

GOA STATE INFORMATION COMMISSION

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Appeal No. 237/2021/SCIC

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

.....Appellant

V/S

1. Public Information Officer,
Executive Engineer, Division-VI,
Electricity Department,
Mapusa-Goa. 403507.

2. First Appellate Authority,
Superintending Engineer-II (N),
Electricity Department,
Vidyut Bhavan, Panaji Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 24/09/2021

Decided on: 14/01/2022

FACTS IN BRIEF

1. The Appellant, Shri. Jawaharlal T. Shetye, r/o. H.No. 35/A, Ward No. 11, Khorlim, Mapusa-Goa, by his application dated 08/06/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from Public Information Officer (PIO), Electricity Department, Mapusa, Bardez-Goa.
2. The said application was responded by PIO on 05/07/2021 informing the Appellant that information sought at point No. 2 and 4 is voluminous, hence Appellant was requested to conduct inspection of documents and the details of the office and phone number of the APIO was furnished. The Appellant was also asked to make payment of Rs. 1016/- towards the part of the information pertaining to Sub-Division-I (U) and Sub-Division-III(R) of Electricity Department.
3. According to Appellant, he made the advance payment of

Rs. 1016/- with the office of Electricity Department on 09/07/2021, however inspite of that, PIO ignored to furnish information. Therefore Appellant filed first appeal before Respondent No. 2, Superintending Engineer-II (North), Electricity Department at Panaji being the First Appellate Authority (FAA).

4. The FAA by its order dated 17/08/2021 allowed the said first appeal and directed the PIO to furnish all the information within 7 days from the date of receipt of the order.
5. Not satisfied with the order of FAA, Appellant preferred this second appeal under section 19(3) of the Act before the Commission.
6. Parties were notified, pursuant to which PIO appeared and filed his reply on 08/11/2021. FAA duly served opted not to appear for the hearing.
7. Perused the content of appeal memo, reply of the PIO, order of FAA and scrutinised the documents on records.
8. The Appellant submitted that as per the direction of PIO he effected the advance payment of Rs. 1016/- on 09/07/2021 with the cashier attached to the office of PIO and produced the copy of receipt dated 09/07/2021 to support his contention.

Further according to him, PIO by his reply dated 05/07/2021 assured that information will be provided within a week time from receipt of payment, however waiting for more than a week, deeming the same as refusal he filed first appeal before FAA on 12/08/2021.

Further according to him, upon the direction of FAA he received the information. However the FAA has passed the order mechanically and failed to pass the order on merit. He claims that the information has not been supplied within 30 days period and that he is entitled for free of cost information and emphasised for refund of the collected fee.

9. It is the contention of PIO that, he replied the RTI application on 05/07/2021 i.e within stipulated time, informing the Appellant to make advance payment of Rs. 1016/-. Accordingly Appellant effected the payment on 09/07/2021. On the cash counter located to the right wing on 3rd floor of Division XI of Electricity Department at Mapusa, the division office cashier informed the Appellant to show the paid receipt to the concerned LDC to the left wing i.e Technical Section on the same floor as the information sought by the Appellant was from the technical section of the department.

Further according to PIO, he was not aware about the advance payment done by Appellant, neither did Appellant approach the office of PIO to collect the information personally nor produced the copy of receipt of payment done with cash department, therefore he cannot be held responsible for delay caused in furnishing the information.

According to him, he has complied with the order of FAA dated 03/09/2021 and furnished 508 pages of information on 08/09/2021. He also produced on record the letter with the endorsement of Appellant that "Received 508 pages of information."

10. Now question for determination before the Commission is whether Appellant is entitled for information free of charge. Under sec 7(1) of the Act, the PIO is required to dispose the request of the seeker within 30 days. Sub Section 2 of Section 7 of the Act provides that, when PIO fails to furnish information within the time prescribed it will be deemed that PIO has refused the request for giving information.

11. It is admitted fact that, Appellant effected the payment of Rs. 1016/- with the cashier attached to the office of PIO on

09/07/2021. Normally the government offices which deals with revenue matters, set up a separate cash counter to deal with cash transaction. General practise followed in such departments is that, after effecting the payment at cash counter, one needs to produce the receipt with concerned dealing hand or PIO or the concerned section for confirmation to take out the photocopies of relevant documents. The advance payment is sought with the intention that public monies should not be wasted on photo copying under the garb of supplying the information.

In the present case, nowhere in the proceeding it is averred that, Appellant has produced the copy of receipt with PIO and elucidate that he has made the payment and still the PIO has failed to supply the information. Appellant miserably failed to establish that PIO was aware about payment of advance fee, therefore I am not convinced that PIO ignored to furnish the information or delayed the information with malafide intention.

12. The contention of PIO in his reply that, he was not aware about payment of fees by the Appellant at the cash counter therefore he could not furnish the information in time. This particular fact is not denied by the Appellant in the proceeding. The expectation of the Appellant from the PIO is unpragmatic and impracticable. Hon'ble Supreme Court in the case of **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors. (C.A. No. 7571/2011)** has held that object of RTI Act is to harmonize the conflicting public interest that is ensuring transparency to bring in accountability and containing corruption in one hand, and at the same time ensure that the revelation of information in actual practise does not harm or adversely affect the other public interest which includes efficient functioning of the Governments and optimum use of limited fiscal resources. Impracticable demands from the seeker would be

counterproductive as it will adversely affect the efficiency of the administration.

13. In the backdrop of the above fact, I find that there is no denial of information by the PIO. It is the duty of the PIO to see that under the garb of supplying the information no loss is caused to the public exchequer. The cost of information should be charged and accounted and in that direction to ensure that public monies are not wasted on photo copying the information unless such cost is deposited by the seeker.
14. The Appellant failed to produce anything on record to show that PIO acted malafidely and intentionally denied the information. On the other hand, records show that upon the direction of FAA, PIO furnished the information to the Appellant within a week's time. In the above circumstances, I am not convinced that Appellant is entitled for information free of cost or to refund the fee which was collected towards the supply of information.
15. Commission does not find any fault in the conduct of PIO and delay caused in furnishing the information is not malafide or intentional. Therefore I am unable to impose the penalty under sec 20 of the Act as prayed by the Appellant. In view of above , I dispose the appeal with following:-

ORDER

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner