

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 113/2009

Shri Uday A. Chari,
H. No. C-5/55,
Altinho,
Panaji – Goa

... Appellant.

V/s.

1). Public Information Officer,
Executive Engineer Works Division III,
P.W.D. St. Inez,
Panaji – Goa

... Respondent No. 1.

2). First Appellate Authority,
Superintendent of Survey Works,
P.W.D., Altinho,
Panaji – Goa

... Respondent No. 2.

Appellant in person.

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

J U D G M E N T
(21.02.2011)

1. The Appellant, Shri Uday A. Chari, has filed the present Appeal praying for a direction to the Respondent to furnish the information as sought by him. The facts leading to the present Appeal are as under:

2. That the Appellant by his letter dated 04.05.2009 sought certain information under the Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Respondent No. 1. That the Appellant received a letter dated 02.06.2009 from the office of Executive Engineer, St. Inez, Panaji stating therein that the information in respect of documents at Sr. No. 1 to 5 of the application dated 04.05.2009 is not available and Sr. No. 7 information sought is not specific and clear and Sr. No. 8 – no separate estimate is proposed for sewage line to Smt. Hirabai Joshi and Sr. No. 9 to 16 – records of information sought is not specific and lacks clarity and hence not furnished. That at Sr. No. 17 again it was mentioned that information is not specific and under Sr. No. 18 the

same is not within the purview of R.T.I. Act. It is the case of Appellant that Appellate Authority has not furnished the information and hence he has filed the present Appeal. It is also the case of Appellant that the information sought for does not fall under any of the restricted items mentioned in the Act. Being aggrieved the Appellant has filed present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondent resists the Appeal and the reply is on record. It is the case of Respondent No. 1 that the Appellant submitted his application dated 04.05.2009 seeking information in respect of 18 items. That the Respondent vide his letter dated 02.06.2009 furnished information in respect of item at Sr. No. 1 to 6 and further informed the Appellant that the information in respect of remaining items are not specific records and are questions, etc. and as such it cannot be produced to the Appellant. That in terms of RTI Act a citizen is entitled to seek disclosure of information that is available in material form with the Public Authority, i.e. information which is available in any file or documents and the like. That the information sought at Sr. No. 7 to 18 definitely are not traced to any documents or record of this Public Authority and most of the items relate to non-specific questions and seeking clarification. That in the present case the information mentioned at Sr. No. 7 to 18 is – it is not available in material form with State Public Information Officer and accordingly the possible reply is given to the Appellant. The Respondent No. 1 also refers to the judgment in Writ Petition No. 419/2007 of the Hon'ble High Court of Judicature at Bombay, Goa Bench. It is further the case of Respondent No. 1 that the Appellant has only personal interest and there is a dispute regarding laying of sewage line in the property of which the Appellant namely, Shri Uday A. Chari and family has encroached on Government land and is claiming false right and to settle his grudge with the official who is dealing with the said sewage pipeline in the said land on behalf of P.W.D. and to pressurize and harass the officials, Appellant and some of the said Chari family have been asking for

the personal and other information of the officials time and again. That certain information kept ready by Public Information Officer as per the request of the Appellant is never collected by the Appellant in the past inspite of written intimation given to him. That the information sought by the Appellant is with vested interest and not with public interest. That the Appellant has not established how the disclosure would be in larger public interest. On the contrary the officials have proved there is vested interest since Shri Uday A. Chari, the Appellant has personal grudge against officials on account of said public sewage pipeline. The Respondent No. 1 has also relied on some rulings which are mentioned in para 4, 5 and 6 of the reply. According to Respondent No. 1 the Appellant is not entitled for any relief claimed and that Appeal be dismissed.

4. Heard the arguments. Appellant argued in person and Adv. K. L. Bhagat argued on behalf of Respondent No. 1. Appellant referred to the facts of the case in detail. According to him reply was sent on 02.06.2009. However, full information has not been furnished. He referred in detail in similar vein as mentioned in the Memo of Appeal. Advocate for Respondent also referred to the facts of the case in detail. According to him application is not for information but to harass the officer. He also referred to the FIR filed and submitted that information is not in public interest but vested interest. He next referred that whatever information is available is given and that questions are vague and being vague no information could be furnished. In reply Appellant submitted about scheme, about press release for scheme and also about additional work. According to him information asked is specific.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the Appellant as well as Advocate for Respondent No. 1. The point that arises for my consideration is whether the relief prayed is to be given or not.

It is seen that the Appellant, vide application dated 04.05.2009 sought certain information from the P.I.O/Respondent No. 1. The information consisted of 18 points, i.e. Sr. No. 1 to 18. By reply dated 02.06.2009 the Respondent No. 1 furnished the information. This reply is in time. As per the same information at Sr. No. 2, 3, 4, 5, 6 and 8 is furnished. Regarding 1 it is mentioned that 'No such application of the applicant is available'. Regarding 7 it was replied 'The information sought is not specific and clear'. Regarding point No. 9 to 16 it was stated 'The records of Information sought is not specific and lacks clarity, hence not furnished. Regarding 16 it was stated 'Information sought is not specific, the layout available is enclosed at page 5. Regarding 18 it was replied 'Questions and answers are not under the purview of R.T.I. Act hence denied'.

Being not satisfied the Appellant preferred the First Appeal, however, the same was dismissed. The F.A.A. observed that P.I.O. has not shown any malafide intention in hiding or refusing to furnish the documents to the Appellant.

6. It is to be noted that under clause 2(j) 'Right to Information' means the right to information accessible under this Act which is held by or under control of any public authority. It, therefore, necessarily implies that the information to which an information seeker is entitled can only be that which is available in the records of the public authority concerned. It is not open to any information seeker to ask in the guise of seeking information questions to the public authorities about the nature and quality of their actions. The Public Authority is not bound to answer 'under what circumstances' to an information seeker.

7. Coming to the case at hand, item at Sr. No. 1 is "Copy of the application dated 18.02.2009 addressed to Hon'ble Minister for P.W.D. and Secretary P.W.D. with remarks on my application". Reply is "No such application of the applicant is available." It is to be noted here that the

said letter dated 18.02.2009 is from Vishnu A. Priolkar and Uday A. Priolkar and the information seeker is Uday A. Chari. Item 1 refers to 'my application'. Therefore P.I.O. cannot be blamed nor can it be said that he gave false information, as technically he is right. It is the duty of information seeker to mention or give correct details.

Regarding item No. 7 to 17 according to P.I.O. the information is not specific and lacks clarity and hence not furnished. No doubt information seeker should given clear details of what he wants so that the same is furnished. I do feel that some of the items need clarity. It is also a fact that under R.T.I. available information is to be furnished.

Considering the facts and circumstances of the case the following information could be furnished. Letter dated 18.02.2009 of Vishnu A. Priolkar and Uday A. Priolkar can be furnished alongwith remarks if any.

Regarding item at Sr. No. 5 the PIO can furnish information on as to any action has been taken and available notings can be furnished. However P.I.O. is not supposed to answer "why". Regarding item at Sr. No. 7 the same is opinion of P.I.O. and the same does not come within the meaning of information.

Regarding Sr. No. 8 the P.I.O. has already furnished the information. Regarding S. No. 9 to 17 it was observed as 'not specific and lacks clarity'. Apparently so. During the course of arguments it transpired that the same is in respect of laying sewage line at Mala to Altinho. In any case this is in respect of the sewage line only.

Regarding Sr. No. 18 again the query is not properly worded or sought as the same speaks of illegal installing sewage pipeline. The P.I.O. is supposed to furnish information only that is accessed by Public Authority. It is not possible to direct P.I.O. to furnish information to this item. In any case I leave it to P.I.O. to decide.

8. During the course of arguments various submissions were made by both the parties. Such as regarding using two different names, about public interest, harassment, etc. I need not refer to the same herein. However, it is to be noted that the provisions of progressive R.T.I. Act should not be misused to settle personal score. Nor it is appropriate forum for resolving grievances. This Commission is not a forum for anyone to force the other to take a certain course of action. The R.T.I. Act enjoins a Public Authority to disclose information which is in its control or is held by the Public Authority.

9. Regarding delay it is seen that application is dated 04.05.2009, reply is dated 02.06.2009. Apparently the same is within time. So the question of delay does not arise. In view of all the above I pass the following Order:

ORDER

The Respondent No. 1 is hereby directed to furnish information regarding item at Sr. no. 1, 5 and 9 to 17 in the light of observations made herein above and within twenty days from the date of receipt of the Order and report compliance.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 21st day of February, 2011.

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