

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal 88-SIC-2011

Mr. Vinod Gaude,
H.No.157,
Bokadbag, Bandoda,
Ponda-Goa.

...Complainant

V/s

1) The Public Information Officer,
A.D.E.I. (Admn),
Office of the A.D.E.I.'s,
Shantinagar Ponda-Goa.

... Opponent No. 1

2) The Director of Education,
(F.A.A.) Director of Education,
Panaji-Goa.

.... Opponent no.2

Appellant present
Respondent No. 1 & 2 absent

JUDGEMENT

(09/01/2012)

1. The Appellant, Shri Vinod Gaude, has filed the present appeal praying that the P.I.O. be directed to immediately provide the information sought; that if information requested is not available with the P.I.O. then appropriate P.I.O. be directed to immediately provide the information sought; that the P.I.O./A.D.E.I. (Administration) Office of the A. D. E. I., Shantinagar Ponda – Goa be asked to prove the efforts put in to locate the information as part of his /her duty and if found guilty the P.I.O. be punished for dereliction of duty, that provisions of R.T.I Act 2005 be invoked against the P.I.O. and F.A.A. and action be taken on them for violating the R.T.I. Act; that First Appellate Authority, be directed to pass immediately the order on his first appeal and that compensation be paid to him and that costs be awarded .

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

That the Appellant, vide application dated 27/01/2011, sought certain information under Right to Information Act, 2005 (R.T.I. Act for short) from the Public Information Officer (P.I.O.)/the Respondent No.1. That the P.I.O. received the said application on 31/01/2011. That the P.I.O. vide his reply dated 15/02/2011 informed the appellant that the information asked by him was kept ready and that the appellant must collect the same on or before 24/02/2011. By order dated 24/02/2011, the Respondent No.1/P.I.O. informed that the information sought was not available in his office. That the P.I.O. refused to provide the information and also refused to transfer the request to the P.I.O. where information was available. Being not

satisfied the appellant preferred an appeal before the First Appellate Authority (F.A.A)/Respondent No.2. However, the F.A.A. refused to pass an order on the appeal. Being aggrieved the Appellant has preferred the present appeal.

3. The Respondent No.1 has filed the reply which is on record. In short it is the case of the Respondent No.1 that the present appeal is not maintainable firstly because the Appellant has asked the queries rather than information and R.T.I. Act, 2005 does not cast on the Public authority any obligation to answer queries in which attempt is made to elicit answer to questions with prefix such as 'why' 'what' and whether, and secondly as it is queries and does not come under the purview of R.T.I. Act. According to Respondent No.1 the appeal is liable to be dismissed.

4. It is seen that notice was issued and in pursuance of the same Respondent No.1 and subsequently Shri D. Chaudikar representative of the Respondent No.2 appeared. However, the Appellant did not appear. Fresh notice was issued to the Appellant but he did not care to appear nor inform the Commission. In any case I am proceeding on the basis of record.

5. Heard the arguments of the Respondent. According to the Respondent the information is not with them. Shri D. Chaudikar representative of the respondent No.2 submitted that the said information is not with them but could be with Social Welfare Department.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the Respondent. The point that arises for my consideration is whether the relief prayed is to be granted or not.

It is seen that vide application dated 27/01/2011, the Appellant sought certain information from the P.I.O./A.D.E.I. (Administration) A.D.E.I. office Department of Education Ponda/Respondent No.1. This application was received in the office of P.I.O. on 31/01/2011. By reply dated 15/02/2011 the A.D.E.I. (Adm) Ponda requested the Appellant to collect the same from their office on or before 24/02/2011. By letter dated 24/02/2011 the P.I.O./Respondent No.1 informed the Appellant that information is not available in their office. This reply is within 30 days.

Being not satisfied the Appellant preferred an appeal before F.A.A./Respondent No.1 however, the appeal was not heard and decided according to the Appellant. It is to be noted here that F.A.A. has to dispose the appeal within 30 days or by 45 days but with reasons, R.T.I. Act is a time bound programme. In any case F.A.A. to take note of the same in future. Again F.A.A. is not covered by the penal provisions.

In sum and substance the information sought is not with the Respondent no.1. If the information is not available then the same cannot be furnished. Under R.T.I. a citizen is entitled to the information which is held by the public authority.

7. I have perused the reply of Respondent No.1. It is as if information is with them.

It is to be noted here that merely because some queries start with the words "why" "what" and "whether" does not necessarily mean that information is to be denied to the Appellant. In case these prefixes solicit any concrete information based on record it is to be provided. In case the same solicit opinion etc. the same is to be avoided.

8. Looking at the factual backdrop I have to state that if any information is available with the Respondent No.1 the Respondent no.1 to furnish the same to the Appellant. In case the same is not available then the P.I.O./Respondent No.1 to transfer the request to the public authority with which the information is available. According to the representative of Respondent No.2 it is with the Social Welfare Department. In any case P.I.O. to ascertain the same and then transfer the request. The appellant be informed so that he may follow up the matter.

9. In view of all the above I pass the following order:-

ORDER

The Respondent No.1/P.I.O. to furnish to the appellant the information sought by him vide application dated 27/01/2011 i.e whatever information available with Respondent No.1 within 20 days from the receipt of this order.

In case the information is not available with the Respondent no.1 the Respondent No.1/P.I.O to transfer the application to the concerned public authority with whom the information is available, within 5 days from the receipt of this order. The appellant be informed about such transfer so that appellant may follow the same.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 9th day of January 2012.

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