

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 294/2019/SIC-II

Shri Sushant P. Nagvenkar,
House No. c-312, Fondvem,
Ribandar – Goa. 4003 006

... Appellant

v/s

1.The Public Information Officer,
Asst. Commissioner of Excise,
Excise Department, Panaji Goa

2.First Appellate Authority,
Shri Amit Sateja, I.A.S
Commissioner of Excise,
Excise Department, Panaji – Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 20-01-2020

Date of Decision : 23-01-2020

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 18/04/2019 sought certain information from the Respondent PIO, O/o Commissioner of Excise, Panaji-Goa under section 6(1) of the RTI act 2005.
2. The information pertains at 3 points and the Appellant is seeking (a) Copies of documents forwarded to Panji Police Station in compliance to the request dated 28/01/2019. (b) Any communication or action initiated consequent to receipt of the said Complete file pertaining to the above enclosed request and (c) Report of enquiry instituted in to he matter of transfer of license in the name of Smt.Prabhavati P. Volvoikar without due approval of competent authority by Superintendent of Excise and the Dealing Assistant vide Order CE/4-52-2016/Exc/Tis/669 dated 17/12/2018.
3. The PIO vide reply No.CE-1-3/2019/RTI/601 dated 14/05/2019 informed the Appellant to visit the office of the PIO for inspection of file and collect the required information sought by him under RTI Act on any working days on payment of necessary fees. ...2

4. It is seen that the appellant has visited the office of the PIO and taken inspection of the files that were placed before him. It is further seen that subsequently the PIO vide reply letter No. CE/1-3/2019/RTI/696 dated 21/05/2019 furnished the information in tabulation form.
5. In point No.1, PIO stated that no documents are forwarded to Panaji Police Station in compliance to the request dated 28/01/2019. In point No.2, PIO stated that a memorandum No.CE/12-236-2018/EXC/Tis/5359 dated 22/02/2019 issued to Excise Inspector, In charge of Excise Station Tiswadi Taluka and enclosed copy of the same. In point No.3 PIO informed that as per Section 8(1)(h) of RTI Act 2005 the information cannot be furnished.
6. Not satisfied with the reply of the PIO the Appellant filed a First Appeal on 04/06/2019. It is the case of the Appellant that the First Appellate Authority has not passed any Order till date and as such he has approached the Commission by way of Second Appeal registered on 19/09/2019 and has prayed to directed the PIO to provide inspection and certified copies of documents requested free of cost and for penalty and other such reliefs.
7. **HEARING:** This matter has come up before the Commission on several previous occasions and hence taken up for final disposal. During the hearing Appellant Shri Sushant P. Nagvekar is present in person. The Respondent PIO, Shri. Navnath Naik, Asst. Commissioner-I, Excise Department, is present on his own behalf and also on behalf of FAA.
8. **SUBMISSION:** The Appellant submits that the reply filed by the PIO and reply filed by the FAA is one and the same and is a replica and it shows that two independent authorities have acted in collusion with each other thereby defeating the intent and purpose behind the inception of two distinct quasi judiciary authorities. ..3

9. The Appellant states that he is aggrieved that in point No.3, the PIO has denied information by applying section 8(1)(h) and in point 2 has furnished memorandum without giving inspection.
10. Per contra the Respondent PIO submits that whatever information as was available with the public authority has been furnished to him vide letter No. CE/1-3/2019/RTI/696 dated 21/05/2019 in tabulation form. In point No.2, a memorandum No.CE/12-236-2018/EXC/Tis/5359 dated 22/02/2019 issued to Excise Inspector, In charge of Excise Station Tiswadi Taluka was furnished and in point No.3 the information was denied as per Section 8(1)(h) of RTI Act 2005.
11. The PIO submits that the First Appellate Authority (FAA) had passed an ex-parte Order dated 13/09/2019 since the Appellant was absent. The PIO furnishes a copy of the said Order of the First Appellate Authority (FAA) before the Commission which is taken on record.
12. The PIO submits that hearing of the First Appeal was fixed on 05/08/2019 and the Appellant was present and the matter was adjournment to 09/08/2019 and the Appellant informed that he would not be able to attend and that an ex-parte order may be passed and subsequently the Order was passed on 13/09/2019.
13. Regarding the argument of the Appellant that information at point no 2 of memorandum No.CE/12-236-2018/EXC/Tis/5359 dated 22/02/2019 was furnished without inspection, in this connection the PIO referred to an observation in the order of the FAA wherein it is stated that the appellant after inspection of the files the appellant asked for some specific information / inspection which had no relevance to the files that were placed before him and a communication was sent rejecting part information.
14. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record including the final written arguments filed by the appellant on 20/01/2020, reply of the PIO & FAA dated 04/11/2019... ..4

..... and Order FAA dated 13/09/2019 indeed finds that the PIO has furnished all information as was available with the public authority. The Commission also finds that the FAA has disposed the first appeal by holding that the information as requested by the appellant has been furnished by the PIO vide letter dated 21/05/2019.

15. **DECISION:** As stipulated in the RTI Act, the role of the PIO is to provide information as is available, what is available and if available from the records. The PIO is not called upon to do research or to analyze or to create information to satisfy the whims and fancies of the Appellant. The very fact that the PIO has furnished reply and information vide letter No. CE/1-3/2019/RTI/696 dated 21/05/2019 in tabulation form sufficient to prove the bonafide that there is no malafide intention on the part of the PIO to either deny or conceal the information and which is the mandate of the RTI act 2005 and thus the PIO cannot be faulted in any way.
16. The Commission comes to the conclusion that whatever information as was available with the Public authority has been furnished to the appellant in tabulation form on 21/05/2019. The appellant has taken inspection of the files and further had sought inspection of some other files having no relevance and which led to the PIO furnishing a memorandum No.CE/12-236-2018/EXC/Tis/5359 dated 22/02/2019 issued to Excise Inspector and in point No.3 the information was denied as per Section 8(1)(h) of RTI Act 2005.

No intervention is required with the order of the first appellate Authority. Nothing further survives in the Appeal case which accordingly stands disposed. Consequently the reliefs sought by the appellant in his prayer stand rejected.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner

