

GOA STATE INFORMATION COMMISSION

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

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Appeal No.156/2020

Dr. D. J. De Souza,
C/o. Luz Lab ,
Libania Bldg., New Market,
Margao Goa.

.....Appellant

V/S

1. Public Information Officer,
The Village Panchayat of Curca,
Bambolim, Talaulim, P.O. Goa Velha,
Curca Tiswadi. 403108.

2. First Appellate Authority,
Block Development Officer,
6th Floor, 4th Lift, Junta House,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 29/09/2020

Decided on: 24/02/2022

FACTS IN BRIEF

1. The Appellant, Dr. D.J. De Souza c/o Luz Lab, Libania Building, New Market, Margao Goa by his application dated 04/07/2020 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought the following information from the Public Information Officer (PIO) of Village Panchayat Curca, Bambolim and Talaulim, Tiswadi Goa:-

- 1) Under what scheme is the dredging of River Nullah from Bambolim Village from Primary Government School to the Seashore.
- 2) What is the cost of the said dredging scheme of the River Nullah from the Primary School to the seashore.
- 3) What is the time given for completion of the above scheme of dredging the River Nullah.

4) Cost of processing and postage of RTI application of Rs. 20 by court fee stamped is hereby annexed.

2. The said application was responded by the PIO on 22/07/2020 in the following manner:-

“With reference to your application dated 04/07/2020 inwards under No. 514 dated 10/07/2020 on the above mentioned subject, This is to inform you that search has been made in V.P. Office records for sought information/Copies and the same is available in V.P. Office records is ready with the Panchayat.

You are therefore requested to collect the available information on any working day during office hours on payment of prescribed fees of Rs. 02/- under RTI Act. ”

3. Not satisfied with the reply of PIO, the Appellant preferred first appeal before the Block Development Officer of Tiswadi at Panaji Goa being the First Appellate Authority (FAA) on 01/08/2020.
4. Since the FAA failed to hear the first appeal within stipulated time, he preferred this second appeal before the Commission under section 19(3) of the Act.
5. Parties were notified, pursuant to which the PIO appeared and filed his reply on 22/12/2021, the FAA duly served, opted not to appear and file her reply in the matter.
6. Perused the pleadings, reply of the PIO, written submissions filed by the Appellant and scrutinised the documents on record.
7. The main grievance of the Appellant is that, inspite of affixing the court fee stamp of Rs. 20/- to his RTI application, the PIO informed him to pay the prescribed fee of Rs. 2/- and collect the information. He further contended that, the PIO ought to have considered that he has paid additional court fee of Rs. 10/- and according to him,

the PIO deliberately denied the information and hence he preferred the present appeal.

8. Under the Act, Section 7 provides the mode and manner of the disposal of request of the information seeker. Section 7(1) 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."

From the above, it is clear that the Act provides the procedure to be adopted after the receipt of request for seeking information and also prescribes the time limit in which such information is to be given. It is categorically mentioned about the payment of requisite fee while seeking and giving information.

9. Let us now see the Goa Right to Information (Regulation of Fee and Cost) Rules, 2006.

Rule 3(1) of the above rule prescribe application fee for the application which is Rs. 10/-, which can be paid by way of cash, by affixing a court fee stamp of Rs. 10/- or by demand draft or by banker cheque. Further sub-rule(2) of Rule 3 provides that the fee for providing information shall be charged at the rates prescribed therein for each item by the way of cash, demand draft, or banker's cheque. This Sub-rule do not prescribe fee to be paid by court fee stamp neither does it provide that additional court fee

stamp affixed on the application may be adjusted against the fee for information provided.

10. Merely affixing Rs. 20/- as court fee stamp to the RTI application is obviously not the prescribed mode of payment of fees. In the present case, the Appellant has failed to follow statutory procedure. Under the Act, the Appellant cannot force the PIO to take certain course of action. The Commission therefore feels that the attempts herein by the Appellant are clearly misplaced. The Appellant certainly failed to establish that he has paid the requisite fee to obtain the information, therefore the contention of Appellant is not tenable in the eyes of law.

11. The second grievance of the Appellant is that he is not provided with the information. However during the course of hearing on 25/03/2021, the PIO has shown his willingness to provide the documents, and the Commission accordingly directed the PIO to produce the documents on next date of hearing.

The then PIO, Mr. Gawas appeared and furnished bunch of documents to the Appellant on 30/11/2021, which is duly endorsed by the Appellant.

12. On perusal of the reply filed by the PIO dated 22/12/2021, he has submitted that available information with the public authority has been furnished to the Appellant.

Section 2(f) of the Act defines 'information' as something which is available in a material form. Information, therefore can be something that is available in the official records, hence the PIO has provided the information which exist and available.

13. In the instant case, the PIO has furnished the copy of site inspection report dated 12/06/2018, which is duly signed by the Appellant. The PIO also furnished the copy of the proceedings of the Panchayat meeting, which can be identified as Resolution

No. 6(5), wherein the Panchayat Body has taken the decision to close the matter. The PIO accordingly provided the copy of the said Resolution/decision of the Panchayat.

The PIO further cannot justify or provide the reason for decision taken by public authority that is clearly outside the purview of PIO under the Act. Further the Commission cannot adjudicate upon the merit or worthiness of the information furnished. This is a matter for agitation either before the concerned department or the appropriate authority.

14. Under section 7(1) of the Act, the PIO is required to dispose the request of the applicant within 30 days. In the present case the PIO has replied to the RTI application on 22/07/2020 i.e within the stipulated time, and asking to pay the requisite amount of fee of Rs. 2/-cannot be treated as denial of information.
15. Another grievance of the Appellant is that the FAA has failed to dispose the first appeal and from the records it appears so. However the same has not effected the right of Appellant as non-deciding of the first appeal has resulted in deemed rejection and Appellant has approached before the Commission by way of this second appeal. Nevertheless FAA has to ensure that the right of the Appellant to file first appeal is a statutory right and FAA must hear the appeal.
16. In the aforestated circumstances, I hold that the information as is available has been furnished free of cost to the Appellant and remaining part cannot be ordered to be furnished being not available.
17. The Commission noticed that, the present appeal arises out of personal vendetta and ego of the parties. The Appellant only to satisfy the personal ego put the entire machinery into motion for not complying with the legitimate request of the PIO of paying a

meagre amount of Rs.2/- towards fee for information to be furnished.

In the above given circumstances, I find no merit in appeal and hence the appeal is disposed off being redundant.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner