

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

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

Appeal No.203/2018/CIC

Shri Cirilo Vales,
H. NO.78, Duncolim,
Seraulim,
Salcete -Goa. 403708.

..... Appellant

V/s

- 1) The Public Information Officer,
The Executive Engineer,
Works Div.X, WRD,
Pajimol, Sanguem.
- 2) The First Appellate Authority,
Superintendent Engineer(CPO),
WRD, Sinchayi Bhavan,
Porvorim Goa.

..... Respondents.

Filed On: 30/08/2018

Decided On: 16/04/2019

O R D E R

1) This appeal is filed by appellant u/s 19(3) of The Right to Information Act 2005(Act) on the ground that the PIO failed to furnish information within statutory period of 30 days and has prayed for penalty against PIO.

Though the appeal memo does not clarify whether the information was furnished or not prior to filing of this appeal, it is admitted by the appellant that the information was furnished to him on 05/06/2018. Hence no intervention of the Commission is required in respect of furnishing information. The only point to be decided is regarding the penalty and compensation as prayed for by appellant.

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2) The PIO has filed his reply to the appeal on 23/10/2018 alongwith enclosures. Vide said reply it is the contention of PIO that on receipt of the application dated 05/04/2018 u/s 6(1) of the act, by reply letter dated 17/04/2018, the PIO has called upon the appellant to visit the office and inspect the records and to pay the fees for information and collect the information. In support of this contention the PIO has relied upon and filed on record copy of the letter, dated 17/04/2018 alongwith the copy of postal acknowledgment card. Thus there is evidence that the application u/s 6(1), dated 05/04/2018 was disposed by the PIO on 17/04/2018 and decided to furnish information thereby complying with the requirements of section 7(1) of the Act.

In the memo of appeal the appellant has not pleaded regarding the receipt of the said letter, dated 17/04/2018 for the reasons best known to him. The fact remains that the application u/s 6(1) of the act was decided in stipulated time.

3) In this appeal it is nowhere the case of appellant that there was refusal by PIO to receive application or denied the request for information or has given incomplete, incorrect or misleading information or has destroyed the information. The only contention of appellant is that the PIO has failed to furnish the information within time.

4) Sub Section (1) of section (7) requires the PIO to dispose the request of seeker within 30 days. Disposal of request may result in furnishing of information on payment of fees or rejection of request on grounds as

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mentioned in sections (8) and/or (9) of the act. In the present case the PIO has disposed the request on 12th day by deciding to furnish information on receipt of fees. In such circumstances I find no violation of section 7(1) of the act or any other grounds as enumerated in section 20(1) and/or 20(2) of the act.

- 5) Even otherwise there is another aspect. The appellant had filed first appeal, which was disposed by order, dated 05/06/2018. The said order of FAA was acceptable to the appellant admittedly information was also furnished thereafter Thus the appellant had succeeded in his claim before the FAA and hence the appellant had no grounds to challenge the said order by this second appeal. This view of mine is fortified by the ratio laid down by the High Court of Calcutta in the case of **Metropolitan Cooperative Housing Society Ltd. and another V/S The state Information Commission and others (W.P.12292(W) of 2009)** wherein it is held:

“16. I need not on this petition decide whether the second respondent correctly decided the issue as to whether the first petitioner is a public authority within the meaning of the RTI Act or not, for the reason that the appeal before him was not competent. A right of appeal must be traceable in a statutory provision is settled law. Section 19 of the RTI Act does not confer any right on an information seeker to prefer either first appeal or second appeal if information as claimed by him is directed to be furnished by the original authority or the first appellate authority, as the case may be. Here the first appellate authority allowed

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the claim of the fifth respondent. If anyone could be regarded as person aggrieved by the decision of the first appellate authority, it were the petitioners. The fifth respondent having succeeded in his claim before the first appellate authority, he could not have filed second appeal. The order dated 25/06/2009 is also not sustainable in law on this sole ground.”

- 6) Considering the above circumstances and also the ratio as laid down by Calcutta High Court, I find no grounds to invoke my rights U/s 20 or under section 19(8) of the act to order penalty or grant compensation.
- 7) In the result the relief as prayed for by appellant cannot be granted. The appeal is disposed accordingly.
- This order be communicated to parties.
- Proceedings close.

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