

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 224/SIC/2010

Shri Allan Faleiro,
H. No. 400, Toleband,
Loutolim,
Salcete - Goa

.... Appellant

V/s.

Public Information Officer,
Under Secretary (Personnel-I),
Secretariat,
Porvorim - Goa

... Respondent.

Appellant in person.
Adv. Smt. Harsha Naik for Respondent.

J U D G M E N T
(30.05.2011)

1. The Appellant, Shri Allan Faleiro, has filed the present appeal praying that the Respondent be directed to furnish the required information and that penalty be imposed for the delay in providing the required information.

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

That the Appellant vide his application dated 15.03.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Respondent. That by reply dated 16.04.2010 the Respondent furnished the information. Being not satisfied as incomplete information was provided the Appellant preferred the appeal before the First Appellate Authority (FAA) and by Order dated 28.06.2010 the FAA directed the Respondent/PIO to furnish the correct information as sought by the Appellant for point No. 2 vide his application dated 15.03.2010 within two weeks from the receipt of this Order. It is the case of the Appellant that no information has been provided till date. Being aggrieved the Appellant has preferred the present Appeal.

3. The Respondent resist the Appeal and reply of Respondent is on record. It is the case of Respondent that the Appellant had sought information as regards action initiated against Ex-Captain of Ports, Shri A. P. Mascarenhas for giving bogus information about his qualification to the Goa Public Service Commission (GPSC) for seeking promotion in Government service to the post of Captain of Ports. That the Appellant had also filed petition before Hon'ble High Court challenging the qualification of Shri Mascarenhas for appointment to the post of Captain of Ports. That the Hon'ble High Court has delivered Judgment on 27.11.2009 in Writ Petition No. 392/2009 finding no merit to the petition. That accordingly the Appellant was given reply to refer to the said Judgment dated 27.11.2009 of the Hon'ble High Court. That the Appellant is not satisfied with the reply stating that the same is not relevant to the query raised by him. That since the appointment of the said post is done on the recommendation of Goa Public Service Commission that Department has proposed to send a copy of the Complaint dated 04.03.2010 made by the Appellant to the Goa Public Service Commission for their comments. However, the Special Secretary (Personnel) remarked "Not proper" and hence the said complaint could not be forwarded to GPSC.

4. Heard the arguments. Appellant argued in person and Ld. Adv. Smt. Harsha Naik argued on behalf of Respondent. The Appellant has also written arguments which are on record. The Appellant referred to the facts of the case in detail. According to him incomplete information has been provided in reply to item No. (1) of his application and that no information has been furnished in respect of item No. 2. He also referred to the Order passed by the FAA. According to him complete and correct information was to be furnished. He next referred to the aspect of delay stating that no information has been furnished in respect of point No. 2 till today.

Adv. Smt. H. Naik also referred to the facts of the case. According to her application is dated 15.03.2010 and reply is dated

16.04.2010. She also referred to the Order passed by the FAA dated 28.06.2010. According to her information is furnished and that there is no delay. She also referred to W.P. No. 392/2009.

In reply the Appellant submitted that GPSC says that the said information is with the Personnel Department. According to him penalty to be imposed and disciplinary action be taken. He also submits that information regarding point No. 2 has not been furnished.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the information is furnished and whether the same is in time. It is seen that vide application dated 15.03.2010 the Appellant sought certain information. The information consisted of certified copies and subsequently about action initiated against Captain A.P. Mascarenhas. By reply dated 16.04.2010 the Respondent furnished the information. However, regarding point No. 2 it was mentioned to refer to the Judgment of the Hon'ble High court of Bombay at Goa in W.P. No. 392/2009. Being aggrieved the Appellant preferred the Appeal before FAA. By Order dated 28.06.2010 the FAA directed the Respondent to furnish the correct information as sought by the Appellant for point no. 2 vide his application dated 15.03.2010 as per the provisions of the RTI Act within two weeks from the receipt of this Order. It is the contention of the Appellant that this Order has not been complied with. In other words the information has not been furnished in pursuance to the Order of the FAA. From the records also there is no mention about furnishing the information in pursuance of the Order. I have also perused the reply dated 16.12.2010. The answer to point No. 2 has not been furnished in a proper form.

During the course of her arguments Adv. Smt. H. Naik also could not throw much light on this. In any case the Respondent has to comply with the Order of the FAA thereby furnishing the information.

6. The Appellant next contended that there is delay in furnishing information. According to Advocate for the Respondent there is no delay as such. It is seen that application is dated 15.03.2010. Reply is dated 16.04.2010. Apparently there is one day's delay. However, this could be overlooked. But in the present case the FAA passed the Order on 28.06.2010 and this Order was to be complied within two weeks. According to the Appellant the same is not complied till today. That means there is delay in compliance of the Order. In any case in my view PIO should be given an opportunity to explain the same in the factual backdrop of this case.

7. In view of all the above, Respondent has to furnish the information in respect of point No. 2. The Respondent is to be heard on the aspect of delay. Hence, I pass the following Order:-

ORDER

The Appeal is allowed. Respondent is directed to furnish the information as sought by the Appellant with respect to point No. 2 vide his application dated 15.03.2010 within fifteen days from the receipt of this Order.

Issue notice under section 20(1) of the RTI Act to Respondent/PIO to show cause why penalty action should not be taken against him for causing delay in furnishing the information. The explanation, if any, should reach this Commission on or before 12.07.2011.

PIO/Respondent shall appear for hearing.

Further inquiry posted on 12.07.2011 at 10:30a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 30th day of May, 2011.

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

