

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

Appeal No. 272/2019/SIC-I

Mr. Rahul Basu, D3 and 4 Bay View,
204 Nagali Hills, Street 3 Lane 1,
Dona Paula, Goa. 403004.

....Appellant

V/s

1) The Public Information Officer (PIO),
Directorate of Mines and Geology,
Panaji-Goa.

.....Respondents

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

Filed on: 19/08/2019
Decided on: 14/10/2019

ORDER

1. The appellant, Shri Rahul Basu has filed present second appeal against Public Information Officer (PIO) of Directorate of Mines and Geology at Panjim-Goa praying that (i) the information as requested by him in his application dated 14/2/2019 be furnished to him correctly and completely free of cost and (ii) if public authority does not possess the said information then respondent PIO may be directed to file affidavit in reply to that effect.
2. The brief facts as put forth by the appellant herein are as under:-
 - a) The appellant vide his application dated 14/2/2019 with caption as "Lease wise year wise Royalty DMF NMET GIOPF during 2015-2019" had sought for certain information at serial No.(a) to (e) as listed therein in the said application. The said information was sought from Respondent PIO by the appellant in exercise of appellant's right u/s 6(1) of Right to Information Act, 2005.
 - b) It is contention of the appellant that his above application was responded by Respondent, on 13/3/2019 in terms of

subsection (1) of section (7) wherein he was informed that their Department has maintained company wise data and not lease wise.

c) It is contention of the appellant that he was not satisfied with the above reply of Respondent and as the information as was sought by him was not furnished, he filed first appeal interms of sub section (1) of section (19) of RTI Act on 27/3/2019 before the Director of Mines and Geology at Panjim being first appellate authority.

d) It is contention of the appellant that first appellate authority failed to disposed his first appeal within a stipulated time as such he being aggrieved by such an conduct of Respondent PIO and of first appellate authority, is forced to approach this Commission on 19/8/2019 in the second appeal as contemplated under sub-section (3) of section 19 of RTI Act, 2005.

3. In this background the present appeal has been filed on the grounds raised in the memo of appeal with the contention that complete information is still not provided and seeking order from this Commission to direct the PIO for providing information as sought by him free of cost and alternately for directions to Respondent PIO file affidavit in reply.
4. The matter was taken up on board and listed for hearing. In pursuant to notice of this commission appellant was represented by Advocate S. Karthikeyan. Respondent PIO Shri Sankalp U. Shet Desai was present.
5. Reply filed by respondent PIO on 23/9/2019 thereby enclosing the CD containing the information company wise and also filed affidavit on 10/10/2019. The copy of the same were furnished to the Advocate for the appellant.

6. The appellant was directed to verify the said information provided to him in CD and report accordingly. The Advocate for the appellant during the hearing on 10/10/2019 submitted that having received the CD containing certain information and affidavit of PIO, his requirements are fulfilled and accordingly endorsed his say on memo of appeal.
7. It was further contended by the Advocate for the appellant that appellant seeks the information in larger public interest and the present application was also filed by the appellant with the said intention . It was further contended that the information sought by him needs to be maintained for each lease separately , as the amounts are payable on the dispatch of ore from the lease and not the company wise.
8. It was further contended that this present appeal has been filed challenging the non compliance of the first appellate authority with the provisions for RTI Act. It was contended that the failure of the FAA , to dispose off the appeal is contrary to the mandate of section 19(6) of RTI Act, 2005 and amounts to derelictions of duties under the RTI Act.
9. On the other hand, the PIO submitted that the information sought by the appellant with regards to Royalty and NMET for the year 2015-16 was not provided to the appellant due to non availability and proper information in their Department. However new data was enclosed in the compact disk and the same was provided to the appellant company wise as the Directorate has not complied data in a lease wise.
10. I have scrutinise the records available in the file and also considered the submissions of both the parties.
11. In the contest of the nature of information that can be sought from PIO the Hon'ble Supreme Court in case of in civil Appeal No.

6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya has held at para 35;

“At this juncture, it is necessary to clear some misconception about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from the combined reading of section 3 and the definition of “information “and “right to information “under clause (f) and (j) of section 2 of the Act. *If the 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”.*

12. Yet in another decision the Hon'ble Delhi High Court, The registrar Supreme Court-V/S Comondore Lokesh K. Batra & others January 2016. LPA 24/2015 & CM No.965/2015 has held;

“As already noticed above, “right to Information” under section 2(j) means only the right to information which is held by any public authority . We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the appellant “.

13. The Hon'ble Patna High Court in letters appeal no 1270 of 2009 in civil writ jurisdiction case 11913/2009; Shekarchandra Verma vs State Information Commissioner Bihar ,AIR 2012 Pat 60; has held

“in our view, the RTI Act contemplates furnishing of information which is available on record, but it does not go so far as to require an authority to first carry out an inquiry and collect, collate information and then to make it available to applicant.”

14. Hence according to the ratios laid down by the above Hon'ble courts the PIO supposed to provide the information as exist and as available in the records of Public authority. Since available information as exists on the records of the public authority concerned herein have been provided to the appellant, and also in view of the submissions and the endorsement made on behalf of the appellant ,I find that no any further intervention of this commission is required for the purpose of furnishing information. So also Since the affidavit also have been also filed by the Respondent PIO, as such both the prayers becomes infructuas.
15. Before parting, it need to mention that, the said RTI Act came into existence to provide fast relief and as such time limit is fixed under the said act to dispose the application u/s 6(1) of RTI Act, 2005 within 30 days and to dispose first appeal maximum within 45 days.
16. Non compliance of the provisions of the RTI Act and the time limits fixed under the act either by the PIO or the first appellate authority lands the citizen before this commission resulting into unnecessary harassment of the Common man which is socially abhorring and legally impermissible
17. Hence the FAA is hereby directed to act in conformity with the provisions of RTI Act and to dispose the first appeal within stipulated time as contemplated under RTI Act so that detriment and hardship and inconvenience caused to the appellant /information seeker could be avoided.
18. With the above directions the appeal proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost. The copy of this order should be also provided to the first appellate authority for his appropriate action.

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