

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 211/SIC/2010

Shri Vinayak S. N. Dessai,
H.No. 2481, Agalli,
Fatorda –Salcete –Goa.

... Appellant.

V/s

1) Supdt. of Pollice,
Designated Public Information Officer(RTI Act),
Goa Police H.Q.

... Respondent No.1

2) The First Appellate Authority,
Inspector General of Police (Goa),
Panaji-Goa.

... Respondent No.2.

Appellant in person.

Respondent along with his Adv. N. Dias present.

J U D G E M E N T

(25/04/2011)

1. The Appellant, Shri Vinayak S. N. Dessai, has filed the present appeal praying that Public Information Officer (MT) , Police Head Quarter be directed to furnish information as requested under letter dated 10/05/2010 i.e. PUC certificates of the vehicles were not obtained or misplaced.

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

That the Appellant vide application dated 01/02/2010 sought certain information pertaining to the Pollution under Control (PUC) of the motor vehicles belonging to the Goa Police Department and stationed at Margao Police station. That the Public Information Officer by letter dated 10/03/2010 informed that PUC certificate of the said vehicle is not available at MT section.

3. That the Appellant, vide letter dated 10/05/2010 sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Public Information Officer (PIO)/Respondent No.1. That by letter dated 26/05/2010 the PIO

informed that the reply, PUC certificate of Motor vehicles stands. That the Respondent did not furnish the information as requested. Being aggrieved by the reply the Appellant filed an appeal before the First Appellate Authority with the prayer to direct the Public Information Officer to furnish the information as requested. That the First Appellate Authority passed order directing the Public Information Officer to furnish the copies of PUC certificate to the vehicles in question which were obtained in compliance of the order issued by the "DIG" (Goa), dated 09/06/2010. Being aggrieved the Appellant preferred the present appeal on various grounds as set out in the memo of appeal. The case of Respondent No.1 is fully set out in the reply, which is on record. It is the case of the Respondent No. 1 that by the letter dated 10/03/2010 furnished the information to the Appellant stating therein that 'pollution certificates' of the said vehicles is not available so also as per section 146(2) of M.V. Act 1998 the insurance is not applicable to the said vehicles. That the Appellant preferred the appeal before the First Appellate Authority and the same was heard and disposed by order dated 03/05/2010. That thereafter the Appellant made fresh application dated 10/04/2010 under Right to Information Act. That the Respondent furnished the said information vide office letter dated 26/05/2010 which was acknowledged by the appellant on 18/06/2010 under which it was stated that the earlier information furnished vide letter dated 10/03/2010 stands. However, the Appellant preferred First Appeal, which was decided on 23/07/2010. That the subsequently, the Appellant sought review before the FAA which was dismissed on 13/08/2010. According to the Respondent No. 1 the appeal is liable to be dismissed.

4. Heard the appellant and the Adv. N. Dias for the Respondent No.1. I have carefully gone through the records of the case and also considered the arguments advanced.

It is seen that the appellant, vide his application dated 10/5/2010 sought certain information from the Respondent No.1. By reply dated 26/5/2010 the Respondent No.1 replied that the reply vide No.SP/MT/PAN/14/2010 dated 10/3/2010 stands. That means P.U.C. certificates and Insurance certificates of the vehicles are not available. Being aggrieved the Appellant preferred the Appeal before the First Appellate Authority. By order dated 23/7/2010 the appeal was allowed and the P.I.O. was directed to furnish the copies of P.U.C. of four vehicles sought by the Appellant within 10 days of the receipt of the order.

5. It would not be out of place to mention here about the definition of information. Under section 2(f) “information” means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples models, data material held in any electronic form and information relating to any private body which can be accessed by a Public Authority under any other law for the time being in force.

Section 2 (i) “ records” includes.

- (a) any documents, manuscript and file ;
- (b) any microfilm, microfiche and facsimile copy of a document.
- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

It is to be noted here that the term “records” for the purpose has been defined widely to include any documents, manuscript file etc. Under clause 2(j) “the Right to Information” means the right to information accessible under this Act which is held by or under control of any authority and

powers under the act include the right to: - (a) inspect works, documents, records of any Public Authority; (b) take notes, extracts, or certified copies of documents or record; (c) take certified samples of material and (d) obtain information of printouts diskettes, folders, papers, video cassettes or any other electronic mode or through printings where such information is stored in a computer or in any other device.

6. Coming to the case at hand the Appellant sought information as under:-

“1. The expression “not available” is vague and does not carry the meaning as not available due to misplacement of “PUC” certificate or not available since no “PUC” certificates were obtained by the concerned Departments for their vehicles. The correct meaning be conveyed to me.

2. As in the case of insurance certificate, the relevant provisions if any of MV Acts 1998, exempting said vehicles from “ PUC” certificates be please informed to me.

These queries have arisen as in previous reply dated 10/03/2010 it was informed that PUC and insurance certificate of vehicles was not available in M.T./section.

It is pertinent to note that under R.T.I. Act an information seeker is entitled for the information which is held by the public Authority in material form, Non-existent information cannot be furnished. It is not obligatory on the P.I.O. to furnish non-existent information. If the information is not available it cannot be furnished. Again asking queries does not come within the purview information. Again P.I.O. cannot create information for the information seeker and whatever information is available is to be furnished.

In view of the above the request of the complainant cannot be granted.

7. It appears from the tenor of the arguments of the Appellant that he is not satisfied with the reply. However, in order to ascertain the Appellant can seek inspection of PUC file from the opponents. The Appellant is agreeable to this. The opponent also on their part are agreeable to give inspection.

8. In view of the above the request for information sought cannot be granted. However Appellant is free to take inspection. Hence I pass the following order.

ORDER

Appeal is partly allowed and the Respondent No.1 is directed to give inspection of PUC file maintained by them to the Appellant. The Inspection be given on 12/5/2011 at 11.00 a.m. i.e. the date agreed by the parties.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 25th Day of April, 2011

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

