

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 34/2020/SIC-II

Shri Ratish Tari,
H. No. 658, Karanzal,
Madkai, Goa.

..... Appellant

v/s

1. The Public Information Officer,
Dy. Superintendent of Police (HQ),
Margao – Goa.

2. The First Appellate Authority,
Superintendent of Police (South),
Margao – Goa.

..... Respondents

Filed on : 05/02/2020

Decided on : 21/09/2021

Relevant dates emerging from appeal:

RTI application filed on	: 29/10/2019
PIO replied on	: 25/11/2019
First appeal filed on	: 16/12/2019
First Appellate Authority Order passed on	: 07/01/2020
Second appeal received on	: 05/02/2020

ORDER

1. The Appellant Shri Ratish Tari resident of Karanzal, Madkai Goa filed second appeal under section 19 (3) of the Right to Information Act 2005, (RTI Act), against Respondent No. 1, Public Information Officer (PIO), Deputy Superintendent of Police (HQ), Margao Goa and Respondent No. 2, First Appellate Authority (FAA), Superintendent of Police (South), Margao Goa, with following prayers :-

(a) The PIO be directed to provide the information sought as to point no. 1, 3, 5.

(b) The Appellant be compensated for the loss incurred.

(c) Any such order which commission deems fit.

The appeal came before this Commission on 05/02/2020.

2. The brief facts leading to second appeal, as contended by the Appellant are :-

a) That the Appellant filed RTI application dated 29/10/2019 under section 6(1) of the Act before PIO seeking following information:-

(i)Whether any entry register is maintained by the Gymnasium in charge to register the entrants in the Gymnasium. If yes, then kindly provide the certified copies of the pages of month of August 2019 or any other month i.e. 30 days in the year 2019.

(ii)The total number of equipments alongwith their make and type and other details.

(iii)Whether all the equipments are functional, if not then provide the details of such non functional equipments and the date of such non functionality of each equipment in a tabular column.

(iv)Whether the Gymnasium in charge has maintained an inventory of all kinds of functional and non functional equipments, if yes, then kindly provide the certified copy of the same.

b) That the PIO vide reply dated 25/11/2019 requested the Appellant to personally conduct inspection as regards to Point No. 2 and denied the information at Point no. 1, 3 , 4 claiming the said information does not come under purview of section 2(f) of the RTI Act.

c) That the Appellant preferred first appeal dated 16/12/2019 before the FAA. The FAA dismissed the appeal on the ground that the reply has already been furnished to the Appellant. It is to be noted that the first appeal was filed against the response of the PIO as the same is not satisfactory and against the denial of information.

3. Being aggrieved the Appellant filed second appeal before this Commission challenging the order of the FAA and also the response of the PIO to Appellant's application dated 25/11/2019. The second appeal was registered in this Commission on 05/02/2020, parties were notified and the matter was taken up for hearing. Pursuant to the notice, the Appellant appeared through his advocate. The PIO and the FAA filed reply.
4. It is stated by the PIO in his reply dated 22/03/2021 that the information sought at Point No. 1,3,4 was in question form, therefore the information is not covered under section 2(f) of the RTI Act. As regards to Point No. 2, the Appellant was requested to conduct inspection of records available at Police Gymnasium, Margao. However, the appellant has failed to conduct the inspection.
5. The FAA vide reply dated 28/04/2021 has stated that the PIO has furnished reply to the Appellant within the stipulated period and the FAA has upheld the reply of the PIO, nevertheless, the Appellant was permitted to personally conduct the inspection of records available at Police Gymnasium, Margao on any working day during office hours.
6. Upon perusal of the appeal memo, RTI application of the Appellant dated 29/10/2019 and records submitted during the proceeding, it appears that the Appellant has asked information like copies of certain pages of the entry register, details of functional and non functional equipments including copy of inventory of equipments at the Gymnasium. The PIO has termed this as non information under section 2(f) of the RTI Act.
7. Section 2(f) of the RTI Act reads:-

2.Definitions – in this Act, unless the context otherwise requires,-

(f)“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force ;

In the opinion of the Commission, considering the above definition, information sought by the Appellant at Point No. 1, 3, 4 comes very much under section 2(f) of the RTI Act and therefore it is mandatory on the PIO to furnish the said to the Appellant. It will be another subject matter if the said information is not maintained by the PIO. However, the PIO has not stated anywhere in the reply that the said information is not maintained by his office. On the contrary, he denied the information by citing section 2(f) of the RTI Act, which is an error in reading the relevant section.

8. The FAA while disposing the appeal has stated in his order dated 07/01/2020 that the PIO had furnished reply to the Appellant within the stipulated period. However, in the opinion of the Commission the FAA should have ensured that the information sought by the Appellant is furnished.

9. In the background of above discussion, the appeal is disposed with the following order :-

(a)The appeal is partly allowed.

(b)The PIO is directed to furnish information at Point no. 1, 3, 4 of the RTI application dated 29/10/2019 to the Appellant within 15 days from the receipt of this order, free of cost.

(c)All other prayers are rejected.

Notify the parties.

Pronounced in the open court.

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.

Sd/-

(Sanjay N. Dhavalikar)
State Information Commissioner
Goa State Information Commission
Panaji - Goa