GOA STATE INFORMATION COMMISSION
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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 170/2022/SIC

Shri Mahesh Kamat,
"Blossom" 101, Seasons Coop. Housing Society,
Murida, Fatorda- Goa, 403602. ------Appellant

v/s

Shri. Derrick Pereira Neto,
First Appellate Authority,
Kadamba Transport Corporation Ltd,
Paraiso de Goa, Alto, Porvorim-Goa. ------Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 18/02/2022
PIO replied on	: 15/03/2022
First appeal filed on	: 30/03/2022
First Appellate Authority order passed on	: 13/05/2022
Second appeal received on	: 27/06/2022
Decided on	: 29/12/2022

O R D E R

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 First Appellate Authority (FAA), Kadamba Transport Corporation Ltd (KTCL), Porvorim-Goa, came before the Commission on 27/06/2022. Appellant has prayed for remanding of the matter to the FAA and directions to the FAA to pass clear, specific and cogent order.

2. It is the contention of the appellant that vide application dated 18/02/2022 he had sought certain information from the PIO. He filed appeal before the FAA, against the reply of the PIO, which was decided by the FAA vide order dated 13/05/2022. Being aggrieved by the said order, he filed second appeal before this Commission.

3. Notice was issued, pursuant to which appellant appeared and filed submissions on 09/08/2022 and 10/10/2022. Arguments of appellant were heard on 10/10/2022. Shri. Hitendra Satarkar, Assistant Legal Advisor, KTCL appeared on behalf of FAA and filed submission dated 27/07/2022 and another submission on 10/10/2022.

4. Appellant stated that, the FAA dismissed the appeal on the ground taken by the PIO, however, FAA erred in presuming some ground, not taken by the PIO. FAA has acted as PIO by adding additional

ground for refusal of information, forgetting his role as appellate authority, therefore, FAA has not acted on the basis of material on record, as claimed. Hence, the matter needs to be remanded to FAA for passing clear and specific order.

5. FAA, while objecting to the prayer of remanding the matter, submitted that he had decided the appeal based on the submission of both the parties. Hence, the present appeal is meritless and ought to be dismissed.

FAA further stated that, the appellant is misusing the Act with repetitive applications on similar subject matter, information on which has already been provided, over the years with malafide intention to harass the respondent. Appellant being conversant with the Act, and past record reveals that since the year 2007, the appellant is resorting to the RTI Act and filed applications under Section 6 (1) of the Act, and carried inspection of the records, as such it ought to be within knowledge of the appellant that the role of PIO is to provide information as exists and as available in records of the public authority. The dispute of compulsory retirement was already dealt and decided by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 569/2008. The appellant is misusing the Act, as is also evident from the plethora of applications and appeals before the appellate authorities. Similarly, the First Appellate Authority has been deciding number of appeals filed by the said appellant, as provided by law.

6. Appellant while arguing his case stated that, there are several instances where the higher authority has remanded cases for re-examination of the lower authority who have misapplied the law and decided the matter without supporting evidence on record. Only issue for determination in the instant matter is whether the FAA was right to dismiss appeal on grounds different from the grounds taken by the PIO, and other issues raised by the respondent here does not merit a reply.

Appellant further argued that, he had sought for the information pertaining to his compulsory retirement under rule FR 56 (J).The said information was disclosed before the Hon'ble High Court of Bombay at Goa in Writ Petition No. 569/2008, and he is seeking the same information. It is not the case of the appellant harassing the respondent authority, by filing number of applications and appeals, but it is the designated PIO and FAA of the authority who are not furnishing the information to harass the appellant, hence, the appellant is compelled to file repetitive applications and appeals.

7. The Commission has perused the records and submissions of the present matter and has heard both the sides. Upon careful perusal it is seen that the appellant, vide application dated 18/02/2022 had sought information pertaining to his compulsory retirement under rule FR 56 (J). The said application was replied by the PIO vide letter dated 15/03/2022. Being aggrieved by the reply, appellant filed appeal before the FAA. FAA, while dismissing the appeal held that, "appellant has not made out any case for grant of relief as prayed for as the required information whatever was available has been made available by the PIO and wherever the information is not available, the PIO has categorically stated as not available."

8. While perusing the order passed by the FAA, the Commission observes that, the said appeal was filed on 30/03/2022 and the FAA held hearing on 07/04/2022, 05/05/2022, and 12/05/2022. After hearing both the sides, FAA passed a reasoned order on 13/05/2022, dismissing the appeal. The appeal was disposed within 45 days, as provided under Section 19 (6) of the Act, on merit. The appellant as well as the PIO was given due hearing wherein, appellant pressed for the information whereas, PIO submitted that the available information has already been furnished in similar types of applications filed by the appellant earlier and that the appellant is wasting time of PIO and appellate authority, and misusing the Act intentionally. FAA upheld the submission of PIO and concluded that no intervention is required in the matter.

9. FAA, vide his order, has also noted the contention of the PIO that no information other than uploaded on website of the authority is available in files of the Corporation. Similarly, that the file pages are serially numbered, checked by the appellant in the office of the State Information Commission on 12/03/2018.

10. The Commission finds that the FAA had heard and decided the appeal as provided in the Act and had passed an order to dispose the appeal, on merit. The said order is clear and specific and a reasoned order, yet challenged by the appellant before the Commission.

11. Appellant, while arguing before the Commission as well as in his submissions has levelled various charges against the respondent FAA and also against the PIO. Similarly, appellant has expressed apprehensions that authority might have filed false affidavit and might have manipulated records. Appellant has suspected administrative corruption of authorities in the KTCL, i.e. respondent authority.

12. The subject matter of the application which has resulted in the present appeal is compulsory retirement under rule FR 56 (J) of the appellant by the management of the KTCL. It is seen from the records that the appellant had challenged the said action and the Hon'ble High Court of Bombay at Goa and Hon'ble Supreme Court had upheld the compulsory retirement from KTCL. The Commission has no jurisdiction to look into the issues raised by the appellant, which are mentioned above. Similarly, the Commission does not wish to entertain the appellant on the issues which are already decided by the Hon'ble High Court of Bombay at Goa and Hon'ble Supreme Court.

13. With these observations and findings, the Commission concludes that, the reasoned order passed by the FAA on 13/05/2022 is based on merit and there is no need to remand the present matter to the FAA for fresh hearing. Thus, the instant appeal is devoid of merit and the same is disposed as dismissed.

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