

GOA STATE INFORMATION COMMISSION

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

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Appeal No. 172/2020

Shri. Jawaharlal T. Shetye,
H.No. 35/A, Ward No. 11,
Khorlim, Mapusa-Goa.
403507.

.....Appellant

V/S

1. Public Information Officer,
I/C Registrar,
Administrative Tribunal,
Panaji-Goa.

2. First Appellate Authority,
The President,
Administrative Tribunal,
Dr. Vaidhya Hospital, 3rd Floor,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 16/10/2020

Decided on: 22/10/2021

FACTS IN BRIEF

1. The Appellant, Shri. Jawaharlal T. Shetye, H.No. 35/A, Ward No. 11, Khorlim, Mapusa-Goa, by his application dated 27/07/2020, filed under sec 6(1) of Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), I/C Registrar, Administrative Tribunal, Panaji-Goa.
2. The said application was replied by PIO on 31/07/2020.
3. Not satisfied with the reply of PIO, Appellant filed first appeal before the President, Administrative Tribunal at Panaji Goa being the First Appellate Authority (FAA).
4. The FAA by communication dated 29/09/2020 informed the Appellant that as the information sought related to personal information of the FAA, he recused himself from hearing first

appeal and directed the Appellant to approach the appropriate Appellate Authority and returned the memorandum of appeal to the Appellant.

5. Aggrieved with the said reply of FAA, Appellant preferred this second appeal before the Commission under sec 19(3) of the Act.
6. Notice was issued to the parties, pursuant to which PIO, Shri. Vasant Dhargalkar appeared and filed his reply on 26/04/2021, FAA appeared through his representative Adv. K.L Bhagat and filed reply on behalf of FAA on 26/04/2021 alongwith the copy to Appellant. Appellant appeared once on 24/03/2021 and opted not to appear on subsequent hearings. As the Appellant did not appear for hearings the arguments of Respondents were heard in his absence.
7. According to PIO, he received the RTI application on 27/07/2020. The information sought was pertaining to a Municipal Appeal bearing No. 9/2020 in Misc/Ap./16/2020/Stay/MUN filed by the Appellant before the public authority. Therefore by letter dated 31/07/2020, the PIO replied that, the Appellant should apply in accordance to the procedure laid down by the Tribunal, vis a vis Goa, Daman and Diu and Dadra and Nagar Haveli District Court, RTI Rules, 2009, published in Government Gazette Series-I, No. 25, dated 17/09/2009 for the information at point No. I(1) and I(2).

As regards to information on point No. II (a), it has been furnished and remaining part of Point No. II (a), II(b),(c),(d),(e), (f) and III, the Appellant was informed that the information sought is not available being personal record of the President of Administrative Tribunal.

Further according to PIO, Appellant sought certified copy of the judicial proceeding, same was rejected as per Rule 10(3) of

Goa, Daman and Diu and Dadra and Nagar Haveli District Court, RTI Rules, 2009, framed by the Chief Justice of the Hon'ble High Court of Judicature at Bombay.

Further according to PIO, the information which is available has been furnished to the Appellant within time bound period and other information sought is not a part of record of a public authority. He also produced on record the copy of the Official Gazette dated 17/09/2009 to support his contention.

8. According to FAA, in the first appeal, the Appellant sought information of the President of Administrative Tribunal at Panaji who is coincidentally the FAA in the present case. Being so he deemed it fit to return the said first appeal and requested the Appellant to approach before appropriate Appellate Authority, thus he recused himself from hearing the matter.
9. It is a matter of fact that, Hon'ble High Court of Judicature of Bombay, by Gazette Notification framed rules and same are applicable to all subordinate courts falling under the superintendence and control of the High Court of Judicature at Bombay including the Administrative Tribunal. Therefore the procedure prescribed in the said Notification of Goa, Daman and Diu and Dadra and Nagar Haveli District Court, 2009 are applicable to the public authority i.e Administrative Tribunal at Panaji.
10. Hon'ble Supreme Court in case of **Chief Information Commissioner v/s High Court of Gujarat & Anrs in (Appeal No. 1966-1967/2020)** has held that:-

"31. While examining the issue of where two mechanisms exist for obtaining the information i.e. the Supreme Court Rules and the RTI Act, in The Registrar Supreme Court of India v/s R.S. Misra (2017) 244 DLT 179, the Delhi High Court held that "once any

information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to."

32. We fully endorse above views of the Delhi High Court. When the High Court Rules provide for a mechanism that the information/certified copies can be obtained by filing an application/affidavit, the provisions of the RTI Act are not to be resorted to."

Considering the above ratio to the case in hand, the PIO has informed that the concerned records are not required to be furnished in view of above mentioned Notification.

11. As far as other information sought by the Appellant vis-a-vis certified copy of Annual Immovable Property Returns filed by Shri. Rajesh Narvekar, President of Administrative Tribunal, Goa and certified copies of all statement of Assets and Liabilities account of the President of Administrative Tribunal since 01/04/2015 to 31/03/2016, 01/04/2016 to 31/03/2017, 01/04/2017 to 31/03/2018, 01/04/2018 to 31/03/2019, 01/04/2019 to 31/03/2020 and 01/04/2020 to 31/03/2021 is concerned , they are all personal records and the same cannot be furnished even otherwise held by the public authority.

The Appellant in the instant case had not made out a bonafide public interest in seeking the information, the disclosure of such information would cause unwarranted invasion of the privacy of the individual under Section 8(1)(J) of the Act. This view is fortified by Hon'ble High Court of Bombay at Goa in case of Mr. Deepak P. Vaigankar v/s Mr. Suryakant Babu Naik & Ors [2019(1) Goa LR 635 (Bom)(PB)].

It is settled law that, the Income Tax Returns, Assets and Liabilities, movable and immovable properties and other financial

aspect have been considered as personal information. The Hon'ble Supreme Court in **Central Public Information Officer, SC of India v/s Subhash Chandra Agarwal (C.A. No. 10045/2010)** in para No. 59 has held that:-

"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive."

In the above circumstances, I find no merit in the appeal and the same is liable to be dismissed. I therefore dispose the present appeal with the order as under:-

ORDER

- The appeal is dismissed.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner