

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 201/2019/SIC-II

Mr. Heraclio Fernandes,
Son of late Constancio Menino Fernandes,
aged 66 years, retired,
r/o H.No.293/4, 3rd Ward,
Colva, Salcete, Goa.

.... Appellant

v/s

The Public Information Officer,
Office of the Executive Engineer,
Division XVI, Sub-Division-I,
Electricity Department, Ground Floor,
Superintending Engineer's Office,
Aquem-Alto, Margao – Goa.

.... Respondent

Relevant emerging dates:

Date of Hearing : 31-10-2019

Date of Decision : 31-10-2019

ORDER

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 13/02/2019 addressed to the PIO, Office of Assistant Engineer, Electricity Department, Govt. of Goa Div. 16, Sub Div. I Benaulim, Salcete –Goa sought certain information u/s 6 (1) of the RTI Act, 2005.
2. The information is at two points and pertains to release of electricity connection to house bearing No.33/2 standing in the name of Shri. Anthony L. Fernandes, resident of 1st ward Colva Salcete Goa and the appellant is inter alia seeking details of the information required of (a) copy of NOC issued by the Village Panchayat of Colva, Salcete Goa, for release of Electricity connection, (b) Copy of undertaking given by Shri. Anthony L. Fernandes to the Panchayat.
3. It is seen that PIO has furnished the same reply bearing No.AE-I/BEN/Com-2 RTI/46/2018-19 dated 30/10/2018 given in connection with an earlier RTI application filed by the Appellant on 30/08/2018 as the information sought was same and similar.

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4. The PIO in the said reply has informed the Appellant that with regards to information at point No.1 the records show that the installation released to house No.33/2, 1st ward Colva, stands in the name of Anthony Leo Fernandes. Legacy No.44A-662/3/37050, and with regards to point No.2 the office which was under Division –IV, Margao was bifurcated in April 2014 and shifted at the SE bungalow in Sept. 2014. At the time of bifurcation 13661 files were transferred to this office and the Application file with installation No.37050 is not traceable.
5. Not satisfied with reply of the PIO, the Appellant filed a first Appeal on 14/03/2019 and the First Appellate Authority vide an Order dated 27/03/2019 disposed off the First Appeal by directing the APIO to furnish the information to the RTI applicant within 15 days.
6. Being aggrieved that despite the Order of the First Appellate Authority (FAA) the PIO has not furnished any information, the Appellant thereafter has approached the Commission by way of Second Appeal registered on 25/06/2019 and has prayed to direct the Respondent PIO to furnish information and for enquiry and other such reliefs.
7. **HEARING:** During hearing the Appellant Mr. Heraclio Fernandes is present alongwith his Advocate M. Mascarenhas whose Vakalatnam is on record. The Respondent PIO, Shri Uday Kudalkar, Asst. Engineer, DIV. XVI, Sub-Division-I, Electricity Dept. Margao with the public authority is present in person.
8. **SUBMISSIONS:** At the outset the Respondent PIO submits that the Appellant has filed a similar RTI application dated 30/08/2018 regarding the same subject matter and as such in that RTI application a reply was given to him vide letter dated 13/10/2018 and which reply also stands valid in the present RTI application of the Appellant dated 13/02/2019.

9. It is further submitted that information was furnished in Tabulation form and in point No.1 it was informed that electricity connection has been released to house No.33/2 1st ward Colva, standing the name of Anthony Leo Fernandes. Legacy No.44A-662/3/37050, Installation No.5000516576. In point No.2 the PIO informed that due to shifting of Sub Division the file pertaining to Installation No.37050 is not traceable. The APIO further submits that pursuant to the directions of the FAA, he had informed the parties and reconstructed the documents of the said electricity connection standing in the name of Shri Anthorny Leo Fernandes.
10. The APIO furnishes a detailed reply dated 13/10/2019 containing 16 pages of information documents which are taken on record. One copy is served on the other side. The Respondent PIO also furnishes a copy of the earlier RTI application filed by the Appellant dated 30/08/2019 calling for similar information on the same subject matter, which is also taken on record. The APIO therefore finally submits that all information as was available has been furnished and further he has re-constructed the file and furnished the information and as such request the Commission to dispose of the Appeal case.
11. The Adv. M. Mascarenhas for the Appellant submits that she has perused the 16 pages of re-constructed information documents and points out that the NOC issued by V.P. Colva pertaining to the release of Electricity connection to Anthony Leo Fernandes and the undertaking is also not in the list of documents furnished. At this juncture the APIO intervene to point out undertaking is not taken from applicants applying for Electricity connection in view that Panchayat issues NOC.
12. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record including the 16 pages of information documents furnished by the APIO.....

13. reconstructing installation documents finds that indeed, the PIO has provided all information as was available and has gone out of his way to reconstruct a new file by requesting the consumer namely Anthony Leo Fernandes to again furnish fresh documents for re-construction of the electricity connection as the said file was not traceable during shifting due to bifurcation of the new sub Division.
14. The Commission further finds that the Appellant has filed two RTI applications regarding one and the same matter in utter abuse of the RTI process. The Commission also finds that the Appellant has unnecessarily directed the RTI query to the PIO, Electricity Department when the matter pertains to the PIO, Secretary, V.P. Colva Panchayat.
15. **DECISION:** As stipulated in the RTI Act the role of the PIO is to furnish information as is available and if is available in the records. The very fact that the PIO has given a reply to a similar RTI application dated 30/08/2018 and which reply stands valid in the present RTI application is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO, either to deny or conceal any information and which is a mandate of the RTI Act.
16. Advocate M. Mascarenhas had argued that copies of NOC and undertaking are not in the list of fresh document of re-constructed file submitted by the APIO. As the information pertains to V.P. Colva, the Appellant is at liberty to file a fresh RTI with the PIO, Secretary, V.P. Secretary Colva to obtain the said information.

Nothing survives in the Appeal case which accordingly stands disposed.

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