

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.310/2018/CIC

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

..... Appellant

1) The Public Information Officer,
The Assistant Engineer Sub Division I (U),
Division VI – Electricity Department,
Mapusa Bardez –Goa.

2) The First Appellate Authority,
Superintending Engineer –II (N)
Electricity Department,
Vidyut Bhavan,
Panaji –Goa.

..... Respondents

Filed on : 24/12/2018

Disposed on:10/04/2019

1) FACTS IN BRIEF:

a) The appellant herein by his application, dated 24/09/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under several points therein, pertaining to the action taken on unauthorized use of electricity by president of Rashtroli Devasthan, Korlim, Mapusa Goa.

b) The said application was replied on 11/10/2018 calling upon the Appellant to pay fees. Accordingly fees were paid on 22/10/2018 and information was collected by appellant.

According to appellant as the information as furnished was tricky and vague, he filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

Sd/-

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c) The FAA by order, dated 27/11/2018, allowed the said appeal and directed PIO to take suitable action regarding extension of load sought by above referred Devasthan and inform the appellant. Said order also directed PIO to take action to search the records and furnish it to appellant and, if not traceable then to file missing complaint. It is the contention of appellant that said order of FAA is not complied with and hence the appellant has 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 23/01/2018 filed reply to the appeal. The FAA filed his reply on 07/02/2019. Appellant failed to appear when the matter was posted for arguments. Arguments of PIO were heard.

f) As it was contended by PIO that the information as was asked was furnished, he was directed to file on record copies of such information which according to him were furnished. Accordingly he filed the same on record. The appellant has not disputed the same.

2) FINDINGS:-

a) On going through the appeal memo, it is not in dispute that the application u/s 6(1) dated 24/09/2018 was decided by PIO on 11/10/2018, directing him to pay fees. Accordingly fees were paid on 22/10/2019 and information was collected. The only grievance of appellant before FAA was that the information was tricky and vague.

b) In this appeal the appellant has a grievance that the PIO has failed to inform him with regard to suitable action taken regarding extension of load and that PIO has not taken

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initiative to search records and not filed complaint to police. It is thus according to appellant that the PIO has failed to comply with directions of FAA.

c) In view of above contentions, it is necessary to scrutinize the order of FAA. On perusal of the same, which is dated 27/11/2018, it is seen that the grievance of the appellant before him was that the PIO has furnished him tricky and vague information. There are no grounds in the memo of first appeal as to why it is tricky or vague. The FAA has also not given any finding on contention regarding such allegations. However while deciding the first Appeal, FAA has switched over his powers and has directed inquiry into the subject matter the information sought. As an authority under the act, the limited jurisdiction which is granted to FAA is to find out the entitlement of the information sought and whether it is furnished. He is not supposed to go into the merit of the issue involved in the subject matter of information. Even if he is the senior officer, in administration, he cannot issue administrative orders in first appeals, under the act. His powers and actions under the Act and his administrative powers vis a vis his authority are distinct and separate.

The order of FAA, on the face of it thus appears to be beyond the jurisdiction of the FAA and he has exceeded his powers under the act. Even if he had jurisdiction to order action in the subject matter of information, the same cannot be held as executable or enforceable under the act. Thus the orders of FAA being beyond his powers and competence, the same cannot be implemented under the act.

Sd/-

...4/-

d) I have perused, the decision of PIO dated 11/10/2018. In reply to the point (1) which is a copy of action taken report. Such a request is vague. However, it is informed by PIO that a letter is issued. The copies of all correspondence which had followed the complaint of appellant has been furnished in reply to points (2) and (3). The name of concerned Engineer is disclosed at point (3). Regarding point (4) it is informed that search is on as the records are old. The PIO vide his reply to this appeal has also filed on record the copy of the complaint filed to Police Inspector on missing case papers.

Thus I find that the information which was due is furnished. Neither in appeal memo nor in oral arguments the appellant has clarified as to how he classifies the same as vague and what he meant by tricky. I therefore find that the appellant has failed to substantiate his grounds in the appeal. I thus find no merits in the appeal and the is therefore disposed by following:

O R D E R

The appeal is dismissed. Notify the parties. Proceedings closed.

Pronounced in open hearing.

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