

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No. 111/2009**

Shri Ranjit Satardekar,  
Having his Office on 1<sup>st</sup> fl.,  
Azavedo Building,  
Patto, Panaji-Goa.

... Appellant

**V/s**

1) The Law Secretary (FAA),  
Govt. of Goa, Having his Officer at  
Secretariat, Porvorim Bardez-Goa.

... Respondent No.1

2) The Director of Proccesution(PIO),  
Govt. of Goa, Having Her office on the 7<sup>th</sup> Flr.,  
Shram Shakti Bhavan, Patto,  
Panaji –Goa.

... Respondent No.2

Appellant in person.

Adv. K. L. Bhagat for Respondent No.1 present.

Respondent No.2 absent.

**J U D G E M E N T**  
(02/07/2010)

The Appellant, Shri Ranjit Satardekar, has preferred this second Appeal praying for quashing and setting aside the impugned order and for directing the Respondent No. 2 to furnish to the Appellant copies of all the documents from the said two files in her possession free of cost as per law.

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

That, by his application dated 07/02/2008, the Appellant sought certain information from the Respondent No. 2 under Right to Information Act 2005('RTI' Act for short). That in response to the said application, the Respondent No. 2 sent to the Appellant the letter dated 28/02/2008 which did

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not contain entire information sought by him in his said application dated 07/02/2008, rather the Respondent No. 2 refused to give the part of information requested by the appellant so also the Respondent No. 2 had refused to give him the inspection of the service file of the Ex- Public Prosecutor Miss Sherin Paul. Against the said letter dated 28/02/2008 of the Respondent No. 2 the Appellant filed before the Respondent No. 1 First Appeal bearing No. 6/2008 which was partly allowed vide order dated 11/12/2008 and the matter was remanded to Respondent No. 2 with directions to give notice to the Appellant about the objections raised by the third party and upon hearing him in this regard, to decide that part of the application as per the law. That thereafter, after hearing the parties the order dated 11/02/2009 was passed thereby dismissing the said application dated 07/02/2008 of the Appellant Thereafter again the Appellant filed the First Appeal bearing No. 12/2009 which was partly allowed vide Judgment order dated 09/04/2009 and the matter was remanded to Respondent No. 2 with directions to the Respondent No. 2 to give to the Appellant the inspection of that part of the records from the personal files of the third party Miss Shirin Paul, which does not invade her personal right. That inspection was taken and thereafter the Appellant filed an application dated 28/05/2009 requesting the Respondent No.2 to furnish him the copies of the documents free of cost as he was not furnished information within the prescribed period of thirty days and as such he was entitled to the copies applied for free of costs as per the provisions of section 7 (6) of the Right to information Act. That the Respondent No.2 rejected the request of the Appellant for the said copies free of costs. Being not satisfied the Appellant preferred First Appeal and that the same was dismissed. Being aggrieved by the impugned order, the Appellant preferred this Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondent No. 2 resists the appeal and the say is on the record. It is the case of the Respondent no. 2 that the only issue to be decided in the present appeal before this Court is whether the Appellant is entitled for information free of charges under sec 7 (6) of the RTI Act. That in the application dated 07/02/2008 he had sought only inspection of the documents and had not specifically requested to furnish the documents of the said files. That the request for the said documents has been made only after having inspected the said files. That the Appellant had sought the said documents for the first time on 28-05-2009 vide his letter dated 28-05-2005 after having inspected the files on 21-05-2009 and 26-05-2009. That the PIO has intimated the Appellant within a period of 30 days from the date of the said order, however, the Appellant preferred to take inspection of the file on 21-05-2009 and 26-05-2009. That sec 7(6) is applicable to the initial application seeking information and in the present case the information has to be furnished in pursuance of the order passed by the FAA. Wherein there is no time limit for PIO to furnish the information to the appellant and /or to furnish the information free of charge. It is also the case of Respondent No. 2 that PIO never refused to furnish the said documents to the Appellant and that PIO informed the Appellant that he is not entitled for the copies of the said document free of charge and his request to provide the documents free of charge was rejected.

4. Heard the arguments. The learned Adv. R. Satardekar/Appellant argued in person and the learned Adv. K.L. Bhagat argued on behalf of Respondent No. 2. Both sides advanced elaborate arguments.

Appellant referred to the facts of the case in detail. According to him information ought to have been given free of cost as his request was wrongly rejected. He submits that he is entitled to the information free of cost. He next submitted that inspection includes furnishing copies, taking certified copies of the material and that he is entitled to get the documents on the basis of the said inspection. He also referred to the definition of 'Information'. He next submits that for asking copies no separate application is required. He also attacked the finding of the Appellate Court. He submitted that question of interpretation of rules is not the part of the officer. He referred to Sec. 8 and submitted that question of interpretation is not involved. Clause (j) was not at all involved. He also relied on writ petition 1 of 2009. According to him PIO is not a quasi-judicial officer.

5. Adv. Shri K.L. Bhagat also referred to the facts of the case in detail and referred to letter dated 28-05-2009 and to letter dated 29-05-2009. According to him there is no request in the original application and the request came for the first time by application dated 28-05-2009. He also submitted that limitation in fact starts from 28-05-2009. He lastly submitted that the Appellant is not entitled for free information.

6. In reply Appellant Adv. Satardekar submitted that PIO denied the information wrongly and this is evident from the order and FAA directed to give the file.

7. I have carefully gone through the records of the case and also considered the arguments advanced by the learned advocates. The point that arises for my consideration is whether the relief prayed is to be granted or not.

The undisputed facts are: That the applicant vide his application date 07-02-2008 sought certain information from the Director of Prosecution. He also sought inspection of the service file of the said Public Prosecutor. By reply dated 28-02-2008 some information was given and regarding inspection it was informed that inspection of service file cannot be given, being personal and has been objected by the concerned. It is not in dispute that First Appeal was preferred and by order dated 01-12-2008 the matter was remanded back to the Respondent No. 2 with certain directions. Thereafter the matter was heard and by order dated 11-02-2009 dismissed the said application regarding inspection of the service file. It is also not in dispute that appeal bearing No. 12 of 2009 was preferred and by order dated 09-04-2009 the matter was remanded to the Respondent No. 2 with directions to give inspection as per the said order. After inspection of the said file the Appellant filed an application dated 28-05-2009 requesting the Respondent No. 2 to furnish him the copies of the documents in the above mentioned files free of cost under sec 7 (6) as he was not furnished information within the prescribed period of 30 days. By reply dated 09-05-2009 the Respondent No. 2 rejected the request of the appellant for the said copies free of cost. Again appeal bearing No. 15/2009 was filed and the same was dismissed by the impugned order.

8. At the outset I must say that sec 6 of the RTI Act postulates that a person who desires to obtain any information under the Act shall make a request in writing or through electronic means to the authorities specifying the particulars of the information sought by him. Under sec7 (1) Central Public Information Officer or State Public Information Officer as the case may be shall provide the information within 30 days of the receipt of the request on the payment of such

fees as prescribed or reject the request on any of the grounds specified under sec 8 and 9 of the Act.

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

Section 7 (6) lays down as under:-

“Notwithstanding anything contained in sub-section (5) the person making the request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-sec (i)”.

Coming to the case at hand the application was filed on 07-02-2008 and reply was sent/given by letter dated 28-02-2008. No doubt inspection was not given as the same was personal and has been objected by the concerned. Though not in so many words stated the rejection comes within the meaning of sec 8(1)(j). Considering this, the application was disposed off within 30 days. It is seen from the records that after the First Appeal process of inspection was completed within 30 days though Appellant took inspection on 21-05-2009 and 26-05-2009. From the scheme of sec 7(6) it is clear that the information has to be provided free of charge only where a PIO fails to comply with the time limit specified in sub-section 1 of sec 7.

9. By application dated 28-05-2009 the appellant sought certain documents. According to the Appellant inspection includes giving copies. It is difficult to

digest this contention. As per RTI Act fee prescribed for documents and fees prescribed for inspection are different i.e. Rs 2/- and Rs. 5/- respectively. Again good or bad rejection of inspection is as provided by law under sec 8 therefore by no stretch of imagination delay can be attributed to the same. I need not discuss this aspect much. The eloquent reply to this contention of the appellant is found in the rulings of Central Information Commission.

(i) In Lalit khanna v/s Department of Information Technology (Appn. No. 319/CPB/2006/00463 dated 14-03-2007) where without going into the merits of the case whether the CPIO cited the correct provisions for denying the information, the Commission observed that the fact remains that the appellant cannot seek further information in his subsequent letters other than the one which he has sought in his first application. There is no obligation on the part of the CPIO to provide the information to the Appellant.

(ii) In Ashish Pradhan v/s Ministry of Environment and Forests (Appl. No. CIC/WB/A/2006/00463 dated 14-03-2009) where extra points raised in the appeal cannot be treated as part of the appeal, the commission observed that appellant request for the information be treated as an application and all information not exempted from disclosure be made available to him on payment of fees. In this case information was not sought in the initial application.

(iii) In G. Srinivasan v/s NTPC Limited (Appeal No. ICPB/A-12/CIC/2006 dated 05-04-2006) it has been held that at the Appellant Stage an appellant cannot ask for additional information which had not been sought from the CPIO.

(iv) In Ms Navneet Kaur v/s Department of Council (ESC) (Appeal No. ICPB/A-8/CIC/2006 dt. 18-05-2006) it is observed in para as under:-

“ It is to be noted that this Commission could only inquire whether the information sought in the original application has been provided by the CPIO or not and cannot consider additional information sought during the hearing. In the application as well as in the original appeals before the commission, her request was for a copy of the enquiry report and information on action taken on the reports”.

In the case before me, a perusal of the application of the Appellant, dated 07-02-2008 shows that Appellant has not sought for copies of documents from the service files but sought only inspection of files. I have perused application dated 28-05-2009 and reply of the Respondent No. 2 dated 29-05-2009. There is no provision in the RTI Act to seek additional information after the order passed by FAA.

In view of this position I do not find any infirmity in the order of FAA/impugned order.

10. Appellant/learned Adv. Shri Satardekar has advanced very many contentions in so far as PIO is concerned. In short according to him PIO is merely a record keeper and his duty is to furnish information. He has no power to make decision and that he is not a judicial officer. According to him the view that PIO is a quasi-judicial officer is wrong.

Sec 5 deals with PIO. PIO's are officers designated by the Public Authorities in all the offices or administrative units under it to provide information to the citizens requesting for it under the Act. In short PIO is the



interface between the Public Authority to which he belongs and the citizen seeking information. PIO is the fulcrum around which RTI Act operates and a variety of functioning have been assigned to him. I need not mention all these functioning herein. The PIO should provide the information as expeditiously as possible and in any case, within 30 days from the date of application. PIO may reject disclosure of any information if it falls in any of the exempted categories under sec 8 and 9 of the Act. Under Sec 11 the PIO shall consider the representation of the third party before making a decision regarding disclosure of information and give a notice of the decision to the third party. Under sec 10 the PIO can permit partial access of the information to the applicant intimating the reasons, including any findings on any material question of fact. The RTI Act as well as rulings of various commissions show that PIO should give a speaking order. All these go to show that Public Information Officer is not merely a record keeper. Again this does not show that he should just give information on asking. The nature of duties cast on him show that PIO is a key figure in the implementation of the Act. It is difficult to accept the contention of the Appellant that PIO is merely a record keeper.

10. It was contended by the appellant that the question of interpretation of rules is not the part of officer/PIO and that sec 8 was not involved. Under sec 4(1) (d) public authorities to provide reasons for its administrative or quasi-judicial decisions to affected persons. It is to be noted that sect 7 deals with disposal of requests and u/sec 7(8) where a request has been rejected the PIO should give reasons for such rejection etc. Request was rejected apparently under sec 8. This is also clear from impugned order.

11. Regarding inspection it was contended that inspection includes furnishing copies and that appellant is entitled to get the documents on the basis of the said inspection. I am unable to agree with this. Inspection means inspection. Even the Dictionary meaning of the word is 'to look at closely' If copies are required the same should be asked. I am fortified in this view by the observation of Central Information Commission. In K. Thulasi Das Rao v/s Indian Bank (Appeal No. 1576/ICPB/2008, F.No. PBA/07/1061 dated 03-03-2008 it is observed as under:-

“ I, therefore, direct the CPIO to show the entire file to him regarding his ex-gratia payment, application for compassionate appointment, for inspection and after carrying out the inspection he can request for copies which are relevant to his case and in case if he is not satisfied with Bank's reply he can approach appropriate legal forum for redressal in the matter. As far as RTI is concerned he can avail the facility of inspection as ordered above and request for copies”

In A Davamani v/s Indian Bank (Appeal No. 1581/ICPB/2008 dated 03-03-2008) where the complainant was aggrieved that the Bank had not sanctioned loan to his son for the period of eight months inspite of the fact that all the conditions prescribed for the sanctioning of the loan have been satisfied, the Commission directed the CPIO to provide the file which dealt with the sanctioning of loan for the inspection of the Complainant. After inspection, the Complainant can request for copies, which are related to him.

12. It was next contended by Appellant that his request was wrongly rejected.

It is to be noted that appeal was preferred and the same was partly allowed. Again the ground of rejection cannot be termed as wrongly in view of provisions of sec 8. First Appellate Authority too did not find the same to be wrong but did not justify the same. In any case that matter is set at rest after the order of FAA.

In have perused the impugned order and I do not find any infirmity in the same. In view of all the above, the appeal fails. Hence I pass the following order:-

**ORDER**

The Appeal is hereby dismissed.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 2<sup>nd</sup> day of July, 2010.

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

