

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No.223/SCIC/2010

Shri Madhusudan H. Chodankar,
President,
GDDIDC Employees "union,
H. No.F/5, 'B' Bldg.,
Dattaguru Co-op. Hsg. Society Ltd.,
Mala, Panaji –Goa.

... Appellant

V/s

1) Public Information Officer,
Shri Umesh Verenkar,
Goa Industrial Development Corporation,
EDC Complex, Patto Plaza,
Panaji – Goa.

... Respondent No.1

2) Managing Director,
Cum First Appellate Authority,
Goa –IDC,
EDC Complex, Patto Plaza,
Panaji –Goa.

... Respondent No.2

Appellant along with his Adv. R Varde.
Respondent No. 1 present.
Respondent No. 2 absent.

J U D G E M E N T

(16/02/2011)

1. The Appellant, Shri M. H. Chodankar, has filed the present appeal praying that appeal be allowed and the Respondent/Public Information Officer be directed to furnish the information as sought and for cost.

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

That the Appellant is the Citizen of India and the President of GDDIDC Employees Union. That the Appellant by his application dated 06/07/2010 sought certain information under Right to Information Act 2005('RTI' Act for short) from the Respondent No. 1/Public Information Officer (PIO). That the Respondent No. 1 by reply dated 29/07/2010 informed the appellant that information under RTI Act a Citizen/person can seek the information and that the application is rejected. He was however informed that fresh application in personal name may be sent to seek

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required information. It is the case of the Appellant that from the reply it is seen that the Public Information Officer has failed to give the information as sought. It is deemed to be the refusal to give information. Being aggrieved by the said reply the Appellant preferred the first Appeal before the Respondent No. 2/First Appellate Authority (FAA). That by order dated 03/09/2010 the FAA disposed off the matter on the grounds of no evidence. That the Public Information Officer as well as First Appellate Authority both have failed to give the information. Being aggrieved by the said reply and order the Appellant has preferred the present appeal on various grounds which are set out in the memo of appeal.

3. The Respondents resist the appeal and the reply of Respondent No. 1 is on record. It is the case of the Respondent No. 1 that Appellant under his letter No. GDDIDC/EU dated 06/07/2010 requested for certain information from the Corporation. That Respondent No.1 vide his letter dated 29/07/2010 informed the Appellant "Union", that only Citizen/Person can seek information under RTI Act. That the President was requested to make fresh application in his personal name. That the Appellant preferred an appeal before the Managing Director, Goa Industrial Development Corporation. That by order dated 03/09/2010 the First Appellate Authority disposed of the said appeal upholding the decision of the P.I.O. It is further the case of the Respondent No. 1 that Appellant being a union cannot seek information under RTI Act. That only citizens have the right to seek information under the said Act. That every person who is the citizen of India can seek information and that juristic persons like association/union can not be treated as citizen under RTI Act. According to Respondent no. 1 the Appeal is liable to be dismissed.

4. Heard the arguments, Adv. Shri R. Varde argued on behalf of the Appellant and Respondent No. 1 argued in person. Adv for the Appellant referred to the facts of the case in detail. According to him information sought was not in the capacity of

President. He referred to the reply dated 29/07/2010 and submitted that as information requested was rejected. He next submitted that appeal preferred was also dismissed. According to him application that is submitted is in personal capacity he relied on the decisions of Central Information Commission the Xerox copy which is on record. Adv. for Respondent submitted that his request ought to be granted.

During the course of his arguments the PIO referred that in a similar case this Commission has rejected the request and he relied on the judgment in Appeal No. 155/SCIC/2009 the Xerox copy which is on record.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The points that arises for my consideration is whether the relief prayed is to be granted or not. It is seen that Appellant vide application dated 06/07/2010 sought certain information from the Respondent No. 1/PIO. The information relates to Smt. A.A Palekar Accounts Manager at IDC. It is seen that application is on the letterhead of GDDIDC employees Union. The same is signed by the Appellant and below his name he mentioned as president. It is seen that by reply dated 29/07/2010 the PIO informed the Appellant that under RTI Act a citizen/person can seek the information and hence his application is not processed. He was further informed to file the application in personal name to seek the required information. It is seen that being not satisfied the Appellant preferred the appeal and the FAA by order dated 03/09/2009 the appeal was disposed of upholding the reply/decision of the PIO. The point to be considered is whether the present request is to be granted or not.

It is pertinent to note that section 3 of the RTI is as under:-

“Subject to the provisions in this Act all Citizen shall have the right to information”

As per the same only citizen have the right to information i.e. every person who is the citizen can apply for information. Again section 6(1) used the word "person" who desire to obtain any information under this Act. This Commission in Appeal No. 155/SCIC/2009 Kundai Nagrik Kruti Samiti through its President V/s State Public Information Officer dated 30/03/2010 has observed that General Secretary of employees Association is not a citizen; that Association or the company cannot be treated as citizen and the appeal was dismissed.

6. Since the Commission passed the said aforementioned judgment much water has flown down the bridges and there has been a change in the view as well as approach. Various State Commissions and also Central Information Commission has taken a different stand. This stand is consistent with the object of RTI Act which has been enacted to provide for a legal right to information of citizens to secure acces to information under the control of public Authorities, in order to promote transparency and accountability in the working of every public authority.

I have perused some of the ruling on the point.

In Shri D. N. Sahu V/S Land & Development officer, Ministry of Urban Development, New Delhi (in CIC & WB/A/2006/00336) the Commission held that section 3 confers the right to information only to citizen. An association or a company is not a citizen even an application for information was submitted on the letter head of the association and signed by the president in his individual capacity. Holding that basic objective of the Act is to give information, rather than to withhold or deny the same and construing the delay on part of PIO to be in good faith, the Commission directed to provide the information free of charge.

In Shri Bibhav Kumar V/s University of Delhi (Appeal No. CIC/OK/A/2006/00050) the appellant had applied for information in his own name.

The Commission directed to supply the information holding that merely giving the address of an NGO for delivery of Information does not imply that an institution was asking for the information.

In Shree Kumar S. Menon V/s Indian Audit and Accounts Department Kerala (in Application No.CIC/AT/A/2006/00662) the Commission ruled that simply because the Appellant identified himself as the General Secretary of the Kerala People's Forum, he cannot be disqualified from seeking information. Section 3 has to be liberally interpreted. So long as the information seeker is an identifiable person who is citizen of India, it should matter little whether or not he is also office bearer of an organization.

I have also gone through the ruling in Shri V. K. Gaur V/s Power Grid Corporation (Appeal No. 139/CPB/2006 F. NO. PBA/06/188 dated 25/10/2006 relied by Advocate for the Appellant. It was observed as under:-

"Recently, this Commission has decided that even if information is sought by an office bearer of an Association/Union, the same should be treated as valid in terms of the provisions of the RTI Act, and therefore, the A. A had correctly directed the C.P.I.O to furnish information which he did without loss of time after the receipt of the decision of the A.A."

7. It is to be noted here that RTI Act has been treated as an integral part of the Right to Freedom of speech guaranteed under Article 19(1)(a) which also confers the rights to all 'Citizens'. In a legislation like RTI, Commission should not reject appeal on a technical ground that Appellant happens to be a legal person and not a citizen. The Central Information Commission too has taken a liberal view. Of course appellant, on his part, also should see that applications are filed properly. In the case before me the request of appellant be treated as a citizen seeking information

in his personal capacity and also in the common benefit of members who are citizens and therefore the application seeking information is to be accepted and allowed.

8. It was also contended by the Adv. for the Appellant that request for information was from a citizen and that he used the letter head of the union of which Appellant is one of the office bearer cum President. This is to be accepted.

In view of all the above, I am of the opinion that the order of First Appellate Authority is to be set aside and request of the Appellant is to be granted. Hence I pass the following order:-

O R D E R

Appeal is allowed. The Respondent No. 1/PIO is hereby directed to furnish the information sought by the Appellant vide his application dated 06/07/2010 within 20 days from the receipt of this order and report compliance.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 16th day of February, 2011.

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

