

GOA STATE INFORMATION COMMISSION

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

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Appeal No. 169/2020

Mr. Arturo Carlos D'Souza,
House No. 351, Ruzaivaddo,
Santa Cruz, Tiswadi-Goa.

.....Appellant

V/S

1. State Public Information Officer,
The Dy. Town Planner (Tiswadi),
Kamat Towers, Patto Complex,
Panaji-Goa.

2. First Appellate Authority,
Senior Town Planner,
Dempo Towers, Patto Complex,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 16/10/2020

Decided on: 26/10/2021

FACTS IN BRIEF

1. The Appellant, Mr. Arturo Carlos D'Souza, House No. 351, Ruzaivaddo, Santa Cruz, Tiswadi-Goa, by his application dated 13/07/2020 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Office of Dy. Town Planner, 5th Floor, Kamat Towers, Patto Complex, Panaji Goa.
2. The said application was replied on 11/08/2020 in the following manner:-
 - "a) As per the information sought in your application at Serial no. 1 & 2 are available in the office record accordingly you are requested to deposit Rs. 918/- towards photocopying charges on inward and outward registers from January 2020 to 13/07/2020 and same may be collected after photocopying.

b) As per the information sought by you at Serial No. 3 & 4, in this regard it is to inform you that the information as sought by you is not readily available and will have to compile the information with the existing staff, providing the said information may likely to disproportionately divert the resources of this Public Authority, under section 7(9) of the RTI Act. Therefore, to provide the information as sought by you will be time consuming.

c) As per the information sought by you at Serial No. 5 you are requested to visit this office on any working day so as to fix a suitable date for inspecting files.”

3. Not satisfied with the reply of the PIO, Appellant filed first appeal before the Senior Town Planner, Office of Town and Country Planning Department at Panaji Goa being the First Appellate Authority (FAA).
4. The FAA, by its order dated 30/09/2020 dispose off said appeal by hearing both the parties.
5. Aggrieved with the order of FAA, Appellant landed before the Commission in second appeal under sec 19(3) of the Act.
6. Notice was issued to parties, pursuant to which the then PIO, Shri. Shivprasad Murari appeared and filed his reply on 23/04/2021, FAA duly served chose not to appear and filed his reply in the matter.
7. It is the contention of the Appellant, that he received reply from the PIO through ordinary post on 18/08/2020, same is not within stipulated period of 30 days and therefore prayed that, PIO be directed to furnish the information free of cost as provided under sec 7 (6) of the Act.

8. According to PIO, through his reply submitted that, vide letter No.TIS/21/22/21407/RTI/TCP/2020/55 dated 11/08/2020 he had replied to the RTI application of the Appellant, within stipulated period of 30 days and requested to collect the information by paying the requisite fees.

He also submitted that vide said letter dated 11/08/2020, he requested the Appellant to visit the office of PIO on any working day for inspection of file. Further according to him he has timely replied to the RTI application.

9. On perusal of records and upon considering the rival contention it is seen that the information is sought on 13/07/2020 and replied by PIO on 11/08/2020.

However in the course of arguments, Appellant disputed that he did not receive the information within stipulated time and PIO has not acted upon expeditiously and wilfully neglected to furnish the information and violated the relevant provision of Act and therefore he is entitled for information free of cost.

10. Sec 7(1) of the Act, reads as under :-

*"7. **Disposal of request.**____(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:*

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipts of the request.

(2) XXX XXX

(3) XXX XXX

(4) XXX XXX

(5) XXX XXX

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1)."

11. From the above reading, it is clear that Sub-Section (1) of sec 7 requires the PIO to dispose the request of seeker within 30 days. Disposal of request may result in furnishing of information on payment of fees or rejection of request on grounds as mentioned in sec 8 and sec 9.

12. In the present case, the PIO has disposed the request on 11/08/2020 i.e on 29th day by deciding to furnish the information and requested to pay the requisite fee and offered inspection of the file for rest of the information. In such circumstances, I find no infirmity in the reply furnished to the Appellant. It is a categorical statement and must be accepted as such. I therefore find no violation of sect 7(1) of the Act.

13. Section 7(6) of the RTI Act, which is quoted hereinabove in para No. 10 provides that, the information need to be provided free of cost where PIO fails to comply with the time limit specified in sub-section (1) of section 7 of the Act. Here in this case, the PIO has answered the RTI application in a fair manner and it is not practical for the PIO to keep a track on the correspondence dispatched through post.

14. The Appellant also prayed that, he is entitled for information

free of cost. However in the case in hand, the PIO did not deny the information sought by the Appellant, but has made reference to make the advance payment of Rs. 918/- towards the fees of photocopying charges. It is the duty of PIO to see that under the garb of supplying information no loss is caused to the public exchequer. The cost of the information should be charged and accounted and in that direction to ensure that public monies are not wasted on photocopying/ Xeroxing the documents, unless such cost is deposited by the seeker.

15. Sec 7(9) bestow that information shall be provided as sought unless it would disappropriately divert the resources of the public authority. Hon'ble Supreme court in **Institute of Chartered Accountant v/s Shaunak H. Satya (Civil A. No. 7571/2011)** has held that:-

"One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of RTI Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources."

16. Considering the facts hereinabove, I find no deliberate or

intentional delay or denial of furnishing the information. The Appellant failed to produce any material on record to prove the default of PIO beyond reasonable doubt to invoke the right of this Commission u/s 20 of the Act to impose penalty or awarding compensation as prayed by Appellant.

In view of above, appeal dismissed.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner