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Appeal No. 189/2020

Shri. Dinesh D'Souza,
H.No. 227, Borla,
Macasana, Salcete-Goa 403709. .....Appellant

V/S

1. The Secretary,
The Public Information Officer,
Village Panchayat of Macasana,
Macasana, Salcete-Goa, 403709.

2. The First Appellate Authority,
The Block Development Officer-II Salcete,
Mathany Saldanha Complex, Margao,
Salcete-Goa, 403601. .....Respondents

Shri. Vishwas R. Satarkar State Chief Information Commissioner

Filed on: 04/11/2020
Decided on: 08/09/2022

FACTS IN BRIEF

1. The Appellant, Shri. Dinesh D'Souza, r/o. H.No. 227, Borla, Macasana, Salcete - Goa by his application dated 20/04/2020 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information on 4 points from the Public Information Officer (PIO) Secretary of Village Panchayat Macasana, Salcete-Goa.

2. The said application was replied by the PIO on 18/06/2020, thus furnishing the information.

3. Dissatisfied with the reply of the PIO, the Appellant filed first appeal before the Block Development Officer-II, Margao, Salcete, Goa being the First Appellate Authority (FAA).

4. The FAA by its order dated 18/08/2020 allowed the said first appeal and directed the PIO to provide the information to the Appellant free of cost within 10 days.

5. Since the PIO failed and neglected to comply the order of the FAA, the Appellant landed before the Commission by this second appeal under section 19(3) of the Act.

6. Notice was issued to the parties, pursuant to which the PIO, Shri. Shrisail Pathan Shetti appeared and filed his reply through entry registry on 18/05/2021. The FAA filed his reply through entry registry on 18/03/2021.

7. I have perused the pleadings, reply and scrutinised the documents on record.

8. It is admitted fact that, information with regards to point No. 1,2 and 3 has been received by the Appellant. The controversy therefore remains with regards to information on point No. 4 of the application, which reads as under:-

> *"4. The certified copy of the Site Inspection Report and checklist of the Site Inspection conducted by you in survey No. 6/4 on 16/03/2018."*

9. The PIO by his response to the RTI application replied as under:-

> *"Certified copy of Site Inspection report carried out by the V.P. Macasana on 24/05/2018 and attended sheet (02 copies)."*

And complying the order of the FAA, the PIO responded on 26/08/2020 as under:-

> *"With reference to your application under RTI, this office had given information under letter No. VP/Mac/2020-21/01 dated 18/06/2020.*

Your application point No. 4 to be read as under:-

4. There is no any site inspection report and check list of dated 16.03.2018 available in this office."

10. The PIO, Shri. Shrisail Pathan Shetti through his reply submitted that, he alongwith the peon of V.P. Macasana searched the record, however they could not locate inspection report dated 16/03/2018 and he submitted that at the relevant time one Shri. Diwakar Salelkar was incharge as a Secretary/PIO of V.P. Macasana. Accordingly fresh notice was issued to the then PIO, Shri. Diwakar Salelkar.

11. That on 03/08/2022, the then PIO, Shri. Diwakar Salelkar appeared and submitted that, on receipt of the RTI application of the Appellant he replied the same on 18/06/2020. Further according to him he searched multiple files to locate the information, however he could not trace the information specified by the Appellant i.e site inspection report dated 16/03/2018 and check list. He further submitted that copy another site inspection report carried out by V.P. Macasana, Goa dated 24/05/2018 connected to same issue was available and accordingly provided to the Appellant on 18/06/2020. He further submitted that he also complied the order of the FAA promptly by furnishing another reply dated 26/08/2020. He categorically contended that, he was not aware about any site inspection as at that relevant time as he was not posted as a Secretary of Village Panchayat Macasana, Salcete-Goa.

12. Since the incumbent PIO and the then PIO has categorically stated that the site inspection report dated 16/03/2018 and checklist which has been sought by the Appellant is not traceable, the question of any direction to furnish a copy of the same does not arise.

13. While considering the scope of information which can be furnished under the Act, the Hon'ble Supreme Court in the case **Central Board of Secondary Education v/s Aditya Bandopadhyay (Civil Appeal No. 6454/2011)** has observed :-

> *"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of `information' and `right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, 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."*

14. Considering the fact and circumstances, I find that the available information has been furnished to the Appellant and information on point No. 4 being not available cannot be furnished. In view of the above I dispose the present appeal with the following:-

ORDER

- The PIO, Secretary Village Panchayat Macasana, Salcete Goa shall furnish the inspection of entire file pertains to RTI

application of the Appellant dated 20/04/2020 and provide the information indicated by the Appellant within a period of **FIFTEEN DAYS** from the date of receipt of the order.

- Appeal disposed accordingly.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner