

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Appeal No. 15/SCIC/2010

Shri M. P. Singh, IFS (Retd),
R/o Prothrapur, P.O. Garacharma,,
Port Blair- 744105.

... Appellant

V/s

- 1) The Competent Authority,
Shri Derndra Dalai (IFS),
Dept. of Environment & Forest,
Govt. of Goa, Junta House, IV fl.,
18th June –Road, Panaji- Goa.
- 2) The Appellant Authority (For 1st Appeal),
The Conservator of Forest, Wild life ,
Dept.of Environment & Forests,
Govt. of Goa, Junta House, IV fl.,
18th June –Road, Panaji- Goa.

... Respondent No.1

... Respondent No.2

Appellant absent.

Respondent represented by APIO.

J U D G E M E N T

(14/05/2010)

The Appellant, M.P. Singh, has preferred this appeal praying for his exemption from personal appearance directing the Respondents to provide the required information/documents and for imposition of penalty.

2. The brief facts leading to the present appeal are as under:-

That by his application dated 26/10/09 the Complainant/Appellant sought certain information under Right to information Act 2005('RTI' Act for short) that a sum of Rs. 500/-/Bank draft was also sent. That the Complainant waited upto the prescribed period but no reply/documents/information were received from Respondent No 1 even after expiry of period stipulated under section 7 of the Act. That the same amounts to deemed refusal of documents/information, sought under the Act. It is the case of the Authority/ Respondent No. 2 vide appeal dated 14/12/09 against deemed refusal by the Respondent No. 1 and prayed to provide information/documents

...2/-

requisitioned under RIT Act. That the Respondent No. 2 also has not responded to the 1st appeal filed by the Complainant, which amounts to further deemed refusal. Being aggrieved the Appellant has preferred this Appeal on the grounds as set out in the Memo of Appeal.

Addition to the 2nd Appeal has also been filed and the same is on record. This is to show that FAA issued notice only after preferring second Appeal.

3. The Respondents resist the Appeal and the say of Respondent No. 1 is on record. It is the case of Respondent No.1 that the Information sought by the Appellant consists of documents pertaining to various works by the division for the three calendar year viz, 01-01-2003 to 31-12-2005. That the information sought has been collected from various files as available in this office to be supplied under RTI Act 2005. That the compilation of available documents was commenced promptly and was intimated to the applicant/Appellant to remit additional amount of Rs. 140/- vide letter dated 09/11/2009 and 08/01/2010. The Respondent No. 1 refers to the First Appeal and its disposal. It is the case of Respondent No. 1 that the First Appellate Authority, the Conservator of Forests, has ordered the Respondent No. 1 to provide information to the Appellant with reference to his application dated 26/10/2009 in respect of para (4) (i) (a) within 15 days of the receipt of the balance amount of money of Rs. 140/- from the Appellant. That the Appellant has not yet remitted the Additional amount till date. It is the case of the Respondent No. 1 that the Application of the Appellant was immediately under process on receipt of the same. That the voluminous documents were scrutinized to separate out and making copy of relevant information sought and that this was informed to the appellant vide letter dated 09/11/2009. That on completion of compilation of information sought,

the appellant was requested to remit Rs. 140/- towards the balance amount towards the cost of documents vide letter dated 08-01-2010. It is further the case of the Respondent No. 1 that the Appellant has not responded to the letters of the Respondent No. 1 but instead chose to prefer an appeal before FAA that an amount of Rs. 140/- towards balance amount to be remitted for supply of information is due to be paid by the Appellant and the said amount is not yet paid and instead the present Appeal is filed. The Respondents also pray that the Appellant be directed to remit an amount of Rs. 140/- towards balance amount for supply of information to him and the present appeal be dispose off accordingly.

4. Heard the arguments. The Appellant filed written arguments, which are on record. APIO on behalf of Respondent No. 1 submitted that the application which was sent by speed post was received by them on 5/11/2009. He also referred to copy of letter dated 08/01/2010. He admits of receiving Rs. 500/-. According to him till date Rs. 140/- has not been sent but instead first appeal is preferred and than second appeal is filed?

5. I have carefully gone through the records of the case and also considered the written arguments of the Appellant and oral submissions of the Respondent No. 1. The points that arise for my consideration is whether the information is furnished and whether there is any delay in furnishing the information?

At the outset I must say that Right to Information Act 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of public authorities, inorder to promote transparency and accountability in the working of every public authority. From the scheme of the Act it is clear that Right to information Act ensures maximum disclosures and minimum exemptions consistent with

constitutional provisions prescribing at the some time confidentiality of sensitive information. Ordinarily all information should be given to the citizen but there are certain information's protected from disclosures sec. 8 is an exception to the general principles contained in the Act. This provision exempts disclosure of information or apprehension, or prosecution of offenders.

Another important aspect is that RTI Act, in general, is time bound programme between the Administration and the citizen requesting information and every step will have to be completed within the time schedule prescribed for presentation of request and disposal of the same, presentation of the first appeal and disposal by the Appellate authority.

6. Coming to the case at hand it is seen that the applicant sought certain information by his application dated 26/10/2009. According to the Appellant, as per postal website the same was received by Shri Debendra Dalai on 03/11/2009. According to Respondent No. 1 the same was received on 05/11/2009. It is seen that by letter dated 09/11/09 (No. 3-520-WL&ET-07/1950 under certificate of Posting) the Appellant was informed that the information sought being very voluminous and spread over a period of approximately 2 years, the same are being retrieved from the old records and the closed files and the copy of information sought will be submitted soon after relevant pages are photo copied. It is also informed that care will be taken to supply the information sought at the earliest possible. The Appellant does not mention about this letter even in his written arguments. By this letter dated 6/8/01/2009 (No 3-520-WL & ET-07-10/2471 under certificate of posting) the Respondent No. 1/PIO informed the Appellant that the copies of

the desired information are ready, however, the Appellant is requested to deposit an amount of Rs. 140/- towards charges for supply of copies of information after adjusting an amount of Rs. 500/- already deposited by him through demand draft. The Appellant was requested to deposit an amount of Rs. 140/- and further told that on receipt of the said amount the required papers will be sent.

Again there is no mention of this letter by the Appellant.

It appears that first appeal was filed on 14/12/2009. The appeal was disposed off by order dated 05/02/2010. The order reads as under:-

- “1. Shri Debendra Dalai, IFS, DCF of Wilde life & Eco Tourism shall provide the information sought by Appellant at point No. 4 (i) (a) of his application dated 26/10/2009 within 15 days of receipt of balance money of Rs. 140/- from the Appellant Shri M. P. Singh, IFS (Retd.).
2. Since an inquiry is under way against Shri C.D. Singh, IFS and others information sought by the Appellant at point No. 4 (i) (b) to 4 (i) (f) of this application dated 26/10/2009 addressed to the Respondent cannot be provided to the Appellant as it is exempted under section 8 (h) of the RTI Act 2005”

It is not known if Rs. 140/- is paid by the Appellant. As per this order deposit of Rs. 140/- is a pre-condition.

It is the contention of the Appellant in his written Argument para (6) that in terms of sec 7(6) the Respondent is bound to supply the complete information free of cost.

It is pertinent to note here that since there is order of FAA to pay the said amount the question of giving the information free of cost by Respondent No. 1 does not arise. No doubt section 7 (6) is attracted when there is delay in furnishing information. In this case delay if any has to be

determined in considering the letter dated 09/11/2009 and 6/8/01/2009 and also the order of the FAA.

7. It is seen that Appeal was filed on 14/12/09 and the same was disposed on 05/02/2010. The Appeal by FAA is to be disposed within 30/45 days. However the same is disposed beyond the statutory period of 30 days. The FAA is not covered by the penal provisions of the RTI Act. Hope in future the First Appellate Authority shall stick to the time schedule.

8. Now coming to the information sought the information sought starts from para 4 (i) (a) to (f) (ii). Information at para 4 (i) (a), (b), (c) and part of (f) i.e. relieve of Shri C. D. Singh together with relive order issued by the Govt. of Goa for his posting as AIGF in the MOEF at New Delhi can be furnished.

Regarding information at 4 (d), (e) and part of (f) i.e. copy of office Note sheet dealing with disciplinary proceedings right from framing charges to disposal of enquiry report. This Commission specifically asked Respondent No. 1 about this part of information. He stated that same is with the Center and not available with them and they do not know about the inquiry and its progress. In this factual backdrop I feel that Respondent No. 1 is to be directed to transfer or send these particular points to the concerned Department under section 6(3) of the RIT Act with intimation to the Appellant so that he may deal with the same directly.

9. Now it is to be seen whether there is any delay apparently there appears to be some delay in furnishing information. However, the PIO should be given an opportunity to explain that the same was not intentional, malafide etc particularly in view of letter dated 06/11/2009, 8/01/2010 and

order of FAA. This is essential in the factual matrix of this case. Regarding payment to be made or not is to be decided while considering the aspect of delay.

10. In view of the above, I pass the following order:-

O R D E R

Appeal is partly allowed. The Respondent no. 1 is hereby directed to furnish the information at para 4 (i) (a), (b) (c) and part of (f) i.e. relieve of Shri C. D. Singh together with relive order issued by the Govt. of Goa for his posting of AIGF in the MOEF at New Delhi within 15 days from the receipt of this order.

Respondent NO. 1/PIO is directed to transfer Para 4 (i) (d), (e) and part of (f) i.e. copy of office note sheet dealing with disciplinary proceedings right form framing of charges to disposal of enquiry report, to the concerned department under section 6 (3) of RTI Act within five days from the receipt of this order under intimation to the appellant and the appellant to deal directly with the same.

Issue notice under section 20 (1) of RTI Act to Respondent No. 1/PIO why penalty action should not be taken against him for causing delay for furnishing information. The explanation, if any, should reach the Commission on or before 17-06-2010.

Further inquiry posted on 17-06-2010 at 10.30 a.m.

The appeal is accordingly disposed off.

Sd/-
(M. S. Keny)
State Chief Information Commissioner

