

GOA STATE INFORMATION COMMISSION
Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.131/2019/CIC

Shri Uday A.C. Priolkar,
R/o. H. No. C5/55,
Mala, Panaji Goa.

....Appellant

v/s

- 1) Public Information Officer/The Executive Engineer,
Div.III, PWD, St. Inez,
Panaji – Goa.
- 2) Shri Ulhas Bhaje,
Flat No. C-1-T-1, T.R. residency,
Taleigao Market, Goa.
- 3) First Appellate Authority/ Superintendent of Surveyors,
PWD, Altinho, Panaji Goa. **....Respondents**

Filed On: 18/04/2019

Disposed On: 19/11/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application dated 13/02/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the respondent no.1, PIO herein under three points therein. Viz (i) *Action taken report on complaint filed by appellant date 15/01/2019* (ii) *Entire file noting and correspondence to Director of Vigilance (ACB) and principal Chief Engineer and* (iii) *Correspondence received from Secretary PWD and Chief Secretary.*
- b) The said application was replied on 08/03/2019. However according to appellant the information as sought was not furnished as exempted u/s 8(1)(j) without justification and hence the appellant filed first appeal to the respondent no.2, being the First Appellate Authority (FAA).

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- c) The FAA by order, dated 08/04/2019 disposed the said appeal by holding that the respondent no.1 has issued the status of application to appellant and that information at point (ii) is exempted u/s 8(1)(j) of the act.
- d) The appellant has landed before this commission in this second appeal u/s 19(3) of the act, being aggrieved by said order of FAA.
- e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 26/06/2019 filed his reply to the appeal. On direction by this commission the PIO sought the status of the complaint from Director of Vigilance (ACB) and that it is informed that the inquiry into the complaint is in progress.
- f) Subsequently for the purpose of assessing the situation the PIO was directed to produce the correspondence between respondent Authority and Vigilance Department on record in a sealed envelope, which was accordingly placed before me. As it was the contention of appellant that the inquiry has already concluded he was directed to file application duly verified in support of his said submissions.
- g) During the hearing of this appeal on 11/11/2019, the envelope containing the correspondence between the respondent authority and vigilance department was opened in the presence of the parties. On perusal of the same it is evident that the inquiry into the charges is in process and not concluded.

On the same date during the hearing the appellant submitted that, on inquiries by him, he has confirmed that

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the inquiry pursuant to his complaint against the concerned officer is still going on and hence he does not wish to file any application as directed.

The appellant further submitted that his application dated 13/02/2019 is rejected by taking shelter of 8(1)(j) which is not applicable in the present case but at the most it could have been u/s 8(1)(h) and hence the response is false and misleading.

2)FINDINGS:

- a) Perused the records and considered the submissions of the parties. By his application dated 13/02/2019 the appellant has sought information pertaining to three points out which point (iii) was replied as no correspondence is generated and hence not existing.

Points (i) and (ii) are interrelated. At point (i) the appellant requires copies of action taken report on complaint and on point (ii) he requests copies of correspondence and noting. Undisputedly the inquiry in respect of the complaint is pending. Such stage is also confirmed by the appellant in his submissions. Thus the status of the said complaint is known to appellant that inquiry is pending.

Regarding the copies of action taken report and the file notings and correspondence it is to be noted that the same are pertaining to a pending inquiry.

- b) The appellant is right in his submissions that the PIO has wrongly quoted the provision for seeking exemption as 8(1)(j), which is not applicable in present case. The disclosure of information is exempted u/s 8(1)(h) of the act.

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In any case the dissemination of information is exempted. Referring to a wrong provision by PIO does not save the exemption.

- c) The appellant has also prayed for penalty against the PIO. However considering the time of decision of the PIO u/s7(1) I find no ground to invoke the same as no circumstances as provided u/s 20(1) and/or 20(2) exist.
- d) In the above circumstances, I find no merits in the appeal. The same is therefore disposed with the following:

O R D E R

The appeal is dismissed. However the right of appellant to seek same information, after conclusion of inquiry, are saved.

Order be communicated to parties.

Proceedings closed.

Sd/-

(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji -Goa