

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

Appeal No.237/2018/SIC-I

Shri Sushant Bhandari.
Harsha Co-operative Housing Society,
Comba, Margao –Goa.

....Appellant

V/s

1. Shri Sanjay Ghate,
Public Information Officer (PIO),
Kadamba Transport Corporation Limited,
Paraiso De Goa Building,
Alto Porvorim Goa.

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner.

Filed on: 03/10/2018
Decided on: 27/3/2019

ORDER

1. By this appeal the Appellant assails the order dated 11/09/2018, passed by the first appellate authority of Kadamba Transport Corporation Limited, Porvorim, Bardez-Goa in appeal, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Shri Sushant Bhandari vide his application dated 9/7/2018 had sought information as listed at serial No. 1 to 12 therein including the information pertaining to Shri Mahesh Kamat about his disciplinary proceedings and suspension. The said information was sought from the PIO of the office of Kadamba transport Corporation Ltd., Porvorim, Goa in exercise of appellant's right under sub-section (1) of section 6 of Right to Information Act, 2005.
3. It is contention of the appellant that he received a reply from Respondents PIO herein on 19/7/2018 interms of section 7(1) of RTI wherein he was informed that the information sought by him

relates to third party i.e. Shri Mahesh Kamat. Vide said letter also the appellant was request to visit their office on 30/7/2018 at 15.30 hours for clarifications.

4. It is the contention of the appellant that he was not satisfied with the reply of respondent PIO and he was aggrieved by the conduct of PIO of insisting his personal visit to their office as the precondition for furnishing the information hence he preferred first appeal on 10/8/2018 before the Managing Director of KTC being the first appellate authority interms of section 19(1) of the Right To Information Act, 2005.
5. It is the contention of the appellant that the First appellate authority by an order dated 11/9/2018 dismissed his first appeal by upholding the say of PIO. No any further relief was granted to the appellant by the First appellate authority.
6. Being aggrieved with the order dated 11/09/2018 passed by First appellate authority and reasoning given by First appellate authority, the Appellant approached this Commission on 03/10/2018 on the ground that PIO failed to furnish him information nor rejected the request with adequate reasons .
7. In this back ground the appellant has approached this commission with a prayer for directions to Respondent PIO for furnishing correct and complete information free of cost, for the directions to comply requirement of Act relating to third party, for invoking penal provisions and for directions to PIO not to insist his personal attendance.
8. In pursuant to the notice of this commission, appellant was represented by Shri Mahesh Kamat. Respondent No.1 PIO Shri Sanjay Ghate appeared.
9. Reply filed by respondent PIO on 22/11/2018 alongwith the enclosures. The copy of the reply alongwith the enclosures was furnish to the representative of the appellant.

10. Written arguments of the appellant were placed on records by Shri Mahesh Kamat on 21/12/2018. So also the application dated 22/3/2019 of the appellant came to be placed on record by the representative of the appellant. The copy of the same was furnished to PIO. PIO submitted to consider his reply as his argument .
11. It is the contention of the appellant that the PIO's act for insisting his personal attendance as a precondition for furnishing the information is ultra virus for powers of PIO under the Act. According to the appellant the PIO avoided to communicate the queries if any through the post and the intentionally caused harassment to the appellant by insisting personal attendance. It is his further contention that the PIO unilaterally decided to reject his application for information on the ground that it relates to third party information. Appellant also contended that the matter of compulsory retirement of Mr. Mahesh Kamat is in public domain by virtue of judgment of Hon'ble High Court in writ petition No. 569/08. It was further contended that PIO within 5 days should have given written notice to a third party and should have invited third party to make submission in writing or orally whether the information should be disclosed or not .

The appellant vide his application dated 22/3/2019 submitted that no communication oral or written from PIO was received by him in a matter of uploading of information on KTCL Website. It was contended that PIO has used his discrimination while uploading the data and note dated 4/6/2007 in the subject matter of compulsory retirement initiated by Shri Pawse and submitted to Shri Goel has not been uploaded on the website of KTCL. It was further contended that PIO should have rejected the application or denied the information being its unrecorded information of the public authority u/s 2(f) and (i). It was further contended that PIO

should be directed to upload note dated 4/6/2007 and for taking action against the PIO for suffocating and frustrating the RTI Act through the manipulations to defeat the purpose of Act.

12. Vide reply the Respondent have contended that appellant in connivance with their ex-employee Shri Mahesh Kamat has filed this applications to harass the PIO and the other officers without having any public interest. It was further contended that the Mahesh Kamat has filed as many 20 applications and the subsequent appeals with first appellate authority and second appellate authority which are been dismissed by the first appellate authority with the observation of his repeated applications and compliance given by PIO. It was further contended that aggrieved by the first appellate authority and the observation made by the first appellate authority, said Shri Mahesh Kamat stopped filing application and started filing several application through the other applicants/information seeker of which appellant above is one of them. The PIO also prayed for summoning appellant for investigation and also prayed for dismissal of the appeals and complaint in respect of information asked by other appellant of Shri Mahesh Kamat and pending before this forum. He further contended that available information on record of public authority pertaining to Shri Mahesh Kamat have been uploaded on the website including the Note dated 4/6/2007.
13. I have perused the records available in the file and also consider the submissions and pleadings of the parties.
14. The Hon'ble Apex Court in special leave petitions (civil) 27734 of 2012(arising out of CC 14781/2012)Girish Ramchand Deshpandey v/s central information commission and others it was held that

"We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e copies of all memos issued to the 3rd Respondent,

showcause notices and the orders of the censure punishment etc, qualified to be personal information as defined of clause (j) of section 8(1) of RTI Act. **The performance of an employee/officer in an organisation is primary the matter between the employee and employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest.** On the other hand the disclosure of which would cause unwarranted inversion of privacy of that individual. And if the central public information officer or the state public information officer of the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right".

15. On perusing the application filed in terms of section 6, of RTI Act the appellant intends to know whether certain rules were applicable to the KTC employees, regarding constitution of Review Committee, records of proposal made to review committee and made to board by KTC officers, recommendation of review committee, records of opinion formed by the board, list of employee identify as dead wood under FR 56 (j) etc. The appellant had also sought for suspension record of Shri Mahesh Kamat .
16. Though it is the contention of appellant that the information sought by him pertaining to shri Mahesh Kamat is in public domain in view of the Judgement of Hon'ble High court ,however since the appellant was seeking third party information pertaining to his suspension and compulsory retirement of third party ,the

onus on the appellant to show by way of cogent evidence that the same was sought in larger public interest. The appellant has failed to show that the information is required by him in larger public interest. The information which is sought is regarding the suspension and the procedure followed and the rules applied for the said suspension of Shri Mahesh Kamat which is an primary the matter between the employee and employer and normally those aspects are governed by the service rules which fall under the expression "personal information. As such I find that the disclosure of which has no relationship to any public activity or public interest are qualified to be exempted interms of section 8(1)(j) of RTI Act and the appellant could not have claimed the same as a matter of right.

17. The appellant had never appeared before this commission even for the purpose of accessing that his present requirement is independent to that of Shri Mahesh Kamat and to substantiate his claim that it was sought in larger public interest. It appears that appellant has also not appeared before first appellate authority hence I find the contention of PIO that said Mahesh Kamat is using the appellant as his proxy appears to be probable.
18. Be that as it may; the PIO during the hearing before this commission filed an compliance report on 19/3/2019 affirming that the available information on the records of Public authority pertaining to suspension and compulsory retirement and other such connected information of Shri Mahesh Kamat have been uploaded on a website of KTCL as Shri Mahesh Kamat has not any objection and given them concurrence to upload the same on KTCL website.
19. The Hon'ble High Court of Delhi in 444/2012 and CM No. 10451/2012; Premlata V/s Central Information Commission and others at para 23 has held that;

“To hold that notwithstanding the public authority, at a huge expense, having suo moto made information available to the public at large, is also to be burdened with dealing with request for the same information, would amount to huge waste of resources of the public authority. Experience of operation of the act for the last merely 10 years has shown that the officers of the public authority designated as CPIOs have other duties also and the duties to be discharged by them as CPIOs is an additional duty. It cannot also be ignored that dealing with request for information is time consuming process. If it were to be held that information already made available under section 4 will have to be again provided under section 6 and 7, it will on the one hand not advanced the legislative intend in any way and on the other hand may allow misuse of the provisions of the Act for extraneous reasons and allowing harassment of CPIOs by the miscreants”.

20. Since the information sought by the appellant is available on the website and is in public domain, I find no intervention of this commission is required for the purpose of furnishing information as the appellant could fulfil his requirement by accessing the same from the website of the KTC.
21. The Respondent PIO has been responded application of the appellant promptly on 19/7/2018 within 10 days of the receipt of the application by him calling upon him to visit their office for clarification. The appeal memo is silent as to whether the appellant visited the office of PIO as was called and whether any clarification was offered by him. Hence for the non furnishing/ non receipt of the information PIO cannot be solely attributed to the Respondent PIO and the appellant have also contributed to

the said delay. In my opinion the facts of the present case does not warrant levy of penalty on the PIO. Hence the relief sought by the PIO of penal nature are not granted.

Appeal disposed accordingly. Proceedings stands closed.

Notify the parties.

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.

Pronounced in the open court.

Sd/-

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