

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 294/2021/SIC

Mr. Pedrito Misquitta Alias
Mr. John Peter Misquitta
r/o House No. 234, Souza Vaddo,
Candolim, Bardez, Goa 403515

..... Appellant

V/s

1. Public Information Officer (PIO),
Office of the Goa Coastal Zone
Management Authority,
Dempo Towers, Panaji-Goa, 403001

2. The First Appellate Authority (FAA)
& Member Secretary,
Goa Coastal Zone Management
Authority, Panaji-Goa 403001

..... Respondents

Filed on:16/12/2021

Decided on: 29/07/2022

Relevant dates emerging from appeal:

RTI application filed on	: 23/11/2020
PIO replied on	: 22/12/2020
First appeal filed on	: 27/01/2021
FAA order passed on	: 20/09/2021
Second appeal received on	: 16/12/2021

ORDER

1. Aggrieved by non furnishing of correct information by Respondent No. 1, Public Information Officer (PIO) and by the order of Respondent No. 2, First Appellate Authority (FAA), the appellant, under section 19(3) of the Right to Information Act, 2005 (for short, the 'Act'), filed second appeal before the Commission.

2. The brief facts of the appeal as contended by the appellant are that vide application dated 23/11/2020 he had sought certain information from PIO. PIO vide reply dated 22/12/2020 furnished part information. Upon not receiving complete information the appellant preferred appeal dated 27/01/2021. FAA vide order dated 20/09/2021 dismissed the appeal. Being aggrieved by the order of FAA appellant filed this appeal before the Commission.
3. Pursuant to the notice, the appellant appeared on 09/02/2022 and furnished additional documents, copy of which was furnished to the respondents. Advocate V. Gracias appeared on behalf of the PIO and filed reply dated 27/06/2022. Reply of FAA was received in the Registry on 05/07/2022.
4. Appellant submitted that, he had sought information on 6 points, out of which PIO has furnished information on Point Nos. 1,2,3 and 4. However, he is aggrieved because of the fact that the PIO has evaded disclosure of information on Point No. 5 and 6. The said action of the PIO amounts to denial of the information and furnishing of false information. Appellant further stated that no information can be denied if available, except which falls under section 8 for exemption or under section 9 of the Act for rejection, hence he is seeking the remaining information.
5. Appellant further submitted that the FAA has passed the order on first appeal with prejudiced mind, to harass the appellant. Similarly, the FAA has not applied his mind to see whether PIO's reply to Point No. 5 and 6 is justified or not.
6. PIO stated vide his reply that, he has furnished the information on Point Nos. 1, 2, 3 and 4 and had granted an opportunity to the appellant to inspect the records to which the appellant

refused. Similarly, the appellant was informed that the information sought under Point No. 6 does not form part of the records maintained by his office. PIO further stated that he has acted in good faith and furnished the required information. Even though the information sought does not fit within the definition of section 6(1)(b), the PIO helped the appellant to get the information. Also, the information sought under Point No. 6 of his application is in the form of an opinion and the same does not fit as information under the Act.

7. Upon careful perusal of the records of this matter it is seen that the PIO has furnished the information on Point Nos. 1, 2, 3, 4 and there is no dispute about the same. The dispute is pertaining to Point No. 5 and 6 of the application. Here, the Commission records certain findings as below:-

a) Appellant at Point No. 5 has requested for certain information, which the PIO has neither denied, nor furnished. PIO's reply to Point No. 5 states, "You are at liberty to inspect the file and check the same within period of 05 days on receipt of this letter and upon identifying the documents the same can be provided to you on payment of necessary charges."

Meaning, the PIO knows that the said information is available, yet he has asked the appellant to inspect the records. Information requested under Point No. 5 is specific and clear, PIO has not stated that the same is not available, the appellant has requested for the information and not for the inspection. Hence the PIO under section 7(1) of the Act is required to furnish the said information to the appellant.

b) At Point No. 6 of his application the appellant has sought information pertaining to hawkers selling items on the beaches, to which the PIO has replied, "This information does not form part of records maintained by this office."

If the said reply is true, then the PIO was required under section 6(3) of the Act to transfer the said part of the application to the concerned authority and inform the appellant about such transfer. In such a case the appellant would have received the information from the concerned authority.

c) FAA, after hearing both the sides dismissed the first appeal by upholding the decision/reply of the PIO. However, the Commission does not uphold the order of the FAA since the reply of the PIO on Point No. 5 and 6 of the RTI application is not found correct with reference to the provision of section 7(1) and section 6(3) of the Act respectively.

d) The Commission observes that the appellant had filed first appeal on 27/01/2021 and the FAA passed his order on 20/09/2021, after almost eight months from filing the appeal. Section 19(6) mandates the FAA to hear and decide the first appeal filed under section 19(1) of the Act, within maximum of 45 days.

8. With these observations and findings, the Commission concludes that the PIO is required to furnish the information requested by the appellant on Point No. 5 of his application. Regarding information on Point No. 6, PIO was required to transfer the said part of the application to the concerned authority within five

days from the receipt of the application, if the requested information is not in his records. Nevertheless, in the interest of the appellant and to uphold the spirit of the Act, the PIO needs to be asked to transfer the said part of the application to the concerned authority to ensure that the requested information is furnished to the appellant. However, considering the fact that the PIO had furnished part information within the stipulated period and that he had not denied the remaining information, there is no need to invoke section 20 of the Act against the PIO.

9. In the light of above discussion, the present appeal is disposed with the following order.

- a) PIO is directed to furnish the information sought by the appellant on Point No. 5 of application dated 23/11/2020, within 20 days from the receipt of this order, free of cost.
- b) PIO is directed to transfer the application dated 23/11/2020 to the PIO of the concerned authority, within 5 days of receipt of this order, requesting him to furnish the information on Point No. 6 of the said application, as provided in the Act, free of cost.
- c) 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