

GOA STATE INFORMATION COMMISSION

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Appeal No. 48/2021/SIC

Shri. Anant Naik,
H.No. 104, Fonsa Bhat,
Vadi Mercedes, Tiswadi-Goa 403005.

-----Appellant

v/s

The Public Information Officer,
The Office of the Additional Collector-I,
North Goa at Panaji-Goa 403001.

-----Respondent

Shri Vishwas Satarkar - State Chief Information Commissioner

Filed on:- 24/02/2021

Decided on: 09/08/2022

ORDER

1. The Appellant, Shri. Anant Naik, r/o. H.No. 104, Fonsa Bhat, Vadi, Mercedes, Tiswadi Goa by his application dated 07/09/2020 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought information on 17 points from the Public Information Officer (PIO), the Office of Additional Collector North Goa at Panaji-Goa.
2. The said application was responded by the PIO on 05/10/2020 in the following manner:-

"With reference to your RTI application dated 07/09/2020 on the above captioned subject, it is to inform you that the information sought by you is not available as per the records of this office.

Hence, your above RTI application stands disposed off in Toto."

3. Not satisfied with the reply of the PIO, the Appellant filed first appeal under section 19(1) of the Act before the Additional Collector-I, North Goa at Panaji-Goa being the First Appellate Authority (FAA).

4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 04/12/2020.
5. Being aggrieved and dissatisfied with the order of the FAA, the Appellant preferred this second appeal under section 19(3) of the Act before the Commission, with the prayers to set-aside the order of the FAA, to direct the PIO to provide the information and to impose the penalty on the PIO for failure to discharge his duties.
6. Notice was issued to the parties, pursuant to which none appeared for PIO and the FAA. Representative of the Appellant, Adv. V.M. Colaco holding for Adv. P.S. Parab appeared on 18/01/2022 and 17/02/2022, however failed to remain present on subsequent hearings.
7. Since none of the parties are appearing for the hearing since long, the Commission finds no reason to further prolong the proceeding and hence proceeds to dispose the appeal on merit.
8. On going through the application filed under section 6(1) of the Act, it reveals that the Appellant has sought the copy of conversion sanad issued to different persons pertaining to survey No. 30/2, 30/20, 30/21, 30/23, 30/30, 30/40, 30/98-A, 30/75, 30/70 and 30/60 of the Village Dargalim Taluka Pernem Goa.
9. On perusal of the reply of the PIO to the RTI application which is reproduced hereinabove at para No. 2, the PIO informed that the purported information is not available in the records of the public authority, however, he did not cite the provision of law under which supply of such information was not available.
10. A reading of the order of the FAA dated 04/12/2020 would clearly reveal that, the first appeal was dismissed on the ground that the Appellant has not specified the information and identify the public authority to get the information from the public authority.

11. The point is that, in order to get the information from the public authority, the Appellant has to specify the information as required under section 6(1) of the Act. Where the request for the information is clear, specific and unambiguous, it would be possible for the public authority to identify the material on record with respect to the subject. However when the request of the information is unspecific and vague it is impractical to furnish the information.
12. In the instance case, the information sought in respect to conversion sanad issued to various persons without specifying the date, year of generation of information or atleast mentioning sanad number, file number, name of issuing public authority, so that the PIO or APIO can facilitate in providing the information. The PIO is not expected to do research to decipher all material record and to furnish the outcome to the Appellant.
13. It is a matter of fact that, the Goa Land Revenue Code came into existence in the year 1968. The different authorities like the Collector, Additional Collector, Deputy Collector are the competent authorities who are dealing with conversion sanad under Land Revenue Code. Another aspect which is required to be considered is that, the RTI application is filed before the Collector of North Goa. It is not open to the applicant to file his application at random with any public authority hoping that it would be in any case be transferred under section 6(3) to where requested information might have been held, this responsibility can be discharged only when there is clarity about who held the information. As per section 6(1) an applicant can file request for only such information which is held by the public authority before whom the application is filed. If the applicant wishes to receive complete and correct information, it is in his own interest that he performs due diligence

to identify the public authority which ought to hold that information.

14. The information sought for by the Appellant is without specifying the date and the year of generation of information. It is impracticable to search the records of last 50 years and then to furnish the information to the Appellant. This kind of request cannot be treated to fall within the ambit of 'information' as defined under the provision of section 2(f) of the Act.
15. The High Court of Bombay, Nagpur Bench in the case **The State Information Commissioner & Ors v/s Mr. Tushar Dhananjay Mandlekar (L.P. No. 276/2012)** has held as under:-

"..... Instead of seeking information on some specific issues, the respondent sought general information on scores of matters. The application is vague and the application does not make it clear to the Information Officer as to what information is actually sought by the respondent from the Officer. It was literally impossible for the appellants, as pointed by the learned Assistant Government Pleader to supply the entire information sought by the respondent.

*.....The principle of **lex non cogit ad impossibilia** is clearly applicable to the facts of the case. Law does not compel a person to do that what is impossible."*

16. In the present case, the RTI application dated 07/09/2020 was replied by the PIO on 05/10/2020, that is within stipulated time, but the reply of the PIO is inappropriate and not accordance with the spirit of the Act. Right to Information is a fundamental right of the citizens, the denial of information has to be backed by the proper reasoning.

17. However, parting with the matter, the Commission is of the view that, the approach of the PIO appears to be very casual and trivial in dealing with RTI matters. In spite of a valid service of notice twice, the PIO failed and neglected to appear, thus shown lack of concern to the process of the Commission and not discharged his burden diligently. Therefore the Commission warn the PIO that henceforth he should discharge his duties with more diligent and cautious manner.

18. Considering the facts and circumstances, hereinabove, I am of the opinion that there is no malafide intention or irregularity in non-furnishing the information. The appeal is devoid of any merit, therefore stand dismissed.

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

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner