

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

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

Appeal No. 216/2019/CIC

Mr Surendra S. Govekar,
R/o Hno.678/5,
Soratto Waddo,
Anjuna Bardez Goa. 403509.

....Appellant

V/s

- 1) Public Information Officer,
The Secretary,
Village Panchayat Anjuna-Caisua,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer Bardez,
Mapusa Bardez-Goa
403507.

....Respondents

Filed on: 15/07/2019

Disposed on: 20/11/2019

1)FACTS IN BRIEF:

a) The appellant herein by his application, dated 19/02/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the respondent no.1 Public Information Officer (PIO) under four points therein being (i) *certified copy of form 7 from 1st March 2018 to 19th March 2019* (ii) *soft copy of data in respect of form 7 from 01/03/2016 to 19/03/2016* (iii) *certified copy of form 8 from 01/03/2018 to 19/03/2019* and (iv) *soft copy of form 8 from 01/03/2016 to 19/03/2019.*

b) The said application was replied by PIO on 11/03/2019 by calling upon the appellant to pay fees,

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which were paid on 16/03/2019 and on same date the purported information was furnished. However according to appellant the information as furnished was incomplete, vague and not satisfactory and hence the appellant filed first appeal to the respondent no.2, being the First Appellate Authority (FAA).

c) The FAA by order, dated 03/07/2019 partly allowed the said appeal and directed PIO to allow appellant to inspect the records in respect of points (i) to (iv) and thereafter to furnish the information which is available, as is identified by appellant.

d) According to appellant the PIO has not complied with the said order of FAA. 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 20/09/2019 filed his reply to the appeal. During the proceedings the appellant filed additional documents being the information, which was furnished to him and purportedly incomplete

f) Vide his reply, the PIO contended that he has furnished the appellant with entire information as sought and that the appellant was also allowed the inspection of relevant files but the appellant failed to acknowledge the same nor acknowledge any letters sent to him. PIO further contended that he has duly complied with the order of FAA in as much as the information which is sought by the appellant is not stored in the Panchayat computers and the computers are used only

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to type and printout the same and that the information is stored in hard copies and paper. It is further contended that in respect of information at point (iii), the data is under preparation and the PIO cannot create the same before finalization. The PIO has also further raised several other pleas but they are not material for the present proceedings.

g) Considering the contention of the PIO that some of the information is not in existence and also considering his submission of appellant that the information at point (iii) which is form 8, as was furnished is not copy of the original, an opportunity was granted to the appellant to physically verify the same and personally obtain the xerox copy. Accordingly the information at point (iii) which is copy of form no.8 was furnished to the appellant. PIO was also directed to file an affidavit in support of his contention that the unfurnished information which is at points (ii) and (iv) factually doesn't exist. Accordingly he filed an affidavit on 16/10/2019.

h) Submission of the parties heard. In the course of submissions the appellant admitted having received the information at point (i) and (iii) which are in the form of physical records namely form no. 7 and form no. 8. However it is submitted that the information at point (ii) and (iv) and which is in the soft form is not furnished to him. Advocate for PIO submitted that the said forms no.7 and 8 are not recorded with the Panchayat in soft form and hence cannot be furnished.

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2) FINDINGS:

a) Perused the records and considered the submission of the parties. As of today it isn't in dispute that the appellant is furnished with certified copies of Form no.7 and Form no. 8 of the required period, which is the information sought at points(i) and (iii).

In respect of soft copy of the said forms it is the contention of PIO that the same is not available as the Panchayat does not maintain such information in soft copy format. It is seen from the records, more particularly the order of the First Appellate Authority dated 03/07/2019 wherein also it was the consistent stand of the PIO that said information is not stored in soft form.

It is the contention of the appellant that the pursuant a memorandum, the Panchayat are required to maintain the records in a proper form as contained in the said memorandum. It is further according to him that to have knowledge, the records of the respondent Panchayat are also required to be maintained in soft form and they are accordingly done. The factual position of the existence of soft copies was sought by this Commission from PIO by way of affidavit and said affidavit affirms that the same does not exist. The appellant has not brought any better evidence before this commission to conclude that information in such form actually exist, except his bare statement.

The appellant has relied upon the judgment of the High Court in Writ Petition No.735/2017 to support his contention that he has inspected form No.7 and 8 in panchayat computer. A perusal of the said order shows

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that Hon'ble High Court has granted inspection of unconfirmed minuets of meeting.

Even otherwise existence of soft form should be authenticated for public use.

b) Considering the submission of the parties, I do not find any evidence to hold that the information as is sought at points (ii) and (iv) actually exist in soft form for being furnished under the act. The information as is defined under the act is the one which actually exist as on date of request. The commission cannot direct the authorities to create or collect information. The Commission is also not the authority to direct public authorities to create information or enforce any memorandum or circulars. In the present case, as held earlier, as the information does not exist this commission cannot issue any direction for issuance of non existing information. However this shall not prevent the appellant to seek the same if created and made to exist in future.

c) The appellant herein has also prayed for penalty against the PIO. I have considered the date of response by the PIO. I find that he has decided the application of the appellant dated 19/02/2019 within the time stipulated u/s 7(1) of the act and consequently I find no delay in deciding the application of the appellant.

Coming to the point of vagueness or misleading information I find that the PIO has sufficiently explained as to under what circumstances the certified copies could not obtain xerox copies. For such copying he had to take assistance of appellant. In this situation I find

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no deliberate or intentional denial on the part of PIO to furnish information. Consequently I find no grounds to invoke the right of this commission u/s 20(1) or 20(2) of the act.

d) Considering the above facts and circumstances, I find that the ends of justice shall be met by disposing the appeal with the following:

O R D E R

Appeal is dismissed. However, the right of the appellant to seek the information at points (ii) and (iv) of his application dated 19/02/2019, in electronic form are kept open, after the same exist with the respondent authority and certified to be for public reference and use by the concerned authority.

Order to be communicated to the parties

Proceedings closed.

Sd/-

(Shri. P. S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji –Goa