

GOA STATE INFORMATION COMMISSION

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Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 236/2021/SIC

Dr. K.K. Nadkarni,
House No. 84 Bendwada,
Sanguem – Goa 403704.

-----Appellant

v/s

The Public Information Officer,
Goa Tourism Development Corporation Ltd.,
3rd Floor, Paryatan Bhavan,
Patto, Panaji-Goa 403001.

-----Respondent

Filed on:-22/09/2021

Decided on: 21/04/2022

Relevant dates emerging from appeal:

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| RTI application filed on | : 22/03/2021 |
| PIO replied on | : 12/05/2021 |
| First appeal filed on | : 05/05/2021 |
| First Appellate authority order passed on | : Nil |
| Second appeal received on | : 22/09/2021 |

ORDER

1. The brief facts of this appeal are that the appellant vide application dated 22/03/2021 sought certain information under section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the "Act") from Respondent Public Information Officer (PIO). Upon not receiving any reply within the stipulated period, he filed appeal dated 05/05/2021 before the First Appellate Authority (FAA). However, FAA issued no order on the appeal, hence appellant filed second appeal before the Commission.
2. The concerned parties were notified and pursuant to the notice, appellant as well as PIO appeared in person. Appellant filed submissions dated 09/11/2021, 30/11/2021, 06/12/2021, 23/12/2021, 25/01/2022, 28/03/2022 and 11/04/2022. PIO filed reply dated 24/01/2022 and later Advocate Pranita Gawandi appeared on behalf of the PIO on 17/03/2022 and filed reply.
3. It is the contention of the appellant that incomplete information has been furnished to him. He further claimed that false information is furnished, which PIO has not corrected even after bringing the same

to his notice. Whatever information provided by the PIO is after much delay and it is clear indication of malafide intentions on the part of the PIO. Appellant further stated that the PIO did not even made efforts to verify whether the information made available from his office is correct and complete or not. Appellant also contended that during the inspection of documents, relevant file was not produced before him.

4. PIO, on the other hand submitted that information requested is already furnished to the appellant vide letter dated 12/05/2021. Though PIO could not furnish the same within the stipulated period since the information has been gathered from different sections/officers it has been furnished. The information provided is exactly what was asked by the appellant, hence his allegations of incomplete and incorrect information are false. Subsequently, the appellant was provided with the inspection of the relevant file. PIO has furnished every available document and the appellant cannot force the PIO to create any information to satisfy him.
5. The Commission has carefully perused the submissions and heard the arguments of both the sides. It is seen that the PIO has furnished the information available in his records, vide later dated 12/05/2021, after the stipulated period was over. However, since the information was pertaining to more than one section and that the delay is not substantial, PIO need not be held guilty for the delay in providing the information. PIO has also provided for the inspection of relevant files upon the direction of the Commission, however it is noted that the appellant is not satisfied with the records shown to him by the PIO and is insisting on more files to be provided for inspection. According to PIO, there are no more files pertaining to the request of appellant, in the record of the public authority.
6. It is pertinent to note that the Act guarantees maximum disclosure of information and minimum exemption, nevertheless, under the provisions of the Act only such information as is available and existing and held by the public authority or is under the control of the public authority can be provided. The PIO is not supposed to create information which is not part of the record. He is also not required to furnish reply to hypothetical questions.
7. Hon'ble Supreme Court in Civil Appeal No. 6454 of 2011 arising out of SLP (C) No. 7526 / 2009 (Central Board of Secondary Education & Anr. V/s Aditya Bandopadhyay & Ors. has held in para 35:-

" 35. At this juncture, it is necessary to clear some misconceptions about the RIT Act. The RIT Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and /or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2 (f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RIT Act."

8. Subscribing to the ratio laid down by the Apex Court, the Commission concludes that the PIO has furnished the information available in his records with respect to the application dated 22/03/2021, and that the PIO is not required to provide advice or guidance and not supposed to create any information in order to satisfy the appellant. Relying on the above findings, the Commission holds that the prayer for the information becomes infructuous and the appeal needs to be decided accordingly.
9. In the light of above discussion, the present appeal is disposed as dismissed and the 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