

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Appeal No. 449/2023/SCIC

Pravinsingh A. Shedgaonkar,
H. No. 1615/2, 'Satyabhamakrishna',
Malim, Betim, Bardez Goa,
403101.

..... Appellant

v/s

1. The Public Information Officer,
Goa Tourism Department,
Government of Goa,
Panaji – Goa 403001.

2. The First Appellate Authority,
Department of Tourism,
Government of Goa,
Panaji – Goa 403001

..... Respondents

Shri Aravind Kumar H. Nair - State Chief Information Commissioner

Filed on : 06/12/2023

Decided on : 25/10/2024

FACTS IN BRIEF:

1. The Appellant Shri Pravinsingh Shetgaonkar, resident of H. No. 1615/2, Betim, Bardez Goa 403101 by his application dated 08/09/2023 filed u/s 6(1) of Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (Department of Tourism, Patto, Panaji in connection with the demolition of a fisherman's hut at Vithaldas Vaddo, Morjim Beach, Pernem Taluka, Goa.

(i) 'Certified copies of entire file including official order; (ii) property title document (iii) correspondence, noting, MoM, communication (iv) action taken report (v) official name and designation of those who carried out demolition etc.'

2. There was no response from the PIO to the RTI application of the appellant and accordingly appellant filed appeal dated 19/10/2023 before Dy. Director of Tourism, being the First Appellate Authority (F.A.A), Respondent No. 2 in this appeal. The FAA also did not respond to the appeal filed by the appellant.
3. Being aggrieved by no action at all by both the PIO and FAA to his RTI application and first appeal respectively, appellant preferred his second appeal before the commission on 06/12/2023.
4. In the second appeal, the appellant contended that since the information sought for does not fall within the ambit of 'exemption clause' u/s 8 or 9 of the Act, the Respondent No. 1, (PIO) should have duly processed his RTI application and furnished the information within the stipulated time frame of 30 days. The FAA too totally failed to discharge his duty envisaged by the Act. Appellant further contended that both the PIO and the FAA acted against the spirit of the RTI Act.
5. The appellant made following prayers before this Commission:
 - (i) Issue appropriate order or directions to the Respondent No. 1 to furnish the complete information as per his application at the earliest and free of cost ;
 - (ii) Recommend disciplinary action against both the Respondents u/s 20(2) of the Act and also to impart training to the Respondents on their obligations under the Act.;
 - (iii) Impose suitable compensation for the loss of time, hardship etc. undergone by the Appellant due to the denial of information by the Respondents;
 - (iv) Further relief that the Hon'ble Commission deems fit and proper.

6. The concerned parties were notified and pursuant to the notice, Appellant Pravinsingh Shedgaonkar appeared in person on the first hearing in the matter by the Commission on 29/01/2024. PIO's representative Shri Prajit Naik appeared and placed on record the reply of the FAA and same was taken on record, duly furnishing copy to the other side.
7. The documents submitted by the representative of the PIO also contain the information furnished by the PIO/RTI Shri Pradip Binnar to the appellant vide letter dated 25/01/2024. The information provided includes (i) Observance report of taluka level supervision, Department of Tourism to the Director of Tourism about the erection of illegal hut at Vithaldas Waddo, Morjim beach, Pernem, Taluka Goa (ii) Order issued by the Dy. Director/Tourism detailing a 4-member team headed by an Assistant Director to demolish the illegally erected hut at Morjim beach with the help of local police and tourist police unit (iii) Noting in the said matter (iv) Compliance report on the demolitions and (v) Photographs of pre and post demolition.
8. During the hearing on 14/02/2024, Appellant Pravinsingh Shedgaonkar submitted that he has received all the information from the PIO except property title document of the Vithaldas waddo, Morjim beach, Pernem Taluka, where the illegal hut of fishermen was demolished by the Department of Tourism. The representative of the PIO submitted that he will try to trace the said property title document.
9. Thereafter no hearing was held till September 2024 as the SCIC has demitted the office on 01/03/2024.
10. When the hearing in the matter resumed on 10/10/2024 by the new SCIC, the appellant stressed on the PIO furnishing him the property title documents, with respect to the demolition of the

illegal hut. The SCIC, directed the PIO to furnish the said property title document and to file his submission within five days to enable the Commission to dispose the matter at the earliest.

11. On 15/10/2024, both the parties present in person and the PIO filed a submission that as per the directions of the Hon'ble Commission to furnish information with regard to the 'property title document' to the Appellant, a certified copy of the Goa, Daman and Diu Land Revenue Code 1968 wherein title of Government land etc. has been defined u/s 14 furnished to the appellant. The matter then fixed for counter reply or submission, if any, of the appellant on 25/10/2024.
12. In response to the notice to the PIO and the FAA by the Commission, both had submitted their replies dated 29/01/2024. PIO in his reply submitted that the delay in furnishing information to the appellant was not intentional because final replies were not received by him from the concerned sections within the time frame. PIO further submitted that when he received final replies from the concerned sections to the RTI application of the appellant on 25/01/2024, the Appellant was informed on the same day to collect the information.
13. During the hearing today i.e. 25/10/2024, the Appellant filed a rejoinder to the reply filed by the Respondent No. 1 on 15/10/2024. With regard to the appellant's request to furnish 'property title document' with respect to Vithaldas Waddo, Morjim Beach, where a fisherman hut was demolished by the Department of Tourism on the ground of erecting illegally, PIO submitted that apart from 'The Goa, Daman and Diu Land Revenue Code 1968' (Act No. 9 of 1969), there is no other document on 'property title' is available with his department.

14. Section 14 in Chapter III of the 'Goa, Daman and Diu Land Revenue Code 1968' deals with the 'Title of Government to Lands etc'.

Section 14 states that :

"Title of Government to lands, etc. –(1) All lands, public roads, lanes and paths and bridges, ditches, dikes and fences on or beside the same, the bed of the sea and of harbours and creeks below the high water mark, and of rivers, streams, nallas, lakes and tanks, and all canals and water courses, and all standing and flowing water and all rights in or over the same or appertaining thereto, which are not the property of any person, are and are hereby declared to be the property of the [] Government subject to right of way, and all other rights, public and individual, legally subsisting".

15. The Appellant in his rejoinder dated 25/10/2024, reiterated that:
- (i) As per the provisions of the RTI Act, 2005, the PIO need to provide information as per sub section (f) and (i) of section 2 of the Act
 - (ii) PIO can transfer the application if the information is held by another public authority under sub section 3 of section 6 of the Act
 - (iii) From the reply of Respondent No. 1(PIO), it is clear that information with regard to the property title document is not available with PIO's office and he is unable to give the same.
 - (iv) Prayed before the Hon'ble Commission to mention in its order that the information on property title document sought for by the applicant is not furnished by the PIO.

16. The Commission observed that :
 - (a) the appellant is still aggrieved over not receiving information on the title document of the property, in which fisherman's hut was demolished by the Department of Tourism citing 'illegal erection'.
 - (b) The appellant however admitted in his rejoinder that it is clear that information with regard to the property title document is not available in the PIO's office and he is unable to furnish the same.
 - (c) The PIO's submission is that his office is not in possession of any document on property title, as requested by the Appellant other than 'The Goa, Daman and Diu Land Revenue Code, 1968 in which Chapter III, Section 14 deals with 'Title of Government Land etc.'
 - (d) There was no attempt, on the part of the PIO to transfer the Appellant's question pertaining to the said Property title document to any other public Authority which deals with such matters.
17. However, considering the above mentioned circumstances and observation, the SCIC finds no sufficient ground to go ahead with the proceedings.
18. Even though the Appellant is aggrieved over not receiving information with regard to his RTI query on property title document pertaining to a fisherman's hut demolished on the ground of illegal erection, the Commission has to consider the inability of the Respondent No. 1 to furnish the same as his office is not in possession of such a document, which is now understood by the applicant also. Barring this, the Appellant received rest of the information from the Respondent No. 1.

19. 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.

ORDER

Under these circumstances, this appeal is disposed.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(ARAVIND KUMAR H. NAIR)
State Chief Information Commissioner, GSIC