

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.129/SCIC/2010

Edwin Rodrigues,
Curca, Canturim,
P.O. Goa Velha,
Tiswadi –Goa.

.... Appellant.

V/s

1) Public Information Officer,
Goa Public Service Commission,
Panaji –Goa.

.... Respondent No. 1.

2) First Appellate Authority,
Secretary G.P.S.C.,
Panaji –Goa.

.... Respondent No. 2.

Appellant absent. His representative Rui Ferreira present.

Adv. H.D. Naik for the Respondent No. 1

Respondent No. 2 absent.

J U D G M E N T

(24-09-2010)

1. The Appellant, Edwin Rodrigues, has preferred the present appeal praying that the Public Information Officer be directed to furnish the information sought by the Appellant vide his letter dated 16/11/2009 at Sr. No. 2 at the earliest free of cost and/or that the transfer the application dated 16/11/2009 under section 6(3) (i) & (ii) of the Right to Information Act to impose cost/fine on the Public Information Officer.

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

That the Appellant filed an application dated 16/11/2009 before Respondent No. 1 seeking certain information under Right to Information Act 2005 ('RTI'Act for short). That by reply dated 11/02/2009 the Public Information Officer refused to furnish to the Appellant the information sought at Sr. No. 2 on the ground that it is third party information. That the denial of information has to be treated as non-furnishing/denying the information sought by the Appellant. Being not satisfied the

...2/-

Appellant preferred the Appeal before the First Appellate Authority ('FAA' for short). That the stand of the Respondent No. 1 was that information sought is third party and secondly that the relevant document were sent to the Government. That the F.A.A upheld the decision of the Public Information Officer and directed the Appellant to approach the Government Authority. That Public Information Officer did not state as to which Government Authority the said documents were sent and that Public Information Officer was duty bound to forward the application to the concerned Government Authority. Being aggrieved the Appellant has preferred the present appeal on the grounds as set out in the memo of Appeal.

3. The Respondent resist the Appeal and the reply of the Respondent No. 1 is on record. It is the case of the Respondent that the Appeal filed by the Appellant is misconceived and not maintainable in law. That the said application was duly considered by the Respondent No. 1 and Appellant was furnished the information sought at Sr. No. 1 and Sr. No. 2 could not be furnished being third party information. The Respondent No. 1 admits about First Appeal and also about filing the Reply in the said Appeal. That there is no challenge to the order of the First Appellate Authority and as such directions sought cannot be issued. It is the case of the Respondent No. 1 that the information which has been sought by the Appellant is already been forwarded to the Government and the Respondent No. 1 is, therefore, not in a position to furnish the said information and that the Appellant will have to file an appropriate application before the concerned department of the Government if at all the Appellant is entitled to the said information. That the Respondent No. 1 rightly rejected the said information.

4. Heard Shri Rui Ferreira, the representative of Appellant and Adv. Shri H. D. Naik on behalf of the Respondent No. 1. Both sides submitted in similar vein as per their pleadings.

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

It is seen that by an application dated 16/11/2009 the Appellant sought certain information from the Public Information Officer/Respondent No.1. The information consisted of about names and addresses of selected candidates recommended to the Government and the same was granted. The other part of information was about application forms and documents attached to the form by candidates who have been recommended for appointment for the said post. This piece of information was not furnished on the ground that it is third party information. This was conveyed to the Appellant by letter dated 11/12/2009 which is within stipulated period.

It is the contention of the Appellant that the reply that the information cannot be furnished under Right to Information Act that it is third party information is misleading and irrelevant as the Public Information Officer has denied the information available with G.P.S.C. in utter violation of the Right to Information Act.

It is to be noted here that in respect of information relating to a third party the concerned Public Information officer must give notice to the third party and if such third party makes submissions then to consider the same.

Section 11 of the Right to Information Act relates to third party information. Third party has been defined under section 2(n) to mean a person other than the citizen making a request for information required to be disclosed as confidential that authority is required to give a written notice to such third party of the request. In case such information is not held as confidential no written notice is required to be given. To be noted further that whenever any applicant is asking for information involving third party such information is to be given under section 7 of the Act only after following procedure prescribed under section 11(1) of the Act and also keeping in mind section 7(7) of the Right to Information Act. ...4/-

6. From the submissions made it appears that information is not with respondent No.1.

As per section 6(3) where a public Authority to whom an application for information is made, finds that the information demanded is held by another public authority, it is duty bound to transfer the application of information to the concerned Public Authority within 5 days of receipt of the application and the information seeker is to be informed of this immediately. Breach of the same would be violation of section 6 (3) of the Act.

This is solemn obligation cast upon the public Authority to which the application for information is made. The objective behind enacting this provision is perhaps to lessen the travails of an information seeker lest he is lost in the labyrinth of procedural technicalities.

7. Looking at the factual matrix of this case the matter is to be referred to the Public Information Officer. So that Public Information Officer complies section 6(3) (ii) of Right to Information Act.

8. Appellant prays for penalty. The same requires to be considered adequately. The said issue is kept open to be adjudicated. The Appellant can agitate the same subsequently.

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

ORDER

The Appeal is partly allowed. The Respondent No. 1 is hereby directed to transfer the application of the Appellant dated 16/11/2009 in respect of Sr. No. 2 to the concerned department/Authority under section 6(3)(ii) of the Right to Information Act 2005 within 5 days from the receipt of the order under intimation to the Appellant and the Appellant to deal with the same.

Pronounced in the Commission on this 24th day of September, 2010.

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

