

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 123/SCIC/2010

K. V. Jamkhandikar,
H.No. 794, Vijaynagar,
Porvorim, Bardez.

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Appellant.

V/s
State Public Information Officer,
The Executive Engineer, Div.VI.,
Electricity Dept., Vidyut Bhavan,
Mapusa –Goa.

....

Respondent.

Appellant in person.

Respondent No. 1 alongwith his Adv. Harsha Naik present.

Respondent No. 2 absent.

JUDGEMENT
(26/10/2010)

1. The Appellant, Shri K.V.Jamkhandikar, has filed this appeal as the Respondent did not comply with the orders of the First Appellate Authority.

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

That the appellant preferred the appeal before the First Appellate Authority as the Respondent did not furnish the information to the Appellant on his application dated 03/04/2009 under Right to Information Act 2005 ('RTI' Act for short). That the First Appellate Authority was pleased to pass the order dated 13/04/2010 whereby the Respondent was asked to provide the information to the Appellant within 10 days from the date and free of cost. Since the Respondent did not furnish the information the Appellant preferred the present appeal.

3. The Respondents resist the appeal and their reply is on record. It is the case of Respondent No. 1 that as per the application dated 03/11/2009 seeking under Right to Information Act 2005 an access to the records/documents of this office. Accordingly the applicant/Appellant was called for inspection of documents under prior intimation to this office. That inspection was given and the Appellant took the same. That during the inspection the applicant stated that some documents/files are not

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provided for inspection as per application dated 03/11/2009 hence by letter dated 29/01/2010 the applicant wrote to Respondent No. 1 stating that some documents were not made available to him and sought certain copies of letters. It is the case of the Respondent No. 1 that appeal was preferred before First Appellate Authority (F.A.A') and order was passed to furnish information within 10 days and that too free of cost. It is further the case of Respondent No. 1 that the said information has not been furnished as the same is not available.

It is the case of Respondent No. 2 that appeal was filed and the same was decided by Respondent No. 2 by order dated 13/04/2010 directing the S.P.I.O. to furnish the information within 10 days. That the Appellant is not aggrieved by its order.

Comments on the reply filed by the Appellant are also on record.

4. Heard the Appellant and Adv. Harsha Naik for Respondent No. 1. I have carefully gone through the records fo the case.

It is seen that the Appellant filed an application dated 03/11/2009. As per the same the Appellant sought access to records/documents listed for inspection under Right to Information Act. From the tenor of the application it is seen that no specific documents were sought. By letter dated 27/11/2010 the Respondent No. 1 informed the Appellant to call on their office on any working day to inspect the documents with prior intimation. It appears that subsequently inspection was taken. I have also seen the letter dated 04/01/2010 on record. By letter dated 29/01/2010, the Appellant sought certain copies of letters as mentioned therein. By letter dated 20/02/2010 the Respondent No. 1 was once again requested by Appellant to furnish the copies. It is seen that thereafter appeal was filed before First Appellate Authority and order was passed directing to furnish the document. One of the prayer in the Appeal is to provide access and for furnishing copies of documents.

During the course of arguments Adv. for Respondent No. 1 submitted that no documents were sought in the first/initial application. Apparently it is so. The Appellant too agrees on this aspect. However in the letter dated 29/01/2010 such a request is made. By the present appeal the appellant is not aggrieved by the order of First Appellate Authority but the appeal is on account of non-compliance of the order of First Appellate Authority.

5. The short point that falls into consideration is whether the applicant/information seeker can seek documents subsequently when there is no mention of the same in the initial application?

The reply to this query is found in the following rulings of the 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 C.P.I.O to provide the information to the Appellant.
- (ii) In G. Srinivasan V/s NTPC Limited (Appeal No. ICPB/A-12/CIC/2006 dated 5/4/2006) it has been held that at the appellate stage an appellant cannot ask for additional information which had not been sought from the C.P.I.O.
- (iii) In Ms. Navneet Kaur V/s Department of Council (ESC)(Appeal No. ICPB/A-8/CIC/2006 dated 18/05/2006) it is observed 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 C.P.I.O. 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 as pointed herein above the request in the original application was only for inspection. It was by letter dated 29/01/2010 the documents/letters were sought. In view of the settled position, in my view the appellant cannot seek the said documents subsequently based on the initial application.

6. In view of this, the Appellant can seek the said documents a fresh. If such a request is made the S.P.I.O. to dispose the same within 30 days as provided in the Act. Hence I pass the following order:-

O R D E R

The Appeal is dismissed. However, the Appellant if he so desires can file an application afresh seeking the very same documents/letters. Needless to say, if such an application is made S.P.I.O to dispose the same within the stipulated period of thirty days.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 26th day of October, 2010.

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

