

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.252/2018/CIC

Shri Jawaharlal T. Shetye,
H. No.35/A Ward No.11.
Khorlim, Mapusa –Goa. Appellant.

V/s

- 1)The Public Information Officer,
Sub-Divisional Police Officer,
Mapusa Police Station,
Mapusa –Goa.
- 2)The First Appellate Authority (S.P.North)
North District Head Quarters,
Porvorim-Goa. Respondents.

Filed on: 31/10/2018

Disposed on: 03/05/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 31/07/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought information from the Respondent No.1, PIO under three points therein. Information as sought was in respect of notice u/s 149 Cr.PC dated 30/07/2018 issued to one Gopal J. Amonkar.
- b) The said application was decided on 08/08/2018 along with the information. However according to appellant he was not satisfied with the information as furnished and hence the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

Sd/-

...2/-

- c) According to appellant the FAA by order, dated 11/09/2018, dismissed the said appeal based on the submission of PIO.
- d) The appellant has landed before this commission in this second appeal u/s 19(3) of the act on the ground that he is being not satisfied with the order of FAA dated 11/09/2019.
- e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 11/12/2018 filed reply to the appeal.
- f) Vide his said reply it is the contention of PIO that vide reply dated 08/08/2018 the required information was furnished and was also received by appellant.

2) FINDINGS

- a) On perusal of the said response dated 08/08/2019 u/s 7(1) of the act, it seen that in respect of point (1) it is informed that no complaint is filed against Shri Gopal Amonkar. In such circumstances the information at point (2), by which appellant has sought for annexures to such complaint would not exist as there is no complaint at all filed against Shri Gopal Amonkar. The same is thus appropriately replied.
- b) In respect of said point (3) regarding the tenure of ASI Laxman Sawant it is replied that he has reported on 04/01/2011. Regarding his date of retirement no information is available. On going through the records it is seen that said point (3) was referred to PIO, Dy. S.P. HQ u/s 6(3) of the act and said PIO by letter, dated 21/08/2018 has furnished the date of retirement of said ASI L.S. Sawant.

Sd/-

...3/-

- c) Considering the said response, it is found that the information at points (1) to (3) is furnished. However to seek evidence on nil information due to non filing of any complaint and in exercise of the powers granted u/rule 5(1) of the Goa State Information Commission Appeal Procedure Rules 2006, the PIO was directed to file affidavit in support of non availability.
- d) Accordingly on 16/04/2019, the PIO Shri Gajanan V. Prabhu Desai, filed his affidavit. Vide said affidavit, PIO has affirmed that no complaint has been filed against Shri Gopal Amonkar and that there are no copies of any documents annexed.
- e) The appellant failed to appear before the Commission from 12/03/2019. The appellant has not controverted the averments of PIO in the affidavit. The appellant has not filed any evidence/records to disbelieve the said affidavit. I also do not find any grounds to discard the said affidavit to hold that the information as sought at points (1) and (2) to all exist.
- f) The ratio as laid down by Hon'ble Supreme Court in the case of *Central Board of Secondary Education V/s Aditya Bandopadhyay (Civil Appeal No.6454 of 2011)* relevant portion reads:

“35. *At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of*

Sd/-

...4/-

section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such no available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions.”

- g) Applying the above ratio of the Hon'ble Supreme Court to the case in hand I find that ordering the information which does not exist, would be superfluous and redundant.
- h) In the above circumstances I find that the information as was available is duly furnished and the one which has remained to be furnished does not exist with the respondent PIO. I therefore find no grounds to grant the relief as prayed. The appeal is therefore disposed by following:

O R D E R

The appeal is dismissed.

Order to be communicated to the parties.

Proceedings closed.

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

