

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

Appeal No.220/2019/SIC-I

Shri Xavier A. Dias.
H. No.477, Orel,
Assolna, Salcete-Goa.

....Appellant

V/s

- 1) The Deputy Collector & SDO,
Margao -Goa.
- 2) The Collector,
Margao –Goa.
- 3) The Executive Engineer,
Div. VI, PWD,
Fatorda, Margao-Goa.

....Respondent

CORAM: Ms. Pratima K. Vernekar, Sate Information
Commissioner.

Filed on:18/07/2019
Decided on:10/10/2019

O R D E R

1. The background leading to present appeal is that the second appeal bearing No. 78/19/SIC-I was filed by the appellant Shri Xavier A. Dias against the Respondent NO. 3 PIO of Executive Engineer Div-VI PWD Margao-Goa on 27/3/2019 in respect to his RTI application dated 3/1/2019 seeking certified copy of the land acquisition plan produced and attached to the submission dated 30/4/2018 by Executive Engineer before court in civil suit No. 31/2013/II. The Commission after hearing both the parties in the above appeal vide order dated 18/4/2019 directed the Respondent no. 3 to transfer the said application dated 3/1/2019 filed by the appellant to the PIO of office of Dy. Director and SDO at Margao interms of section 6(3) of RTI Act, 2005.
2. According to the appellant Respondent NO. 3 the PIO of Div-VI PWD Margao failed to transfer the said application dated

3/1/2019 and as such on account of urgency to file reply in the District and Session Court(Fast Tract court), he filed separate application in the office of Dy. Collector and SDO Margao Goa dated 25/2/2019 seeking the above said information .

3. According to the appellant his application dated 25/2/2019 was not responded by Respondent no. 1 PIO of the office of Deputy Collector at Margao and SDO within stipulated time of 30 days interms of section 7 of RTI act, as such deeming the same as rejection he preferred 1st appeal on 27/3/2019 before the Respondent No. 2 Collector, Margao Goa as contemplated u/s 19(1) of RTI Act being first appellate authority.
4. According to the appellant he received a copy of the letter dated 29/4/2019 made by Respondent nO. 1 PIO transferring his application to the PIO of collector of North Goa At Panajim and to executive Engineer works Division VI Fatorda Margao GoA in terms of Section 6(3) of RTI Act, 2005.
5. According to the appellant his application dated 25/2/2019 which was transferred to respondent no. 2 was responded by the PIO of office of Dy. Collector (LA), Panajim Goa on 24/5/2019 interms of section 7(1) of RTI Act wherein he was informed that the records of their office were thoroughly verified with the help of details given but the number mentioned in his letter is not traceable in the records maintained in their branch and the information may be treated as nil .
6. According to the appellant that the Respondent No. 2 FAA disposed his appeal on 28/6/2019 without granting further relief by coming to the conclusion the information sought is not available with the Respondent No. 1 .
7. According to the appellant he had made similar attempt seeking the above informtion from Respondent NO. 1 in the year 2004

and the FAA had directed the Respondent PIO to provide the information within 15 days.

8. In this background the appellant has approached this commission on 18/7/2019 with a contention that information is not provided to him by the Respondents and there by seeking directions against Respondents for providing information as sought by him vide his application dated 25/2/2019
9. The matter was listed on board and was taken up for hearing .In pursuant to notice of this commission , Appellant appeared in person. Respondent No.1 was represented by Shri Abhishek Naik. Respondent No.2 opted to remain absent. Respondent No.3 Shri Agnelo Barros was present.
10. Reply filed by the Respondent NO.1 on 18/9/19 and also affidavit on 25/09/2019. Respondent No. 3 also filed affidavit on 25/09/2019. No reply came to be filed on behalf of Respondent No. 2. Copy of reply of Respondent No.1 and Respondent No.3 were furnished to the appellant.
11. Appellant also filed application on 25/09/2019. The copy of the same was furnished to the Respondent No.1 and Respondent No.3.
12. Respondent No.3 vide his counter reply 04/10/2019 offered clarification with respect to the grievances raised by the appellant vide his application 25/09/2019.
13. Arguments were advanced by both the parties .
14. The appellant submitted that he required the said certified copy of road plan for construction of Asolna Cavelsim ferry road as sought by him as referred in reward for land requisition NO. RD/LQN/89/72 dated 23/3/1972, on the urgent basis as the same is required to file a reply in the District and Session Court(Fast tract Court). He further submitted that he is trying to seek the said information from the year 2014, however till date no

information have been furnished to him on the ground that the information is not available .

15. The Respondent no. 1 PIO contended that the office has verified the records and the said file was not found in their office. It was further contended that the said land requisition was done prior to formation of collector south Goa when there was only one collector at Panajim to the entire state of Goa. It was further contended that the office has inventories the old Land Acquisition files, however the said file is also not available in the said inventory list. It was further contended that since the said file of collector may be maintain in the Land Acquisition branch of Collector North Goa and as the road plan was maintained by Respondent No. 3, the application of the appellant was transferred to Respondent no. 2 &3 vide separate letters dated 29/4/2019 respectively.
16. Respondent No. 3 vide his affidavit contended that the documents sought are of 1972-1975 and even after thorough search of their office they could locate only the Xerox copy of the acquisition made by the Government and the same was furnished to the appellant. It was further contended that inspite of all possible efforts the office was unable to trace the original document. Vide clarification dated 04/10/2019 it was submitted that after the completion of the Land Acquisition proceedings the L.A.O/Dy. Collector send the copy of the Land Acquisition Award and the plan to the concerned Acquiring Department/PWD and the original copies of the said documents are retained in the custody of the Land Acquisition Officer/Dy. Collector. It was further submitted that the appellant has filed the Civil Suit No.31/2013 in the District and Session Court Margao to determine the location of the Road and the width of the Acquisition and the said issue of the conformity of the Road Acquisition Plan has been raised in the same Civil Suit and the same matter is sub-Judice.

17. I have scrutinised the documents available in the file and also considered the submission of both the parties.
18. On perusal of the records it could be gathered that the appellant is trying to seek the information pertaining to the year 1972 approximately about 46 years old. The Respondent no. 1 and 3 have category submitted that the said information i.e. original the copy of the road plan for construction of Asolna Cavelsim ferry road or any other road plan is not available in the office records. Further on perusal of the order dated 29/1/2015 passed by the additional collector-I and appellate authority south Goa District at Margao Goa in case No. RTI/33/AC-I/2014, it could be gathered that the Respondent No.1 PIO has also at that point of time has submitted that said information is not available. The Xerox copy of the said documents which was available in the office records of respondent NO. 3 was submitted to the appellant in pursuant to his application dated 3/1/2019. The letter dated 24/5/2019 addressed to him by the PIO of Dy. Collector (LA), office of the Collectorate North Goa at Panajim relied by the appellant himself given interms of section 7(1) to his application dated 25/2/2019 also reveals that the records of their office were thoroughly verified with the helps of details given but the number mentioned in his letter is not traceable in the records maintained in his branch.
19. In a nutshell it is a case of all three respondents that the information sought by the appellant vide his application dated 25/2/2019 is not available in the office of public authority concerned therein and hence cannot be provided.
20. The information pertains to the year 1972, the appellant has not established any larger public interest, which should warrant directive to the respondent to collect the information sought by him, even at the cost of diverting their resources from their day to day work.

21. The PIO supposed to provide the information as exist and as available in the records of Public authority. All the three Respondent herein have submitted that the information sought does not exist in their records. By subscribing the ratio laid down by the Hon'ble High Court of Gujarat at Ahmedabad in special Civil Application No.16480 of 2014, Pankesh Manubhai Patel v/s Chief Information Commissioner and also by the Hon'ble Supreme Court in civil appeal No. 6454 of 2011; Central Board of Secondary Education and Anr. Vs Aditya Bandopadhyay and others, the information which is not available on records cannot be ordered to be furnished hence the relief sought by the appellant in his appeal memo at point 1 cannot be granted.

Appeal disposed accordingly. Proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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.

Sd/-
(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa