

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 98/2022/SIC

Mrs. Roshan Kamat,
"Blossom" 101,
Seasons Coop. Housing Society,
Murida, Fatorda-Goa 403602.

-----Appellant

v/s

Shri. Sanjay Ghate,
The Public Information Officer,
Kadamba Transport Corporation Ltd.,
Paraso de Goa, Alto,
Porvorim-Goa.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 06/12/2021
PIO replied on	: 06/01/2022
First appeal filed on	: 12/01/2022
First Appellate Authority order passed on	: 17/03/2022
Second appeal received on	: 30/03/2022
Decided on	: 29/12/2022

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 Shri. Sanjay L. Ghate, Public Information Officer (PIO), Kadamba Transport Corporation Ltd (KTCL), Porvorim-Goa, came before the Commission on 30/03/2022.
2. The brief facts of the appeal, as contended by the appellant are that, vide application dated 06/12/2021 he had sought certain information from PIO. Not satisfied with the response from the PIO, he preferred appeal before the First Appellate Authority (FAA). The first appeal was disposed vide order dated 17/03/2022. It is the contention of the appellant that, he has not received the information, nor the same has been uploaded on the website of the authority, as stated by the PIO, hence, he has appeared before the Commission by way of second appeal.
3. The concerned parties were notified and the matter was taken up for hearing. Pursuant of the notice, Shri. Mahesh Kamat appeared on behalf of appellant, filed arguments dated 13/06/2022, counter arguments dated 09/08/2022 and submissions on 10/10/2022, 28/11/2022 and 26/12/2022. On the other hand, PIO appeared and

filed reply dated 09/05/2022, on 25/07/2022 filed written arguments and on 20/12/2022 filed additional reply.

4. Appellant stated that, as per the reply of the PIO, entire information is supposed to be uploaded on the website of the authority i.e. KTCL, however appellant had ground to believe that not all records are uploaded on the website, it is not the case of PIO that requisite information is not created and generated and cannot be furnished under Section 2, it is not the case of PIO that requisite information cannot be given under Section 8 and 9, hence the information must be furnished. Appellant further stated that, PIO restricted the scope of Section 5 (4) of the Act by not seeking assistance under Section 5 (4) of Managing Director and Chairman of the authority, to obtain requisite information.
5. PIO stated that, the information sought by the appellant pertains to compulsory retirement of Shri. Mahesh Kamat, from KTCL. The same information has been furnished to Shri. Mahesh Kamat and he had been informed that the information on the said subject is uploaded on the website of the KTCL. PIO had never mentioned in the reply to Mrs. Roshan Kamat, the appellant, that PIO has restricted the scope of Section 5 (4) of the Act to seek information from other sections or Managing Director or Chairman. Further, incident quoted by the appellant at Point no. 14 of the appeal memo did not take place in the presence of the appellant, the same incident was known to Shri. Mahesh Kamat and not the appellant. Therefore, it is clear that Shri. Mahesh Kamat is using face of Mrs. Roshan Kamat to get the same information, which was furnished earlier.
6. Appellant vide written arguments submitted that, PIO has not rejected the information under Section 2 of the Act, nor under Section 8 and 9, hence, he is bound to furnish the information requested by her. Requisite information was created and generated in the records of the authority, hence the same needs to be furnished to the appellant. However, PIO instead of furnishing information, has been indulging in filing contradictory replies.
7. Shri. Mahesh Kamat, while arguing on behalf of the appellant Mrs. Roshan Kamat, stated that the PIO, in earlier similar cases has said that, the information requested is available in the records of the authority. Therefore, the action of PIO of not invoking Section 2, 3, 4, 6, 8 and 9 of the Act raises doubts on PIO's intentions, also the fact that PIO has not indicated where the information is available on the website, shows that he does not wish to furnish the information.

8. PIO argued stating that, the appellant has already asked the information regarding compulsory retirement of Shri. Mahesh Kamat and the same was replied by the PIO within the stipulated time. No information other than the information uploaded on the KTCL website regarding compulsory retirement under FR 56 (J) is available in the files of KTCL and appellant is requested to go through the previous replies of the PIO and also get information available on the website. PIO further argued that since the appellant is represented by Shri. Mahesh Kamat, who is the subject matter of the application, it is clear that Shri. Mahesh Kamat is seeking the same information which has been furnished to him and uploaded on the website, through Mrs. Roshan Kamat, appellant in the instant matter. As this is complete waste of time of PIO and appellate authorities, the instant appeal may please be dismissed.
9. The Commission has perused replies, submissions and heard arguments of both the sides. Upon careful perusal of the records it is seen that the appellant had sought information from PIO pertaining to the compulsory retirement under rule FR 56 (J) of Shri. Mahesh Kamat. Shri. Mahesh Kamat and the appellant Mrs. Roshan Kamat earlier had sought similar information on the issue of compulsory retirement of Shri. Mahesh Kamat from the KTCL and records show that relevant information has been furnished by the PIO in earlier applications. In spite of that, the appellant as well as Shri. Mahesh Kamat have been requesting for the same information with some alternation of words in their applications. Similarly, the appellant and Shri. Mahesh Kamat have been filing first appeals before the FAA, second appeals and complaints before the Commission. Many of such appeals and complaints were disposed by the Commission, even then, the appellant and Shri. Mahesh Kamat continues to file similar applications under Section 6 (1) of the Act before PIO, similar appeals under Section 19 (1) of the Act before FAA and complaint under Section 18 and second appeals under Section 19 (3) of the Act before the Commission. Hence, there is a need to look into the modus operandi of the appellant as well as Shri. Mahesh Kamat.
10. In the instant appeal matter, though it is seen that the application dated 06/12/2021, first appeal dated 12/01/2021 and second appeal dated 30/03/2022 is filed by Mrs. Roshan Kamat, it is not the appellant, but Shri. Mahesh Kamat, who is already involved in filing repetitive applications and appeals seeking the same information in altered words, is representing the appellant, before every authority. Therefore, the Commission endorses the argument of the PIO, made in another similar appeal, that Shri. Mahesh Kamat is asking same

information, which has been already furnished with his other followers like spouse, brother, friend etc. This can be confirmed with the fact that information sought by appellant Mrs. Roshan Kamat in the instant appeal vide application dated 06/12/2021 and the information sought by Shri. Mahesh Kamat in Appeal No. 94/2022/SIC vide application dated 30/11/2021 and information sought by Shri. Mahesh Kamat in Appeal No. 96/2022/SIC vide application dated 12/01/2022 pertains to the subject of compulsory retirement under rule FR 56 (J) of Shri. Mahesh Kamat by the KTCL, wherein similar information is sought in different words.

11. The Commission had made similar observations while deciding many such appeals of the same appellant in the past, such as Appeal No. 167/2017, Appeal No. 33/2018, Appeal No. 169/2018, Complaint No. 55/2018, Complaint No. 56/2018, Appeal No. 228/2019, Appeal No. 82/2020, Appeal No. 05/2022 etc. Similarly, the Commission on 12/03/2018 had provided inspection of the files related to the subject matter and Shri. Mahesh Kamat had undertaken inspection of the records, yet never controverted the submission of PIO that the information was furnished and uploaded on the website of KTCL.
12. In spite of the facts mentioned above, the appellant continues to file applications and appeals, including the instant appeal seeking the same information again and again. Such an act of the appellant is sheer misuse of the beneficial provisions of the Act. The right conferred by the Act should be exercised judiciously and with responsibility. Here, it appears that the appellant is aggrieved with the authority due to compulsory retirement given to him and he is trying to derive sadistic pleasure by filing number of applications before the PIO and appeals before the FAA of the authority. Though the statute does not provide for limitation of the numbers of applications under Section 6 (1) of the Act on same subject, applicant cannot be allowed to go on filing repetitive applications seeking the same information.
13. The Hon'ble High Court of Rajasthan, in writ Petition No. 10828/2012 in the matter as Hardev Arya V/s. Chief Manager (Public Information Officer) and Others has held in para 12:-

"It is true that Parliament has enacted the Right to Information Act, for transparency in administration, so also affairs of the state so as to strengthen the faith and trust of the people in the governance of the country. Therefore, the Act is a vital weapon in the hands of the citizens. At the same time, however, this may not be lost

sight of that no law shall be allowed to be wielded unlawfully so as to put it to abuse or misuse. Every statute acts and operates within its scope and ambit, therefore, the duty rests with the Courts to discourage litigious obduracy."

14. Records show that the decision of compulsory retirement was challenged by the appellant in the Hon'ble High Court of Bombay at Goa and the said Writ (Writ 569/2008) of the appellant was dismissed. Later Hon'ble Supreme Court (SLP 21066/14) confirmed the ruling of the High Court. Hence, the Commission is of the opinion that the said matter has been already decided by the Hon'ble High Court and Hon'ble Supreme Court and these authorities have already held that prescribed procedure was followed by the KTCL, this being the case, the Commission does not wish to entertain any grievance of the appellant pertaining to the same issue. Similarly, appellant being the petitioner in the said matter before the Hon'ble High Court of Bombay at Goa and Hon'ble Supreme Court, must be in possession of relevant documents and information pertaining to his compulsory retirement.
15. From the facts brought on record it is clear that the appellant is aggrieved with the PIO and FAA of the public authority not because the information is not furnished, but because they represent the said public authority which handed him compulsory retirement. This implies that the appellant has grievance against the PIO and the FAA and his application and appeal is as good as misuse of the Act which has been filed with the intention to pressurize and harass the PIO and the authority.
16. The Hon'ble High Court of Delhi in Hansi Rawat & Anr. v/s. Punjab National Bank & Ors. in LPA No. 785/2012, it is held that:-

"6.The proceeding under RTI Act do not entail detailed adjudication of the said aspects. The dispute relating to dismissal of the appellant No. 2 from the employment of the respondent Bank is admittedly pending consideration before the appropriate fora. The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute. The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into

proceedings for adjudication disputes as to the correctness of the information furnished. Moreover, there is a categorical finding of the CIC, of the appellants misusing the RTI Act, as is also evident from the plethora of RTI applications filed by the appellants. In view of the said factual findings of the CIC and which is not interfered by the learned Single Judge, we are not inclined to interfere with the order of the learned Single Judge."

17. The Commission reminds the appellant that the Hon'ble High Court of Bombay at Goa and Hon'ble Supreme Court have already decided the matter and inspite of the said decision if the appellant is aggrieved , then he is required to approach the appropriate authority. Subscribing to the ratio laid down by the Hon'ble High Court of Delhi, as mentioned in para 14, the Commission has no jurisdiction to hear the said grievance of the appellant.
18. In addition to this, the Commission notes that the appellant under Section 19 (1) of the Act had filed first appeal before the FAA and after due hearing 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."

Appellant, while preferring second appeal under Section 19 (3) of the Act has not challenged the order of the FAA. Hence, the Commission holds that the appellant is not aggrieved by the order of the FAA which states that information has been furnished. Since, it is held by the appellate authority that the information has been furnished, and the same is not challenged by the appellant, the Commission concludes that the prayer in the instant matter for information becomes inconsequential and the same cannot be granted.

19. The Commission takes note of the submission dated 28/11/2022 filed by the appellant, objecting to the appearance of Shri. Sanjay L. Ghate as PIO. Appellant stated that the status of Shri. Sanjay L. Ghate as employee of KTCL has come to an end on attaining the age of 60 years and his contractual employment is on the basis of new approval after superannuation and the appointment order as PIO on contract is not issued to him, as such he cannot appear in this proceeding and file submission as PIO. Appellant has filed a copy of order dated 31/08/2021 signed by Managing Director of KTCL. The said order mentions appointment of FAA, PIO and APIO under the

Act. Similarly, appellant vide submission dated 26/12/2022 has raised reservations on the appointment on contract of Shri. Sanjay L. Ghate as General Manager of KTCL and has prayed for appropriate order as regards the authority of Shri. Sanjay L. Ghate to act as General Manager and PIO of KTCL.

On the other hand, Shri. Sanjay L. Ghate, PIO stated vide reply dated 20/12/2022 that as per the said order, General Manager of KTCL is the PIO and Shri. Sanjay L. Ghate is currently the General Manager, hence he is the PIO of the authority, i.e. KTCL. The said order dated 31/08/2021 was notified by the Director of Printing and Stationary, Government of Goa for information of general public.

20. With this, the Commission finds that Shri. Sanjay L. Ghate, during the regular appointment as General Manager of KTCL, was the designated PIO of the authority and Shri. Ghate, after superannuation has been re-appointed as General Manager, hence he continues to be the PIO of the authority. The Act does not mandate any authority to designate any officer only in regular service as PIO and the Act does not object designation of an officer on contract, post- superannuation, as PIO. Similarly, issues raised by the appellant regarding the appointment of Shri. Sanjay L. Ghate as General Manager and PIO of KTCL are purely of administrative nature, pertaining to service matter. Therefore, the Commission shall not intervene in the said matter. The Commission, after careful perusal of submissions of both the sides, does not find anything wrong in appearance of Shri. Sanjay L. Ghate as PIO in the present matter, however, the appellant if not satisfied, may approach appropriate authority for adjudication of the issue. In the eyes of the Commission, objection raised by the appellant for appearance of Shri. Sanjay L. Ghate as PIO in the present matter holds no merit, thus dismissed.
21. Also, PIO stated that it is his contention that all the submission in the present matter are written / typed by Shri. Mahesh Kamat. This is authenticated by the name appearing at the end of the submission dated 28/11/2022 as Mahesh Kamat. Shri. Mahesh Kamat has struck the name (Mahesh) and forgot to write name (Roshan), hence it is proved that Shri. Mahesh Kamat has masked himself as Roshan Kamat and appeared in the instant matter.

The Commission observes that submission filed on 28/11/2022 by Shri. Mahesh Kamat on behalf of Mrs. Roshan Kamat, appellant, carries name as Mahesh Kamat and the name Mahesh has been struck though appellant's name (Roshan) is not written in the place

of Mahesh. The said submission gives impression that the same is submitted by Kamat (no first name).

The said submission again endorses the contention of the PIO that Shri. Mahesh Kamat is using his close relatives like wife, brother and friends to file repetitive applications and appeals seeking the same information pertaining to his compulsory retirement under rule FR 56 (J).

22. The Commission takes serious note of the fact that stereotyped applications and appeals filed by Shri. Mahesh Kamat and Mrs. Roshan Kamat, seeking similar information pertaining to the compulsory retirement of Shri. Mahesh Kamat are being procedurally entertained by the PIO and FAA of the KTCL and second appeals and complaints based on the similar subject matter are being heard and decided by the Commission. Though the Act does not restrict any citizen from filing number of applications and appeals of repetitive nature, the appellant and Shri. Mahesh Kamat, who appeared on behalf of the appellant, are warned that the Commission in future shall not tolerate waste of time, money and energy of the public authority as well as appellate authority to deal with such repetitive matters. Such action of the appellant and Shri. Mahesh Kamat amounts to criminal wastage of resources of public authority as well as the Commission.
23. In the light of above discussion, the Commission concludes that the instant appeal is devoid of merit. This being the case, the appellant deserves no relief and the appeal is required to be disposed accordingly. Thus, 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

