

GOA STATE INFORMATION COMMISSION

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Appeal No. 306/2019/SIC-II

Shri Sushant P. Nagvenkar,
House No. c-312, Fondvem,
Ribandar – Goa.

-----Appellant

v/s

1.Smt. Monica Maria Anes,
Section Officer (PG) and PIO,
Secretariat, Porvorim-Goa.

2.Joint Secretary & F.A.A.
General Administration Department,
Secretariat, Porvorim-Goa.

-----Respondents

Shri Vishwas Satarkar - State Chief Information Commissioner

Filed on:- 17/10/2019

Decided on: 24/11/2022

FACTS IN BRIEF

1. The Appellant, Shri. Sushant P. Nagvenkar, r/o. H.No. C-312, Fondvem, Ribandar, Goa by his application dated 17/06/2019, filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought certain information from the Public Information Officer (PIO), Secretariat at Porvorim-Goa.
2. The said application was responded by the PIO on 10/07/2019 providing part of the information.
3. Not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Joint Secretary, General Administration Department Secretariat, Porvorim Goa being the First Appellate Authority (FAA).
4. The FAA by its order dated 28/08/2019 partly allowed the appeal and directed the PIO to give inspection of the available records and furnish the identified documents/ copies to the Appellant free of cost.

5. Aggrieved with the order of the FAA, the Appellant landed before the Commission with this second appeal under Section 19(3) of the Act.
6. Notices were issued to the parties, pursuant to which the PIO, Smt. Shanti Makwana Harding appeared and filed her reply on 17/03/2021. Adv. K.L. Bhagat appeared on behalf of FAA and placed on record the reply of the FAA on 20/04/2021.
7. I have perused the pleadings, replies, rejoinder and considered the documents on records.
8. It is the case of the Appellant that the FAA decided the first appeal ex-parte without giving him opportunity to hear in the matter. However, in the reply filed by the FAA it is specifically denied the contention of the Appellant and submitted that, the first appeal was received by him on 18/07/2019 and same is disposed on 28/08/2019 after having given the opportunity of being heard to both the parties. It is submitted that the notice informing about the first hearing fixed on 12/08/2019 at 3.00 pm was issued and was served on the Appellant through registered postal service. Subsequently, the intimation of the rescheduled date viz on 16/08/2019 was given to both the parties on phone. However, the Appellant did not attend the hearing on 16/08/2019, it was not incumbent upon the FAA to intimate the dates of further hearings to the Appellant as no such provisions are available under the RTI Act. Once the party is served with the notice in any proceeding before the judicial or quasi-judicial authority, it is the responsibility of the concerned party to attend the further hearings in such proceedings regularly. And to support his case, Adv. K.L. Bhagat produced on record the copy of the notice and acknowledgement card (A/D card) of postal authority, having the endorsement of the Appellant, therefore the allegation of disposing the matter ex-parte

order by the FAA cannot be considered to be genuine and bonafide.

9. The FAA was pleased to allow the first appeal on 28/08/2019, the operative part of the said order reads as under:-

"In view of the above observation and as a matter of abundant caution, it is directed for the respondent to give an inspection of the available records to the appellant specially with regard to point no. 1,2 and 3 of his RTI application and whatever documents/copies required by him be provided free of cost to the appellant.

With the aforesaid observations and direction, the present appeal stands disposed. "

From the above reading it is manifest that, the FAA facilitated the Appellant in getting the information by providing the inspection of records.

10. On perusal of the reply of the PIO dated 17/03/2020, the PIO specifically submitted that upon the receipt of the order from the FAA, she immediately informed the Appellant to visit the office of the public authority on 25/09/2019 for inspection. From the record it is manifest that Appellant inspected the records on 25/09/2019, 28/10/2019 and on 04/11/2019.
11. The another grievance of the Appellant that, he has not furnished the information as per the format provided by him and thus violated the provision of Section 7(9) of the Act and submitted that he is entitled for the information as per the proforma provided by him. Therefore it is relevant to go through the Section 7(9) of the Act, which reads as under:-

"7. Disposal of request-

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resource of the public authority or would be detrimental to the safety or preservation of the record in question."

On bare reading of the above provision, it is clear that, this section provides that the information has to be given in that mode or form in which the information has been sought. However, the purported information can be given in an alternative mode or form where it will disproportionately divert the resources of the public authority. This provision does not allow the PIO to withhold the disclosure of information, it merely makes provisions for the disclosure of information in a format other than that in proforma requested by the Appellant.

12. Hon'ble High Court of Delhi in the case the **Registrar Supreme Court of India v/s Commodore Lokesh K. Batra & Ors. (LPA 24/2015)** while dealing with the identical issue where in the specific case of the PIO that no data is maintained by the public authority in the manner as sought by the Appellant has held as under:-

"15..... As already noticed above, "right to information" under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the applicant."

13. In the present case, the Appellant has inspected the file and received the information. It is not the case that the PIO was unwilling to provide the information. The PIO also complied the order of the FAA promptly. Since the purported information has been furnished to the Appellant, nothing is survived. Accordingly the matter is disposed off.

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

Sd/-
(Vishwas R. Satarkar)
State Chief Information Commissioner