

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 10/2023/SIC

Shri. Ulhas Ramchandra Mainikar,
R/o. H.No. 170/3, Pethwada, Cudnem,
Bicholim-Goa 403505.

-----Appellant

v/s

1. The Public Information Officer,
Shri. Sidharaj U. Gauns,
The Awal Karkun,
O/o. The Dy. Collector & SDO,
Bicholim-Goa.

2. The First Appellate Authority,
Shri. Rohan J. Kaskar,
The Deputy Collector & SDM,
Bicholim-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 26/08/2022
PIO replied on	: 23/09/2022
First appeal filed on	: 04/10/2022
First Appellate Authority order passed on	: 02/03/2023
Second appeal received on	: 06/01/2023
Decided on	: 25/05/2023

ORDER

1. Being aggrieved by non furnishing of complete and correct information sought under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), appellant filed second appeal under Section 19 (3) of the Act, against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), which came before the Commission on 06/01/2023.
2. It is the contention of the appellant that, he had sought information on 21 points, whereas PIO furnished information only on first point and requested him to file separate applications for seeking the remaining information. Not satisfied with the action of the PIO appellant preferred first appeal which was not decided within the mandatory period by the FAA. Being aggrieved, appellant has appeared before the Commission by way of second appeal.

3. Notice was issued to the concerned parties and the matter was taken up for hearing. Pursuant to the notice, appellant appeared in person and prayed for complete information as well as penal action against the PIO. Shri Sidharaj U. Gauns, PIO appeared in person whereas, FAA was represented by Smt. Vaishali Pilyekar, under authority letter. Smt. Vaishali Pilyekar on 06/04/2023 furnished copy of FAA's order passed on 02/03/2023, during proceeding of the instant appeal.
4. PIO in his oral arguments stated that, he had furnished information on point no. 1 of the application dated 26/08/2022 and requested the appellant to file separate applications on individual subjects with respect to point no. 2 to 21 of the application, since the queries asked on these points pertained to different subjects. PIO contended that separate applications on each subject would have enabled him to furnish the information with the help of his office staff as the information sought on point no. 2 to 21 is on various subjects and the said information is voluminous and time consuming.
5. Appellant stated that, though the requested information is voluminous, the same is available in the records of the PIO, hence he insists for the complete information and requests the authority to impose penalty against PIO for deliberately not cooperating with the appellant by not disclosing the information on point no. 2 to 21.
6. Upon perusal of the records, it is seen that, the appellant vide application dated 26/08/2022 had sought information on 21 points and the PIO had furnished information only on point no. 1. It appears from the reading of the application that the appellant has sought various details of the year 2017 and 2018 like copy of Roznama of some Partition cases, copy of Roznama of some illegal conversion cases, details pertaining to provisions/ procedures/ notifications / circulars / Gazette/ order of Collector and District Magistrate, details pertaining to illegal constructions demolished and not demolished etc. Appellant vide same application has sought information with respect to the service record of Shri. Pravin A. Shetkar, employee of the public authority, including details like transfer, joining, relieving, attendance, leave etc.
7. The Commission finds that the said information sought by the appellant is indeed voluminous, pertains to different subjects and to search and gather the said information will involve lots of time

of the PIO and his subordinates. The Commission endorses the fact that for the PIO, with his limited manpower in his office, it is difficult to furnish the said voluminous information, also while carrying out day to day functioning of his office. Also, appellant has not specified any public interest while seeking the said information. Hence, the Commission feels that the appellant may be having some enmity or grudge against the PIO or some rivalry with Shri. Pravin A. Shetkar, whose service details are sought from point no. 13 to 21 of the application, and the appellant may be trying to settle some old scores against the PIO and / or Shri. Pravin A. Shetkar.

8. Appellant has not stated any larger public interest in seeking such voluminous information on various subjects. Here, the Commission is of the view that the appellant, if really serious about getting the information or wishes to expose some wrongdoings in the functioning of the public authority, should have requested the PIO to provide for inspection of the records, identified the information; such an action would have compelled the PIO to furnish the identified information. However, appellant chose to put entire burden of identifying and furnishing voluminous information, on the PIO. Also, the information sought pertains to various subjects and many events and with respect to the said application it is very difficult for the PIO to satisfy the appellant seeking such voluminous information in time bound manner.
9. Nevertheless, there is no provision in the Act for the PIO to deny the information on the ground that the requested information is voluminous and supply of the same would disproportionately divert the resources of his office. Nor, there is any provision in the Act to limit number of applications or length of an application filed under Section 6 (1) of the Act. At the same time, as held by the Hon'ble High Court of Bombay at Nagpur, in State Information Commission v/s. Tushar Dhananjay Mandlekar, LPA No. 276/2012 in Writ Petition No. 3818/2010 (D), law does not compel the person to do what is impossible. Subscribing to the said ratio, the Commission opines that the PIO should not be subjected to the implementation of any direction which is not possible to implement.
10. The Hon'ble High Court of Rajasthan, in writ Petition No. 10828/2012, in Hardev Arya V/s. Chief Manager (Public Information Officer) and Others has held in para 12:-

"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."

11. In another matter The Hon'ble Supreme Court of India in Civil Appeal No. 6454 of 2011 (arising out of SLP (c) No. 7526/2009) in the case of Central Board of Secondary Education and Another V/s Aditya Bandopadhyaya and Ors. has held in para 37:-

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of

honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

12. In the light of the judgments mentioned above and in the background of the findings of the Commission in the present matter, it is held that the appellant has made indiscriminate requests for voluminous information, without specifying the larger public interest in seeking the said information. However, considering the aim and objects behind enacting the Right to Information Act and with respect to the spirit of the Act, the appellant cannot be deprived of the requested information which is not exempted from disclosure under Section 8 or 9 of the Act. Thus, the Commission concludes that the appellant has to be afforded an opportunity of inspecting the relevant records in order to identify the information he has sought.
13. Before closing, the Commission observes that, the appellant had filed first appeal before the FAA on 04/10/2022. Section 19 (6) of the Act mandates the FAA to decide the appeal within maximum of 45 days. FAA in the present matter failed to act according to the said provision and decided the appeal after much delay, instead of maximum of 45 days, FAA passed the order after almost 150 days from the receipt of the appeal. The second appeal was filed by the appellant before the Commission as provided under Section 19 (3) of the Act and the FAA had no jurisdiction to pass the order while the second appeal was being heard before the Commission. Thus, the Commission directs the FAA hereafter, to hear and decide the appeals received under Section 19 (1) of the Act, strictly as provided under Section 19 (6) of the Act.
14. Hence, the present appeal is disposed with the following order:-
 - a) The appellant, if desires, may visit PIO's office with prior intimation and inspect and identify the information sought vide application dated 26/08/2022, within 10 days from the receipt of this order.
 - b) Present PIO, Office of Deputy Collector & SDO, Bicholim is directed to provide for inspection to the appellant as

mentioned in para (a) above and furnish the information identified by the appellant, within 10 days from the date of inspection, after receiving requisite charges against the information from the appellant.

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.