

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 06/2022/SIC

Shri Shailendra Velingkar,
H.No. 63, Dr. Dada Vaidya Road,
Near Mahalaxmi Temple,
Panaji-Goa 403001.

-----Appellant

v/s

1. The Public Information Officer,
Directorate of Women & Child Development,
Panaji-Goa.

2. The First Appellate Authority,
Directorate of Women & Child Development,
Panaji-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 25/08/2021
PIO replied on	: 23/09/2021
First appeal filed on	: 22/10/2021
First Appellate Authority order passed on	: Nil
Second appeal received on	: 03/01/2022
Decided on	: 03/10/2022

ORDER

1. The second appeal filed by the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA) came before the Commission on 03/01/2022

2. The brief details of this appeal, as contended by the appellant are that, vide application dated 25/08/2021 he sought certain information from the PIO. It is the contention of the appellant that the said application was not responded, hence appellant filed appeal before the FAA. It is further contended by the appellant that the first appeal was not heard by the FAA, being aggrieved, he preferred second appeal before the Commission.

- 3.** Pursuant to the notice Ms. Sweta Alias Sonam Parulekar, PIO and Smt. Deepali Naik, FAA appeared in person, whereas, appellant appeared alongwith his authorized representative Shri. Gaurav Bakshi. PIO filed submission on 17/02/2022, 24/05/2022, 02/06/2022 and 07/07/2022, reply on 03/03/2022 and 20/06/2022. Affidavit cum reply was filed by the PIO on 27/04/2022. FAA filed reply on 03/03/2022 and submission on 24/05/2022. Appellant filed a submission dated 07/04/2022, an application dated 27/04/2022 and another submission dated 18/08/2022.
- 4.** PIO stated that, appellant alongwith the application had provided a format and instructed the PIO to supply the information in tabular columns. The authority does not maintain the said records as appellant has sought, i.e. constituency wise, year wise. The same means that the appellant had asked PIO to create the information, which does not fall under the Act, and it was conveyed to the appellant vide reply dated 23/09/2021.
- 5.** PIO, vide affidavit filed before the Commission stated that, earlier the authority had provided information under the Act on Laadli Laxmi and Griha Aadhar schemes to appellant i.e. only name and address of the beneficiaries. That Shri. Gaurav Bakshi, representative of the appellant stated before the Commission that Goa Electronics Limited (GEL) has informed him that the authority/ Directorate of Women and Child Development is maintaining the information in the proforma as requested by the applicant, so clarification was sought and GEL replied that GEL has not informed Shri. Gaurav Bakshi that the authority / Directorate is maintaining records in the proforma as provided by the appellant vide application dated 25/08/2021. That the said data is property of the Authority/ Directorate of Women and Child Development and GEL cannot share the data to any third party, GEL only provides IT support to the Authority/ Directorate of Women

and Child Development. Hence, the appellant and his representative is misleading the Commission.

- 6.** FAA stated that, the first appeal dated 22/10/2021 was found to be incomplete and was not applied under proper appeal grounds. This matter was brought to the notice of the representative of the appellant when he visited the office and requested him to file the appeal with required details. Similarly, the FAA had responded vide letter dated 03/11/2021, the said letter was sent by the authority to the appellant by Registered A.D. In spite of the request, there was no response from the appellant.
- 7.** Appellant stated that, the first appeal was complete, yet was not responded by the FAA. No written correspondence was ever sent by the FAA and the PIO which mentioned any of the issues being pointed out by both as the reason for refusal. Both the PIO as well the FAA are attempting to take away the fundamental right of citizen to seek information.
- 8.** Appellant further contended that, PIO has lied in the reply and also filed false affidavit and denied the information initially, then eventually providing only part information while continuing to deny information which is in the public domain. By doing this the public authority and its officials have harassed the appellant.
- 9.** The Commission has perused the records of the present appeal including all submissions, replies and pleadings. Upon careful perusal of the application the Commission registers following observations :-
 - a.** Appellant vide application dated 25/08/2021 had sought information / data in tabular columns, in soft copy/ CD format. The information requested under point no. 1 and 2 pertains to data regarding Griha Aadhar and Laadli Laxmi schemes. The said information/ data can be furnished only if the same is maintained by the authority in the format desired by the

appellant. Here, PIO has stated on affidavit that the said data is not maintained in the format requested by the appellant. Therefore, PIO will have to compile the information in the format given by the appellant, which amounts to creating the information. The Act does not provide for creating the information. PIO is required to furnish the information as defined under Section 2 (f) of the Act and which is not exempted under Section 8 or reject under Section 9 of the Act.

- b. Appellant under point no. 3 had sought information in tabular format, pertaining to data regarding Griha Aadhar and Laadli Laxmi schemes of particular applicants, as mentioned in the said application. As observed in para 9 (a) above, the information requested under point no. 3 also amounts to creation of information and the Act does not provide for the same.
- c. Information sought under point no. 4 pertains to process and procedure, rules and regulations, requirements, details of officials in authority etc. The said information can be furnished as is available, since the same qualifies as information.
- d. Information sought under point no. 5 pertains to different Commissions set up under Directorate of Women and Child Development, which is the authority represented by the PIO and the FAA in the present matter. The said information can be furnished as is available.

10. Part information requested by the appellant is eligible for exemption under Section 8 (1) (j), being personal information and PIO has rightly denied the information such as contact number, bank details etc., which is exempted under Section 8 (1) (j) of the Act.

11. Appellant contended that no written correspondence was ever received by him from PIO and FAA. However, it is seen from the records that the application dated 25/08/2021 was replied by the

PIO on 23/09/2021, within the stipulated period. PIO has produced copy of Registered A.D., dispatched on 23/09/2021 to the address of the appellant. Hence, it has been established that the PIO had replied within the stipulated period, though the entire information was denied by the PIO. However, later during the proceeding of the second appeal, as directed by the Commission on 27/04/2022, PIO vide letter dated 23/05/2022 has furnished the information as available and the appellant has collected the same on 02/06/2022.

12. It is seen that the PIO initially denied the information stating that, the desired information does not come under the purview of the Act. However, later furnished the available information. The PIO has filed an affidavit with reference to the information which cannot be furnished, and in the said affidavit has relied on some circulars issued by various Government Authorities. The Commission has no mechanism to verify the merit of the statements made in the said affidavit. Needless to state, that if any statement made in the said affidavit is found untrue, the officer signing the same will be responsible for action for perjury.

13. Regarding the first appeal filed by the appellant before the FAA, the Commission has noted that the appeal was filed on 22/10/2021. Appellant, contended before the Commission that the first appeal was not responded. However, it is seen from the records that the FAA vide letter dated 03/11/2021 had informed the appellant that the appeal is incomplete. The said letter was sent to the appellant on his address by Registered A.D., copy of which is in the records of the present appeal. Appellant was requested to file the appeal with required details. However, appellant did not respond to the FAA and preferred the second appeal. Hence, no hearing could be conducted by the FAA.

14. Appellant has made two important contentions- one – PIO did not reply to his application and two – FAA did not send any correspondence to him. The Commission is unable to accept both the

contentions, rather the Commission finds that PIO had sent reply within the stipulated period and FAA had requested the appellant to file the appeal with required details. It is noteworthy that the appellant in his first appeal has acknowledged receipt of PIO's reply by stating "Attached: (a) Copy of RTI application, (b) Copy of the response received from PIO with which the appellant is aggrieved." Thus, it is established that appellant's contention pertaining to no response from PIO and FAA is not true. Appellant is expected to be truthful and faithful to the facts of the matter.

15. During the hearing on 18/08/2022 Shri. Gaurav Bakshi, representative of the appellant vide a submission brought to the notice of the Commission that Shri. Rohan Khaunte, MLA of Porvorim Constituency had filed LAQ seeking similar information relating to Griha Aadhar and Laadli Laxmi schemes and vide Unstarred LAQ No. 057, answered on 30/03/2021 was provided constituency wise information.

Also MLAs Shri. Michael Lobo, Shri. Kedar Naik, Shri. Alex Reginaldo, Shri. Carlos Ferreira, Shri. Rudolf Fernandes, Shri. Venzy Viegas, Shri. Cruz Silva, Shri. Vijai Sardessai and Shri. Digambar Kamat had filed LAQ seeking similar information relating to Griha Aadhar and Laadli Laxmi schemes from the Directorate of Women and Child Development and the information was tabled in the Legislative Assembly on 20/07/2022 and 13/07/2022.

Appellant pointed out that, as per the proviso to Section 8 (1) (j) the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. Hence, the appellant is praying for the information as requested in the application dated 25/08/2021.

16. Section 8 (1) (j) reads :-

8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be is satisfied that the larger public interest justifies the disclosure of such information.

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

- 17.** The Commission finds that the appellant had sought the information vide application dated 25/08/2021 and the PIO had denied the information then, by stating that, the said information does not come under the purview of the Act. However, later vide letter dated 23/05/2022 furnished part information as available. Now, vide submission dated 18/08/2022 appellant has brought on record that the information pertaining to data regarding Griha Aadhar and Laadli Laxmi schemes, Taluka wise and Constituency wise has been compiled by the Directorate of Women and Child Development, which is the authority represented by the PIO, and the same was provided to MLAs in the State Legislative Assembly, barring personal information like contact number, bank details etc.
- 18.** Hence, the Commission is of the view that, the information sought by the appellant regarding Griha Aadhar and Laadli Laxmi has to be furnished to the appellant as is tabled in the State Legislative Assembly by the authority, as provided in the Proviso to Section 8 (1) (j) of the Act. The said information may be provided in the soft copy as sought by the appellant, barring the personal information.
- 19.** The Commission observes that, though the PIO initially denied the information to the appellant, the said decision was taken under wrong interpretation of Section 2 (f) and Section 8 (1) (j) of the Act. As stated by the PIO, the authority is not obliged to compile the information under the Act, as sought by the appellant,

however, since the similar information has been compiled by the authority and tabled in the Legislative Assembly, the same information is required to be provided to the appellant. It is also noted that the PIO, during the proceeding had volunteered to provide only names and address of the beneficiaries of Griha Aadhar and Laadli Laxmi schemes, even so the appellant insisted on getting complete information as sought by him in tabular columns.

20. The Commission did not find any malafide intention on the part of the PIO while denying the information/ part information to the appellant. That being so, subscribing to the ratio laid down by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 205/2007, Shri. A. A. Parulekar v/s Goa State Information Commission, there is no need to invoke Section 20 of the Act against PIO for penal action. The PIO has already furnished information as is available on point no. 3, 4 and 5 of the application dated 25/08/2021 and the Commission concludes that the PIO is required to furnish the information as is available on point no. 1 and 2.

21. In the light of above discussion, the present appeal is disposed with the following order:-

a) PIO is directed to furnish information as is available on point no. 1 and 2, sought by the appellant vide application dated 25/08/2021, within 30 days from the receipt of this order, free of cost.

b) All other prayers are rejected.

Proceeding stands closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the order should be given to the parties free of cost.

Aggrieved party if any, may move against this order by way of a Writ Petition, as no further appeal is provided against this order under the Right to Information Act, 2005.

Sd/-

Sanjay N. Dhavalikar

State Information Commissioner
Goa State Information Commission
Panaji - Goa