

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 223/SCIC/2011

Ramchandra Palekar,
Assistant,
Goa Legislative Secretariat,
Porvorim - Goa

... Appellant.

V/s

1) Shri N. B. Subhedar,
Secretary,
Goa Legislature Secretariat,
First Appellate Authority,
Porvorim – Goa

... Respondent No. 1.

2) Smt. Ligia Godinho,
Public Information Officer,
Goa Legislature Secretariat,
Porvorim – Goa

... Respondent No. 2.

Appellant in person.

Respondent No. 1 in person.

Respondent No. 2 in person.

J U D G M E N T

(03.02.2012)

1. The Appellant, Shri Ramchandra Palekar, has filed the present Appeal praying that information sought by him vide clause 4 and 5 of the application be provided to him.

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

That the Appellant, vide application dated 10.08.2011 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Respondent No. 1. That on 07.09.2011 the Appellant was provided with incomplete information by the Assistant Public Information Officer. However, information in respect of point No. iv and v of the application was not furnished in view of Section 8 of RTI Act. Being not satisfied the Appellant filed an Appeal before First Appellate Authority/Respondent No. 1. That by Order dated 17.10.2011 the First Appellate Authority disposed the Appeal. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. In pursuance of the notice Respondent No. 1 and Respondent No. 2 appeared. The Respondents did not file any reply as such, however they advanced arguments.

4. Heard the arguments. Appellant argued in person. Respondents also argued in person.

The Appellant referred to the facts of the case in detail. According to him some information has been furnished. However information respect of point No. (iv) and (v) has not been furnished. He also submitted that both PIO as well as FAA are trying to hide or cover certain illegal acts and by the Staff working under their control. He also referred to Section 8 of RTI Act in detail. According to him only at Appellate stage it was made clear that request was refused in view of Section 8(1) (e). He next submitted that Section 8(1)(e) is not attracted and Department is bound to give the name of the official. He also submitted that due to failure to produce the said certificate he could not get promotion and that he got promotion after four years and that there was monetary loss to him.

The Respondent No. 2/PIO submitted that request was rejected under Section 8(1) (e) and that FAA has upheld the order. According to her under RTI, Appellant can seek the information and not dig the information. PIO/Respondent No. 2 submitted that Appeal is liable to be dismissed.

During the course of his arguments Respondent No.1/FAA submitted that at the relevant time Assembly Session was going on and that he had informed the Appellant about the same and Appellant agreed. He also submitted that the relevant information sought comes under Section 8(1) (e) and PIO has rightly rejected the same. He also submitted that request was turned down as per RTI Act.

In reply Appellant submitted that the request was casually disposed. According to him fiduciary relationship is not applicable.

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 relief prayed is to be granted or not.

It is seen that vide application dated 10.08.2011 the Appellant sought certain information i.e. five items being Sr. No. I to V. It is seen that by reply dated 07.09.2011 the information was furnished. In respect of point IV and V

the information was refused under Section 8 of the RTI Act, 2005. Being aggrieved the Appellant filed Appeal before the FAA. By order dated 14.10.2011 the FAA observed as under:-

“5). The Appellate Authority found here that Appellant is moreover asking the information in Question form to the PIO which is not applicable under RTI Act 2005, which is meant only to seek the information and not to dig the information.

6). In view of the above, the petition of the Appellant Shri Ramchandra Palekar has been disposed off”.

6. 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, emails, 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. In an old case (AIR 1957 Punjab 226) the Hon’ble Punjab High Court explained “information” as synonymous with knowledge or awareness in contradistinction to apprehension, suspension or misgiving.

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

A combine reading of Section 2(f), 2(j), and 2(i) of the RTI Act would show that a citizen is entitled for disclosure of information which is in material form with a public Authority and “information and right to seek does not include opinions, explanations, etc.”

7. It is pertinent to note that Section 2(j) provides only information held by or under the control of any public Authority. It does not mean that an information seeker can solicit opinion/conclusion from PIO of public authority. The rule of law now crystallized by the various rulings of the Central Information Commission as well as State Information Commissions is that information held is to be provided and Commission’s jurisdiction can go no further than only directing that the information in the form held be provided. It

has been held by C.I.C. in various rulings that in the guise of information seeking explanations and queries about nature and quality of action of Public Authority need not be raised for answer.

Answering a question, preferring advice or making suggestions to an applicant is clearly beyond the purview of the RTI Act.

8. The Appellant has sought the following information:-

(iv) Name/s of the Officer/s held accountable for failure to place ST Certificate before the DPC meeting held on 12.09.2007.

(v) action taken/proposed to be taken against the erring officer/s.

It is to be noted that information regarding other queries has been furnished. It appears from the record that ST Certificate was not placed before D.P.C. meeting. This is information. Once this fact is known to the Appellant, he cannot ask who's and why's of the same under RTI. Even otherwise if the same is not considered by D.P.C. the same cannot be disclosed due to the confidential nature. The views recorded in confidence by the members cannot be disclosed, so also who did not consider which document cannot be disclosed since it may lead to personal acrimony. Therefore exemption from disclosure of information under Section 8(1) (e) is correct.

The Appellant herein wants to know the name. To my mind the same cannot be furnished in view of what is stated hereinabove.

9. From the records and during arguments I find that the Appellant has a genuine grievance. However this is not a forum as RTI is not a grievance redressal forum. The Appellant has to approach a competent forum for redressal of his grievance.

10. In view of all the above, I pass the following Order:-

ORDER

The Appeal is dismissed.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 3rd day of February, 2012.

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

