

GOA STATE INFORMATION COMMISSION

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

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Complaint No. 13/2020/SIC-I

Shri Mahesh Kamat,
CD Seasons Co-op. Housing Society,
101, 'Blossom', Murida,
Fatorda Goa.

-----Complainant

v/s

Shri Sanjay Ghate,
The Public Information Officer,
Kadamba Transport Corporation,
'Paraiso' de Goa Building,
Alto Porvorim, Bardez – Goa.

-----Opponent

Shri Vishwas R. Satarkar - State Chief Information Commissioner

Filed on:- 20/04/2020

Decided on: 28/04/2021

ORDER

1. The Complainant Shri Mahesh Kamat vide application dated 27/08/2019 sought certain information under Sec 6 (1) of the RTI Act, from the Public Information Officer (PIO), Kadamba Transport Corporation Ltd, Porvorim-Goa.
2. The Complainant sought information on 17 points, amongst other on the procedure of FR 56 (J), opinion of Board, copy of suspension order dated 08/06/2007, record of Personal and Administration Department, inspection of all files created by PIO etc information.
3. The Complainant avers that, Respondent PIO of KTCL vide letter dated 25/09/2019 furnished incomplete and irrelevant information, and that Respondent PIO rejected his application stating that, information which exist with KTCL is uploaded on KTCL website.

4. Not satisfied with the reply of PIO, Complainant filed first appeal before First Appellate Authority (FAA) on 01/10/2019.

5. The FAA vide order dated 04/02/2020 dismissed the said first appeal, stating that whatever information asked by the Complainant has been provided to him earlier and rest of the information has been uploaded on the website.

6. In this background, the Complainant preferred complaint under Sec 18 of the Right to Information Act for initiating an inquiry in the matter imposing penalty under Section 20 (1) and recommend disciplinary proceedings under Section 20 (2) of the Act.

7. The Complainant has stated that PIO has failed to collect the information from his seniors like Managing Director, Accounts Department or from Personnel Department of KTCL. It is also the contention of the Complainant that PIO failed to discharge his duties under Section 5 (4) and therefore inquiry against PIO may be conducted on PIO for giving incomplete, misleading information and false information.

8. The matter was taken up on the board, was listed for hearing. Pursuant to the notice of this Commission, Complainant was present in person and Opponent PIO Shri Sanjay Ghate appeared and had filed his reply on 06/07/2020, 15/09/2020 and 25/03/2021.

9. In his written submission, PIO of KTCL stated that, Complainant is asking irrelevant information by way of repetitive applications since 2014 and till date, he has filed as many as 45 applications in person or through his colleague. He submits that available information is uploaded on the website.

It is his further contention that all the information available in files of KTCL is furnished to Complainant, further more Complainant

has inspected all the related files of KTCL before the Information Commission.

10. He further contended that Complainant has also filed affidavit before State Information Commission stating that no information other than above is available with KTCL.

11. He further submits that, Complainant was an employee of KTCL and his service has been terminated by KTCL by compulsory retirement under FR 56 (J) on 20/06/2008 and Complainant time and again filing vexatious applications under RTI to take the revenge on his ex-employer.

12. He also relied upon the copy of reply furnished to the Complainant in his earlier RTI applications dated 15/01/2016, 22/02/2016, 28/05/2016, inspection attendance sheet dated 26/03/2018, Board of Directors Resolution no. 71/2007 by way of additional documents.

13. I have perused the complaint memo, reply of the Opponent PIO, Order passed by FAA, additional documents produced by PIO, written submission filed by both the parties and scrutinized the documents on record.

14. After going through the details of the application dated 27/08/2019, it is noticed that, Complainant is seeking the explanation, clarification, view and advice from Public authority.

15. The Right to Information Act, 2005 provides access to citizens the information under the control of PIO, such information has to exist physically or in digital forms in the records of Public authority. There is neither any scope for providing opinion nor any scope for providing advice which is not part of any records. PIO is not bound to provide such non existing information. Interpretation of law /rule is not the domain field provide under the statute. It is the obligation

on the part of PIO to provide the information, as it exist in his records.

16. I have also perused the Affidavit in reply filed by PIO **in Case No. 169/2018/SIC-I** dated 22/11/2018. I have also gone through the inspection attendance sheet/ report produced by PIO **in Case No. 33/2018/SIC-I** dated 26/03/2018 from the perusal of above documents , it appears that, Complainant has inspected all the files maintained by the office of KTCL on 12/03/2018 on the direction of this Commission.

17. The Complainant has neither controverted the averments of PIO nor denied the inspection report dated 12/03/2018. I do not find any ground to discard the inspection report sheet produced by PIO dated 12/03/2018.

18. It will be relevant here to revisit the decision of this Commission in similar matters of the Complainant and the Opponent. This Commission, in its Judgment in case of **Mahesh Kamat v/s. Sanjay Ghate, Public Information Officer of KTCL** in Complaint No. 55/2018/SIC-I dated 09/01/2020 dealing with similar issue observed as under :

"...Hence based on his own contention, it appears that Complainant was aware that the said information did not exist and after inspection he has confirmed and verified that the said facts personally. Complainant being conversant with RTI Act, and past records reveals that since year 2007, the Complainant is resorting to RTI Act and filed applications under Section 6 (1) of RTI Act, and carried inspection of records, as such it ought to be within knowledge of Complainant, that the role of PIO is only to provide information as exist and as available in records of Public authority."

19. The ratio as laid down by Hon'ble Supreme Court in the case of **Central Board of Secondary Education v/s Aditya Bandopadhyay (Civil Appeal No. 6454 of 2011)** as below:

"35. 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. A Public authority is also not required to furnish information which require drawing of inferences and /or making of assumptions."

20. From the facts brought on record, it is clear that the Complainant was an employee of Kadamba Transport Corporation Limited and has been given compulsory retirement under FR 56 (J), this implies that the Complainant has grievance against the PIO and his office.

21. The Hon'ble Delhi High Court in **Hansi Rawat & Anr. v/s. Punjab National Bank & Ors. in LPA No. 785/2012**, held that, proceeding under RTI Act do not entail detail adjudication of grievance. The dispute relating to the termination of employment can be raised in appropriate forum. The proceeding under RTI cannot be converted into proceeding for adjudication of dispute as to correctness of the information furnished. Filing the plethora of applications is nothing but misusing of the RTI Act.

22. This Commission therefore finds that this RTI application filed is nothing but misuse of RTI Act and has been filed to settle personal scores and mainly with the intention to harass the PIO and Public authority.

22. Hon'ble Supreme Court in **CBSE v/s. Aditya Bandopadhyay (Civil Appeal No. 6454 of 2011)** has held that:

"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 of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

23. Applying the above ratio of Hon'ble Supreme Court and with the discussion made out, I find the Complaint does not deserve any consideration and hence dismissed.

Pronounced in Open Court.

Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa.

