

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No.61/2021/SCIC

Shri. Pandharinath N. Parab,
Gen. Secretary,
IDC Retired Staff Welfare Association,
C/o. Dr. Uddhav Pawar,
Flat No. 244, Landscape Pinto Park,
Behind Reliance World, Campal,
Panaji-Goa. 403001.

.....Appellant

V/S

1. The Public Information Officer,
Shri. Sohan Uskaikar, GCS,
Goa Industrial Development Corporation,
Corporate office, Plot No. 13 A-2,
EDC Complex, Patto, Plaza, Panaji-Goa.

2. The First Appellate Authority,
The Chief Accounts Officer,
Shri. Santosh Y. Khedekar,
Goa Industrial Development Corporation,
Corporate office, Plot No. 13 A-2,
EDC Complex, Patto, Plaza, Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 16/03/2021

Decided on: 16/12/2021

ORDER

1. The Appellant, Shri. Pandharinath N. Parab, Gen. Secretary, IDC Retired Staff Welfare Association, C/o. Dr. Uddhav Pawar, Flat No. 244, Landscape Pinto Park, Behind Reliance World, Campal, Panaji-Goa by his application dated 24/09/2020 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information on 15 points from the Public Information Officer (PIO), Goa Industrial Development Corporation, Patto Plaza, Panaji-Goa.
2. The said application was replied on 23/10/2020 by the PIO informing the Appellant to make the payment of fee and collect the

information at point No. 2,4,5,7,8,10,11,13 and 14. With regards to point No. 15, the information being voluminous, Appellant was requested to inspect the file and indicate the required information. Similarly the information at point No. 6 and 12 were informed as not available and information at point No. 1 and 3 is not available in desired format.

3. Not satisfied with the reply of PIO, the Appellant filed first appeal before the First Appellate Authority (FAA).
4. The FAA by its order dated 20/01/2021 partly allowed the first appeal and directed the PIO to furnish information on point No. 1, 3 and 15 on payment of requisite fee.
5. Aggrieved by the order of FAA, Appellant preferred this second appeal before the Commission under sec 19(3) of the Act with the prayer to furnish the information free of cost, refund the entire amount of fee received from the Appellant, and to impose penalty on PIO and to award compensation.
6. Notice was issued to the parties, pursuant to which PIO appeared and filed his reply on 06/08/2021. FAA appeared however opted not to file any reply in the matter.

On going through the proceeding it is admitted fact that, Appellant received all the information except information at point No. 6 and 12. The main grievance of the Appellant as prayed in the appeal memo, is to direct the PIO to refund the entire amount of fee received and to impose exemplary penalty on PIO/FAA and to award compensation.

7. According to Appellant, PIO failed to furnish the information within 30 days as stipulated under the Act. Therefore he preferred first appeal before the FAA, however FAA by its order dated 20/01/2021 failed to fix the time limit to provide the information and passed

the vague order. He further contended that PIO unnecessarily claimed Rs. 20,000/- as advance fee without proper calculation only to harass the Appellant and also caused delay in furnishing the information inspite of advance payment of fees.

8. PIO through his reply contended that, upon receiving the RTI application vide Note No. Goa/IDC/RTIA/F-78/2020/2370 dated 28/09/2020, he transferred the RTI application under sec 5(4) to APIO (PSL), APIO (Engg. H.O.), APIO (Accounts) and APIO (P.A. to M.D.), and based on the reply from the above APIO, he informed the Appellant to deposit amount towards the available information with regards to point No. 2,4,5,7,8,9,10,11,13 and 14.

Further according to him, upon the direction of FAA by order dated 20/01/2021, the PIO vide letter No. Goa/IDC/RTIA/F-78/2020/4868 dated 01/03/2021 requested the Appellant to collect the refund of excess amount of fees collected by Accounts office.

9. It is consistent stand of PIO that, he replied to the RTI application within stipulated time of 30 days and therefore providing information free of cost to the Appellant does not arise. He also offered for inspection of file in respect of information on point No. 15.

On perusal of records, particularly the operative part of order of FAA dated 20/01/2021, it reads as under:-

"On 30/12/2020 at 3:00 pm, the Appellant and the Respondent were present. The requested documents were handed over to the Appellant. The Appellant stated that he would study the matter and next date of hearing was fixed on 06/01/2021 at 3:00pm.

On 06/01/2021, the hearing commenced at 3:00 pm. The Appellant and the Respondent were present.

The PIO was directed to provide the copies of the orders in respect to point No.1 and 3 on payment of requisite fees and with regard to point No. 15, the PIO was directed to intimate the Appellant to deposit the requisite fee and also to inform with regard to fee payable at point No. 1 and 3."

10. PIO submitted that upon the order of FAA, he directed APIO (Account Section) and APIO (PSL) to convey the necessary fee to be collected to provide the information on point No. 15. APIO (Accounts) by forwarding the note, put the remark, requesting the Appellant to deposit an amount of Rs. 20,000/- as an advance towards furnishing the information.

According to him, the information sought at point No. 15 was in respect to copies of vouchers from 01/06/2020 to 04/09/2020 and the said information was voluminous, Account section, by counting the number of vouchers directed to deposit amount of Rs. 20,000/- as an advance.

However while extracting the photocopies of documents, six vouchers / bills were taken on one sheet and the exact copies of the information sought came to 4804 copies and therefore the amount came to Rs. 9608/-. In view of this, the additional amount of Rs. 10,346/- collected as an advance amount was refunded to the Appellant and to support his case he produced on record the letter dated 27/01/2021, 01/03/2021 and official noting dated 22/04/2021.

The above clarification of the PIO is not rebutted by the Appellant in the proceeding, I therefore presume it to be true.

11. Admittedly the Appellant is the Ex-employee of Goa Industrial Development Corporation and by RTI application wanted to know

the number of employee /staff deployed/deputed for COVID-19 duties by Government of Goa. It is a matter of fact that information on point No. 1 to 11 and on point No. 13 to 15 have been duly furnished to the Appellant. Now remains the information on point No. 6 and 12 of the application which reads as under:-

"6. Furnish the copies of Notings/correspondence made with the concerned Department/Agencies by Goa –IDC requesting the concerned Departments/ Agencies to redeploy the employees back to Goa-IDC as per point No. 3.

12. Furnish the list of any other Agency staff/ employees employed in Goa IDC as on 31/08/2020 giving their names, designation, place of posting like, Industrial Estate/ Head office or any other place where his/her seating arrangement is made."

12. The information at point No. 6 and 12 are replied by the PIO as information not available. Considering the nature of information sought by the Appellant, it appears that the above information is neither useful to the information seeker personally or socially or nationally.

The Act provides access to all information that is available and existing. If the information sought is not part of record of a public authority and where such information is not required to be maintained under any law or the rules or regulations of the public authority, such information would not fit into definition provided in the Act. The Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.

Hon'ble Supreme Court in **CBSE v/s Aditya Bandopadhyay & Ors (C.A. No. 6454 of 2011)** has held that:-

"37. Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work."

13. In the present case, the PIO has disposed the request on 23/10/2020 i.e on 29th day by deciding to furnish the information and requested to pay the requisite fee and offered inspection of file for information on point No. 15. In such circumstances, I find no infirmity in the reply furnished by the PIO. I therefore find no violation of sec 7(1) of the Act.

Under sec 7(6) of the Act, the information need to be provided free of cost where PIO fails to comply with the time limit specified in sec 7(1) of the Act. Here in this case, the PIO has answered the RTI application in a fair manner and within stipulated time, complied the order of FAA within a week period. Records show that PIO did not deny the information sought by the Appellant, therefore Appellant is not entitled for information free of cost.

14. Another grievance of the Appellant is that information is not provided in the format sought by him. No doubt in ordinary course under sec 7(9) of the Act requires information to be furnished in the form in which it is asked. However the PIO is also granted discretion by the Act, in case if it diverts the resources. In the present case the PIO has furnished the information in the available form and I find that there is no denial of information.

15. Considering the facts hereinabove, I find that no denial or intentional delay by PIO in furnishing of information. I am therefore unable to grant the relief prayed by the Appellant to refund the amount of fee and to impose the penalty under sec 20 of the Act or award any compensation to the Appellant.

- In view of above, appeal is dismissed.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner