

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 198/SCIC/2010

Kum. Surekha G. Haldankar,
H. No. 760/26, Sumagaha Sadan,
Wadakade, Alto Porvorim,
Bardez – Goa

... Appellant.

V/s.

1) Public Information Officer,
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem – Goa

... Respondent No. 1.

2) First Appellate Authority,
General Manager,
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem – Goa

... Respondent No. 2.

Appellant in person.

Respondent No. 1 alongwith Adv. V.K. Naik.

Respondent No. 2 absent.

J U D G M E N T
(08.02.2011)

1. The Appellant, Ms. Surekha Haldankar, has filed the present Appeal praying that Respondent No. 2 – First Appellate Authority be directed to furnish the correct information asked for by Appellant in her appeal dated 28.06.2010; that necessary inquiry be ordered against the Respondent No. 2 for not furnishing the information within the stipulated time and passing the order dated 27.07.2010 immediately without hearing her say and that Respondent No. 1 – Public Information Officer issued termination order without proper authorization causing mental distress to the Appellant thereby committed an offence.

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

That the Appellant was working as an Accounts Assistant in the office of Goa Antibiotics & Pharmaceuticals Ltd., Tuem, Pernem for the

last 15 years and her services have been terminated abruptly and illegally without authorization by Mr. D. N. Shetty, Factory Manager by allegedly framing and fabricating vague, false and inconsistent allegation. That the Appellant has sought information from Public Information Officer in response to her appeal dated 30.04.2010 but the information furnished by Public Information officer on 22.05.2010 is found to be irrelevant and furnished typed copies as Xerox copies certifying as true copies. That the Appellant has asked certified Xerox copies of original document. That being not satisfied the appeal was preferred to the First Appellate Authority on 28.06.2010 for compliance but no reply was received within one month as required under R.T.I. Act. It is the case of the Appellant that Appellant received a letter dated 19.07.2010 posted on 22.07.2010 but received on 24.07.2010 from PIO to attend F.A.A. office on 27.06.2010 at 03:30p.m. That since the date has lapsed, the Appellant informed F.A.A. on 26.07.2010 that she will attend any time on the next date along with her father to assist her in hearing. That the F.A.A. without informing correct date to attend F.A.A. office, unilaterally passed an order within two hours of time and that too without giving time to the Appellant and without hearing the Appellant. Being aggrieved by the said order the Appellant preferred the above appeal.

3. The Respondents resist the appeal and the reply of Respondent No. 1 is on record. It is the case of Respondent No. 1 that the Appeal is technically not maintainable as it is not in a proper format. That the present appeal is in the form of an application for information and, therefore, the same ought to have been addressed to the Public Information Officer and therefore the same is liable to be dismissed. That the Appellate Authority has rightly dismissed the First Appeal. That the Appellant should have been diligent to enquire in the office of the First Appellate Authority regarding the date and hearing of First Appeal. It is the case of Respondent that the information sought by the Appellant by letter dated 30.04.2010 has been furnished to the Appellant by letter dated 22.05.2010. It is the case of the Respondent No. 1 that the Right to

Information Act has been enacted to give transparency in the functioning of the government departments and not for personal rivalry of the citizens and in the present case the Appellant is trying to use the said Act in the personal interest of the Appellant to harass and to take revenge against the Respondent since Appellant was working as Accounts Assistant in the office of the Goa Antibiotics & Pharmaceuticals Ltd. and her services have been terminated by the Management and that dispute is pending before the Asst. Labour Commissioner, Mapusa in respect of same. That the Appellant intentionally avoided to attend the hearing on 27.07.2010 before F.A.A. In short, according to Respondent No. 1 appeal is to be dismissed.

4. Heard the arguments and perused the records. It is seen that Appellant, vide her application dated 30.04.2010, sought certain information from the Respondent No. 1. It is seen that by reply dated 22.05.2010 the Respondent No. 1 furnished the information. This reply is within time.

It is to be noted here that section 19(1) of the Act provides that an appeal, often referred to as the First Appeal, may be filed before such officer who is senior in rank to the Public Information Officer in the public Authority by any person if:- (i) he/she does not receive a decision of P.I.O. on his application for information; or (ii) he/she is aggrieved by the decision of the PIO. In the case before me the appeal is preferred in different format. The tone of the appeal is more in the nature of seeking information rather than challenging the order of PIO. In any case we will consider as appeal since RTI Act is a people friendly legislation.

It is to be noted that the Appellant cannot seek further information in her subsequent letters other than the one which she has sought in her initial application. In short at the Appellate stage an appellant cannot ask for additional information which had not been sought from the PIO.

5. It is contended about hearing being not given by First Appellate Authority. I have perused the records of this case. Apparently there was a mistake in date. The Appellant on her own did not point out the same to the concerned. The First Appellate Authority ought, though not mandated under the Act, to have given opportunity of hearing both the side. Principles of natural justice require that parties should be given a fair hearing. First Appellate Authority to take note of the same.

6. The Appellant contends that information is incomplete, incorrect, false and misleading. This is disputed by the Advocate for Respondent No.1. According to him information furnished is correct.

It is to be noted that purpose of RTI Act is per se to furnish information. Of course Appellant has a right to establish that information furnished to him is false, incorrect, misleading, etc. But the Appellant has to prove it to counter Respondent's claim. It is pertinent to note that mandate of RTI Act is to provide information – information correct to the core and it is for Appellant to establish that what she has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the Appellant must be given an opportunity to substantiate that information given to him is incomplete, incorrect, false, etc. as provided in section 18(1) (e) of the RTI Act.

6. In view of all the above, I pass the following Order:

ORDER

Appeal is partly allowed. No intervention of this Commission is required as information is furnished.

The Appellant to prove that information furnished is false, incorrect, incomplete, etc.

Further inquiry posted on 25.02.2011 at 10:30 a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 08th day of February, 2011.

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

