

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

Appeal No.07/2019/SIC-I

Shri Venkatesh P. Raiturkar,
Sita Bungalow, H.No. 281/Z/37.
Maina, Curtorim 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: 10/01/2019

Decided on: 22/3/2019

ORDER

1. The second appeal came to be filed by the appellant Shri Venkatesh Raiturkar on 10/1/2019 against the Respondents PIO, office of KTC, Porvorim, under sub section (3) of section 19 of RTI Act 2005.
2. The brief facts which arises in the present appeal are that the Appellant Shri Venkatesh Raiturkar vide his application dated 10/08/2018 had sought information as listed therein mainly pertaining to Shri Mahesh Kamat. The said information was sought from the respondent 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 no. 1 PIO herein on 17/8/2018 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 27/8/2018 at 15.30hrs for clarifications. It was also further informed that until and unless the appellant visit their office the information sought by him cannot be furnished.

4. It is the contention of the appellant that he was not satisfied with the reply of respondent PIO and was also 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 22/11/2018 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 did not decide his appeal hence, he approached this Commission on 10/1/2019 on the ground that PIO failed to furnish him information
6. 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, and for invoking penal provisions.
7. In pursuant to the notice of this commission, appellant opted to remain absent. Respondent PIO Shri Sanjay Ghate appeared and filed his reply on 12/2/2019. Copy of the same could not be furnished to the appellant on account of his continuous absent.
8. Vide reply the Respondent have contended that the appellant had preferred appeal before first appellate authority after lapse of time as a mere formality. It was further contended that he did not find any reason in the application of the appellant where the public interest in disclosures, outweighs in importance any possible harm or inquiry of the third party. It was further contended that the appellant is making false allegation against first appellate authority.

9. I have perused the records available in the file and also consider the submissions and pleadings of the parties.

10. 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".

11. on perusing the application filed interms of section 6, the appellant intends to know the procedure followed by the corporation about constituting members of review committee, their recommendation to retire Shri Mahesh Kamat before superannuation, records regarding disciplinary proceedings against suspension order dated 8/6/2007 and the other information

pertaining to order of suspension and order of compulsory retirement pertaining to third party Shri Mahesh Kamat . 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. 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 as such the appellant could not have claimed the same as a matter of right.

12. Be that as it may; the PIO during the hearing before this commission filed an compliance report on 19/3/2019 affirming that all the information sought pertaining to Shri Mahesh Kamat have been uploaded on a website as the third party Shri Mahesh Kamat has not raised any objection and have given them concurrence to upload the same on KTCL website.
13. 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”.

14. 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.
15. The Respondent PIO has responded application of the appellant promptly on 17/8/2018 within 7 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 in my opinion, for the non furnishing of the information in the above situation, PIO cannot be solely blamed and cannot be held responsible. 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