of limitation. It is also contended that the PIO failed to make such mention during first appeal. According to appellant no mind was applied by PIO and no statement of concerned staff is produced. It is also contended that during hearing the PIO has not made any attempt to convey about bulky information. According to appellant the volume of information running into 563 pages cannot be termed bulky.

2) FINDINGS:

a) Perused the records and considered the submissions of

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parties. The information sought is in the form of Data/Statistic. In respect of points 1, 3 (part) 4 to 6 is already furnished. In respect of point 7 the PIO has rightly replied that the same cannot constitute information under section 2 (f) as the same is in the form of reason sought from PIO. PIO being a custodian of information is not expected to give reason for existence of information in its present form nor for its non existence.

- b) The dispute herein is in respect of information as of point 2 and 3 (part). By reply dated 03/04/2019 this information is refused on the ground that it is bulky. I am unable to subscribe to this view of the PIO that the same is not dispensable due to its bulky volume. I am fortified in this view based on the ratio laid down by High Court of Punjab and Haryana in the case of ***Dalbir singh V/S Chief Information Commissioner Haryana & others WP@No.18694 of 2011***. In the said case while dealing with bulky information it is held:

“There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner”.

Considering the above position of Law it would have been appropriate on the part of PIO to seek extension of time if required and also the cost of the information.

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- c) It is the contention of the appellant that as the information is delayed he is entitled to have the same free of cost, in terms of section 7(6) of the act. The appellant has also argued that it is only before this commission that PIO has raised issue of bulky information. I am unable to accept this contention. If one peruses the reply of PIO as relied by appellant, it is seen that information at points (2) and (3) (part) is not furnished on the ground that it is bulky.
- d) Section 7(6) of the act cannot be read in isolation. It will operate only if section 7(1) is not complied. Said provisions reads:

“7. Disposal of request.”___(1) *Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:*

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(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

- e) On joint reading of the said provisions it is clear that there is no compulsion on PIO to furnish the information at any cost. What is required from the PIO is to decide whether the information is to be furnished or not within 30 days. Incase he finds that the information can be furnished, he has to furnish within said time or refuse it also within said time. Thus any of such exercise has to be completed in 30 days.
- f) In the present case said decision is taken by the PIO on 03/04/2019, within said period of 30 days, and has rejected the request on the ground that the information is bulky.
- g) Considering the ratio in the judgment in the case of Dalbir Sing(supra), refusal on such grounds was not available and something further ought to have been done by PIO. This commission has directed the PIO to file a memo regarding the volume and cost of information, which is accordingly done. By further applying the ratio in the said judgment, I find it appropriate that notwithstanding the volume of information, the said

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information at point 2, and 3 (part) can be furnished, if the appellant pays the cost of the information on granting sufficient time to the PIO to obtain the copies of the same.

- h) In the above circumstances I find that the end of Justice can be met if PIO is directed to furnish the information subject to payment of cost. I am unable to concede with the request of the appellant that the said information should be furnished free of cost.

Considering the said position, I dispose the present appeal with the following :

O R D E R

Appeal is partly allowed. The appellant shall deposit with the PIO an amount of Rs.1126/- within period of 10 days from the date of receipt of this order by him, towards the cost of fees of information. The PIO shall, furnish to the appellant the information at point 2 and 3(part) of appellant application, dated 07/03/2019, within a period of Ten (10) days from the date of such deposit.

Rest of the prayers are rejected.

Proceeding closed.

Copy of the order be furnished to the parties free of cost.

Pronounced in the open proceeding.

Sd/-

(Shri. P. S. P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji -Goa