

GOA STATE INFORMATION COMMISSION
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Appeal No. 304/2019/SIC-II

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

-----Appellant

v/s

1. Public Information Officer,
Dy. Superintendent of A.C.B,
(Director of Vigilance), Altinho,
Taleigao Market Goa.

2. Shri. Ulhas Bhaje,
Flat No. C-1/T-1, T.R. Residency,
Taleigao Market, Goa.

-----Respondents

Shri Vishwas R. Satarkar - State Chief Information Commissioner

Filed on:-11/10/2019

Decided on:-08/09/2021

FACTS IN BRIEF

1. The Appellant Shri. Uday A.C. Priolkar r/o Mala, Panaji Goa herein by his application dated 17/04/2019 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as "Act") sought certain information from , PIO, Superintendent Engineer, Monitoring and Evaluation Unit, P.W.D. Altinho Panaji Goa in the form of copy of action taken report on complaint filed by him on 15/01/2019 against one Ulhas Bhaje, Chlorine Operator, Div-III, Santa-Cruz, Panaji Goa, who is the second Respondent in the present appeal.

The original PIO transferred the said application under sec 6(3) to five different departments with the request to provide the information by its letter dated 18/04/2019.

2. The Respondent No. 1, who is the PIO in this appeal, received the said application on 30/04/2019 u/s 6(3) from the office of the PIO / Dy. Director of Vigilance to provide the information and accordingly she replied to the Appellant herein on 20/05/2019 stating that the copy of the Enquiry Report on complaint dated 15/11/2019 is not available. Entire file notings and inspection sought is rejected as prescribed under section 2(1)(h) of RTI Act.
3. Not satisfied with the reply of Respondent No. 1, Appellant preferred first appeal before Superintendent of Police on 20/06/2019 being First Appellate Authority (FAA) and thereafter filed this second appeal u/s 19(3) of the RTI Act.
4. Notices were issued to the parties, pursuant to which the PIO, Sucheta Dessai, Dy. Superintendent of Police, ACB, Vigilance appeared and filed her reply on 17/03/2021. Respondent No. 2 neither appear or filed his reply. In her reply PIO submitted that complaint of the Appellant dated 15/01/2019 was placed in the file No. ACB/VIG/Com-173/2016 dated 23/11/2016 as it contained same subject matter as that of complaint dated 18/11/2016 of Shri. Tulshidas Shirodkar against Shri. Sairaj Bhaje and Shri. Ulhas Bhaje. The matter being sensitive bearing allegation of possession of disproportionate assets and as the enquiry was still in progress, the information was rejected.

Further according to her, this Commission has decided similar matter filed by Shri. Tulshidas Shirodkar on 24/01/2019 in appeal No. 279/2018/SIC-I by dismissing the said appeal on merits.

5. According to Appellant he filed complaint on 24/11/2016 against Ulhas Bhaje Respondent No.2 herein who is the employee of P.W.D Div-III and working as Chlorine Operator at St.Inez, Panaji Goa and said Ulhas Bhaje and his son Sairaj Bhaje are involved in extortion of money but till date no action has taken against them by the Principal Chief Engineer.

According to Appellant, on his complaint, P.W.D. authority directed the Anti Crime Branch of Directorate of Vigilance to investigate the matter, however the officials of the PWD and ACB are protecting Respondent No. 2 Ulhas Bhaje for his illegalities. Since no inquiry has been conducted by Respondent, he filed the present appeal.

6. In have perused the records, scrutinize the documents on records and considered the submissions of the Appellant and PIO.

7. On perusal of application dated 17/04/2019 filed by Appellant under sec 6(1) of the Act, it reveals that same is addressed to PIO, Superintendent Engineer, Monitoring and Evaluation Unit, P.W.D, Altinho, Panaji Goa. The said PIO by letter dated 18/04/2019 transferred said application under sec 6(3) of Right to Information Act to the following authorities:

1) The Public Information Officer,

Directorate of Vigilance

Serra Building, Near All India Radio,

Altinho, Panaji, Tiswadi, Goa **Point Pertaining No. 3**

2) The Executive Engineer (PIO),

Works Division: III,

Public Works Department

Panaji, Porvorim Goa..... **Point Pertaining No. 11 & 4**

3) The Director of Administration (PIO),

Public Works Department,

Altinho, Panaji-Goa..... **Point Pertaining No. 1 & 2**

4) The Senior Law Officer (PIO),

Goa State Pollution Control Board

Near Pilerne Industrial Estate,

Opposite Saligao Seminary,

Saligao- Bardez Goa..... **Point Pertaining No. 3 & 4**

5) The Chief Secretary / Chief Vigilance Officer (PIO),

Secretariat,

Porvorim-Goa..... **Point Pertaining No. 1**

8. From the application dated 17/04/2019 it appears that the Appellant has addressed his RTI application to Superintendent Engineer of Monitoring and Evaluation Unit, PWD, Altinho Panaji seeking inquiry report, of the Directorate of Vigilance and many other documents with different other public authorities.

By addressing one RTI application, he has put in motion five authorities to reply to his single RTI application.

PIO by exercising his right under the Act and instruction issued there under ought to ideally transfer the application to other authority under sec 6(3) of the act, in case such information is held by such authority. However the Act does not envisage such a procedure of transferring the application to many authorities. If all RTI application are required to transferred by addressee PIO, then the situation would arise that seeker will seek information of all public authorities through one Authority by expecting transfer of request to all the authorities on scrutiny of application. The requirement under sec 6(3) is only to facilitate the seeker, being RTI Act is a beneficial legislation.

9. The Appellant has, relied upon one judgment passed by this Commission dated 19/11/2019 in Appeal No. 131/2019/CIC to

support his case. On perusal of the said judgment and order it appears that, Appellant in the present case is also an Appellant in that case. Issue involved in present case is already discussed and decided in said appeal and operative part of said judgment reads as under:

ORDER

"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/-

State Chief Information Commissioner"

10. Accordingly now the question remains to answer is whether inquiry has been concluded or not. It is seen from the reply filed by PIO dated 20/05/2019 to the RTI application of Appellant that the inquiry report on complaint dated 15/11/2019 is not available. She further submitted that since inquiry was underway the disclosure of information would have impeded the process of investigation, under sec 8(1)(h).
11. On meticulous scrutiny of the contents of earlier RTI application, which was decided by this Commission on 19/11/2019 in appeal No. 131/2019/CIC and the present RTI application dated 17/04/2019, it is seen that the same is more or less similar application. On perusal of the date of application, it indicates that, Appellant filed this present application, when his earlier application had reached in second appeal before this Commission.
12. The PIO, through her reply dated 17/03/2021 produced on record the Judgment and order passed by First Appellate Authority dated 17/07/2019.

She also submitted that aggrieved with the reply of PIO dated 20/05/2019, the Appellant filed first appeal before FAA, the notice for the appearance of the Appellant was issued vide notice dated 29/06/2019 for his appearance on 05/07/2019 at 4:00 pm. The notice issued to the Appellant was duly received by the Appellant however Appellant failed to appear for the hearing on 05/07/2019.

Thereafter hearing was re-scheduled on 17/07/2019 at 12:00 noon, another notice in this regard was issued and the same was duly acknowledged by the Appellant, however since Appellant failed to remain present for hearing the FAA has decided the matter, as it is time bound. She also produced on record the copy of notice alongwith three postal acknowledgement slips duly signed by Appellant, this fact is confirmed in the order of FAA, which is on record.

13. On perusal of appeal in hand, it reveals that Appellant did not joined FAA as a party in the present proceeding, nor mentioned anything about the order passed by FAA, it indicates that he is challenging the reply of PIO in this appeal. He has also not relied upon the order passed by FAA. Appellant should have mentioned this fact while approaching this Commission.
14. Apart from this, the PIO has also relied upon another order passed by this Commission bearing Appeal No. 279/2018/SIC-I. On perusal of said order, the issue raised by the Appellant has been deliberately discussed and decided by this Commission, on 24/01/2019.
15. Besides this, the order of FAA dated 17/07/2019 is not challenged by the Appellant in this present appeal, therefore does not require any intervention.

16. Considering the above circumstances, I find no merit in the appeal as the PIO is required to furnish the information as it available and exists, the report sought for is not in existence and not available in the records of PIO. The PIO has acted bonafidely and therefore I find no grounds to invoke action under sec 20 or under sec 19(8)(b) of the Act as prayed by Appellant.

In the background of the above fact, I dispose the appeal with following:

O R D E R

The appeal is dismissed.

Proceedings closed.

Pronounced in open court.

Notify the Parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner