

GOA STATE INFORMATION COMMISSION

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Appeal No. 171/2020

Shri. Predrito Misquitta Alias
Shri. John Peter Misquitta,
Souza Vaddo, Candolim, Bardez,
Goa. 403515.

.....Appellant

V/S

1. State Public Information Officer,
Office of the Inspector of Surveys and Land Records,
City Survey,
Mapusa,Goa.

2. First Appellate Authority,
Superintendent of Surveys and Land Records-DSLRL,
Panaji-Goa.Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 16/10/2020

Decided on: 21/03/2022

FACTS IN BRIEF

1. The Appellant, Shri. Predrito Misquitta @ John Peter Misquitta, r/o. H.No. 234, Souza Vaddo, Candolim, Bardez Goa by his application dated 24/12/2019 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information from the Public Information Officer (PIO) the Office of Inspector of Surveys and Land Records, Mapusa, Bardez-Goa.
2. The said application was responded by the PIO on 23/01/2020. Not satisfied with the reply of PIO, the Appellant preferred first appeal before the Superintendent of Survey and Land Records at Panaji Goa being the First Appellate Authority (FAA).
3. The FAA by its order dated 09/06/2020 dismissed the said first appeal. Being aggrieved with the order of FAA, the Appellant landed before the Commission by this second appeal under section 19(3) of the Act with the prayer to issue direction to the PIO to

furnish the proper information and refund of Rs. 220/- against receipt dated 05/11/2019 and also to impose penalty for collecting exorbitant fee.

4. Notice was issued to the parties, pursuant to which representative of the PIO, Shri. Yogesh Mashelkar appeared and filed his reply on 09/08/2021, the representative of FAA, Shri. Babaji Parab appeared and filed his reply on 09/08/2021 duly furnishing copy to the otherside.
5. I have perused the pleadings, reply, scrutinised the documents on record and considered the written submissions and oral arguments of the rival parties.
6. The Appellant contended that on 05/11/2019, he filed an application for certified copy of resurvey map pertaining to survey No. 80/3 of Calangute village of Bardez taluka. As he was called, he visited the office of Inspector of Surveys and Land Records at Mapusa Goa on 20/11/2019, however since the re-survey map was not ready he was called later. That on his another visit in the office of public authority on 10/12/2019, he was informed that during extraction of re-survey map, they observed some discrepancy due to alienated Sub-Division No. 3-D and 3-E shows incomplete peripheral boundary and therefore expressed the inability to provide the re-survey map till necessary corrections are made.

Further according to him, since said re-survey map was required urgently to produce before the Block Development Officer at Mapusa, Bardez-Goa, he insisted and demanded for re-survey map as it exist in the office records. However the PIO expressed his inability to provide such incomplete map. Since there was no alternative, he sought copy of said re-survey map through RTI application on 11/12/2019.

Further according to Appellant, to obtain said re-survey map, the PIO charged him additional fee of Rs. 220/- and issued uncertified re-survey map on 16/12/2019. According to the Appellant, since the PIO has already collected the fee of Rs. 220/- on 05/11/2019, he ought to have adjusted said amount against this RTI application and therefore he alleged that PIO has charged him exorbitant amount of fee without any authority and power and emphasised that he is entitled for refund of Rs. 220/-.

7. On the other hand, the PIO submitted that by a normal application dated 05/11/2019, the Appellant had applied for re-survey map of survey bearing No. 80/3 of Calangute village, and same was not issued as there was some discrepancy and same fact was brought to the notice of the Appellant.

However vide RTI application dated 11/12/2019, the Appellant sought copy of re-survey map as appearing in the system, available with Inspector of Survey and Land Records at Mapusa Goa without making any corrections. Accordingly, he provided the re-survey plan that was available and exists in the records and calculated the prescribed fee as per the Government Notification No. 26/13/2016-RD/513 dated 29/03/2018 and informed the Appellant to collect the re-survey map and to substantiate his contention, he produced the copy of Notification No. 26/13/2016-RD/513 dated 29/03/2018.

8. Considering the rival contention of the parties the issue that arises for determination before the Commission are:-

- 1) Whether the PIO charged unauthorised exorbitant fee from the Appellant while issuing the re-survey map under RTI Act?
- 2) Whether copies of documents issued under the seal 'issued under RTI Act' can be treated as appropriate under the Act?

9. Under the Act, Section 7 provides the mode and manner of the disposal of request of the information seeker, which 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 XXX

(3) *Where a decision is taken to provided the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send intimation to the person making the request, giving_____*

(a) the details of further fees representing the cost of providing the information as determines by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said

intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;”

Let us now see the Right to Information (Regulation of Fee and Cost) (Second Amendment) Rules 2008 which reads as under:-

"Rule 3(4). Fees under other rules.____
Notwithstanding anything contained in these rules, in case any higher fee than specified above is laid down by any Rules framed under any other law for the time being in force for inspection, search of documents/records, etc. or supply of certified copies or certified extracts thereof such higher fee as specified under the relevant Rules shall be charged for such inspection, search or supply of certified copies or certified extracts thereof, as the case may be."

From the reading of above provision, it is clear that the PIO has followed the prescribed mode of payment of fees. Under the Act, the Appellant cannot force the PIO to take certain course of action. The Commission therefore feels that the attempts by the Appellant are clearly misplaced. The contention of the Appellant is not tenable in the eyes of law.

10. Section 27 of the Act reads as under:-

"27. Power to make rules by appropriate Government.____ (1) *The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.*

(2) *In particular, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely:____*

(a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(b) the fee payable under sub-section (1) of section 6;

(c) the fee payable under sub-sections (1) and (5) of section 7;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;

(e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and

(f) any other matter which is required to be, or may be, prescribed."

A perusal of the provision of section 27 of the Act makes it clear that the appropriate Government has powers to frame Rules for specific purpose, including the costs for supplying copies of the documents as well as the fees required to be charged for supplying such information. In the said notification at point No. 24 it is specifically mentioned that 'Every certified copy of form XV/ Resurvey map the fees to be charged at Rs. 220/- per survey number/sub-division number.' Therefore the fees charged by the concerned authority cannot be said to be exorbitant or unreasonable.

11. The High Court of Bombay, Goa bench in **Vishal Gajanan Naik v/s the State of Goa, through its Chief Secretary & 5 Ors (Writ Petition No. 283/2015)** has held that:-

"2. This petition challenges the Rules framed by the State Government dated 4/2/2008, as well as the Circular dated 12.12.2011, issued by the Board of Technical Education. The petitioner in person has pointed out that the concerned authority has no powers to frame the Rules and, as such, the fees and costs as claimed by the respondents for the purpose of issuing photo copies and inspection of the answer books is not justified. It is further submitted that as the Rules are not framed in terms of the provisions of the Right to Information Act, the Rules stand vitiated and, as such, the same deserve to be quashed and set aside. It is further submitted by the petitioner in person that the costs/fees charged for such services are exorbitant, besides the fact that the Authority has no power to charge any fees. It is further submitted that such costs/fees have been prescribed on the basis of the salaries of the concerned officials for furnishing information/supplying xerox copies, which is not contemplated under the Act. It is further pointed out that as such, the petition deserves consideration and the said Rules and the Circular deserve to be quashed and set aside.

8. Taking note of the powers conferred on the concerned authority in terms of the provisions of Section 27 of the RTI Act, to provide the norms set up for discharging its functions and fixing the costs, as well as the fees payable to furnish the information, we find that the costs and the fees prescribed in terms of the said Circular dated 12/12/2011 are not exorbitant, nor unreasonable, considering the special facilities sought by the petitioner."

Considering the above legal ratio laid by the High Court of Bombay, the issue No. 1 is answered as negative.

12. As far as issue No. 2 is concerned, information asked for has been furnished to the Appellant, however same is not certified/ attested by the PIO. The grievance of the Appellant is that the re-survey map received by him is uncertified and incomplete.

Under the Act there is no mandate or provision to issue certified copies. The Act does not contemplate the same. The Act only intends and provide the citizen access to the information that exist. Here in the present case the rules framed by the departments, dated 20/03/2018, referred hereinabove provide for furnishing of certified copies. The grievances of the documents can be ascertained from the window given under the said rules. This Act only mandates to furnish the available information.

13. The High Court of Kerala in the case **John Numpeli v/s The Public Information Officer and Ors. (W.P(c). No. 31947 of 2013)** has observed as under:-

"As regards the first relief sought for, viz. a direction to the first respondent to certify the copies of documents furnished to the petitioner pursuant to Ext.P1 application as copies issued under the Right to [Information Act](#), 2005, the stand taken by the respondents is that the Act does not contemplate such certification. Reliance is placed on [section 7](#) of the Act in support of the said contention. Though [section 7](#) of the Act does not refer to issuance of certified copies it is evident from the definition of the terms "information" and "right to information" occurring in [section 2\(f\)](#) and [2\(j\)](#) respectively of the Act, that the Act contemplates issue of certified copies. The term

W.P(C)No.31947/2013 "information is defined in [section 2\(f\)](#) of the Act as follows:-

2(f) "Information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

The definition of the term "information" includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data materials held in any electronic form etc. It also includes information relating to any private body which can be accessed by a public authority under any law for the time being in force. The term "right to information" is defined to include taking of notes, extracts or certified copies of documents or records. [Section 2\(j\)](#) of the Act which defines the term "right to information" reads as follows:-

"2(j) "Right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to -

(i) inspection of work, documents, records;

(ii) taking notes, extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device." (emphasis supplied) In the light of the provisions contained in [sections 2\(f\) and 2\(j\)](#) of the Act, the stand taken by the respondent that the Act does not contemplate issue of certified copies of documents or records cannot be sustained. Likewise I also find no merit or force in the contention of the respondents that grant of certified copies may give authenticity to the documents which may not be genuine or even fabricated. In the event of an applicant's request for information being granted all that the Public Information Officer would have to do is to certify that the copy is one issued under the Right to [Information Act, 2005](#). He is not called upon to certify that it is a copy of a genuine document. I therefore, find no reason why the first relief prayed for by the petitioner cannot be granted.

I accordingly allow the writ petition and direct the first respondent to issue a fresh set of documents sought for in Ext.P1 application other than the No Objection

Certificate issued by the W.P(C)No.31947/2013 Fire and Rescue Services Department on the petitioner paying the requisite fees and to certify the copies as copies issued under the Right to [Information Act, 2005](#)."

In the present case Re-survey map issued to the Appellant by the PIO of Directorate of Settlement and Land Records at Mapusa,

shows that the same is issued under the seal "Information/ copy/copies issued under Right to Information Act, 2005."

Considering the above fact and legal position, the issue number 2 is answered as affirmative.

14. In the light of above legal position and considering the fact and circumstances as discussed above, I find no merit in the appeal and Appellant is not entitled for the relief prayed for. Consequently appeal is disposed off with the following :-

ORDER

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner