

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.234/SCIC/2011

Shri Madhusudan H. Chodankar,
President,
GDDIDC Employees' Union,
H. No.F/s "B" Bldg.,
Dattaguru Co-op. Housing Society Ltd.,
Mala, Panaji, Goa ... Appellant.

V/s.

1. The Public Information Officer,
Goa Industrial Development Corporation,
Panaji, Goa
2. The First Appellate Authority,
Managing Director,
G.I.D.C.,
E.D.C. Complex,
Patto Plaza,
Panaji, Goa ... Respondents

Appellant absent
Adv. R. Varde for appellant present
Respondent No.1 present

J U D G M E N T
(28/05/2012)

1. The Appellant, Shri Madhusudan H. Chodankar, has filed the present appeal praying that the order passed by the First Appellate Authority to set aside and the appeal be allowed and that respondent No.1/Public Information Officer be directed to furnish the information as sought, free of cost and for costs.

2. The brief facts leading to the present appeal can be summarized as under:-

That the appellant, vide his application dated 16/5/2011, sought certain information under Right to Information Act, 2005

('R.T.I. Act' for short) from the Public Information Officer(P.I.O.)/respondent No.1. That the respondentNo.1/P.I.O. by his letter dated 13/6/2011 informed the appellant that the accounts section has requested the appellant to pursue both files. That the appellant vide letter dated 14/6/2011 brought to the notice of P.I.O. that the specific information has been asked and there is no need to peruse the file in question. That further P.I.O. was informed by the appellant that appeal would be filed before the appellate authority on the ground of denial of information. It is the case of the appellant that even after receipt of letter dated 14/6/2011, the P.I.O. has failed to supply the information as sought. Being aggrieved by the said reply, the appellant filed the appeal before the First Appellate Authority/respondent No.2. That by order dated 10/8/2011 the F.A.A. directed the P.I.O. to provide the entire correspondence as well as noting of both files i.e. performance allowance for the year 2009-10 and loan to K.T.C. limited within 10 days from the date of the said order. Being aggrieved by the said order, the appellant has preferred the present appeal on various grounds which are set out in the memo of Appeal.

3. The respondents resists the appeal and the reply of respondent No.1 is on record. In short it is the case of the respondent No.1 that the appellant vide application dated 16/5/2011 received by the then P.I.O. on 18/5/2011 sought certain information under R.T.I. Act. That the then P.I.O. vide note dated 18/5/2011 forwarded application of the appellant to General Manager (A) and C.A.O. That the Chief Accounts Officer vide note dated 26/5/2011 suggested to invite the party to peruse both files on the subject . That the appellant was directed to peruse the files vide letter dated 13/6/2011. That appellant vide letter dated 14/6/2011 received by the then P.I.O on 17/06/2011 opted for not inspecting the file and once again requested for the information. That the then P.I.O. vide note dated 20/6/2011 forwarded the copy of letter to General Manager (A) & (C.A.O.) That the appellant filed first appeal on 11/7/2011 before the F.A.A./Respondent No.2

praying for providing information, free of cost. That the F.A.A. vide order dated 10/8/2011 directed the then P.I.O. to provide entire correspondence within 10 days. That since all the information sought was being dealt with by the C.A.O. the then P.I.O. vide note dated 10/8/2011 asked the C.A.O. to provide xerox copies of notings and correspondence of both the files within three days. That the C.A.O. vide note dated 16/8/ 2011 forwarded information to the then P.I.O. That the then P.I.O. vide letter dated 24/8/2011 informed the appellant to make payment of Rs.600/- towards documents fees and collected the information. That the information sought pertains to the Chief Accounts Officer and the then P.I.O. That the P.I.O. has expired on 6/1/2012 and as such appeal stands abated. According to respondent No.1, the appeal is liable to be dismissed.

4. Heard the arguments. Ld. Adv. Shri R. Varde argued on behalf of appellant and respondent No.1 argued in person.

Advocate for the appellant referred to the facts of the case in detail. According to him application is dated 16/5/2011. He also referred to reply dated 13/6/2011 and letter dated 14/6/2011. According to him information is not provided. He submitted that information ought have been furnished free of cost as such the same was not submitted in time. According to the advocate for the appellant information is to be provided free of cost.

During the course of his arguments, the P.I.O. referred to the facts of the case in detail. According to him the appellant was requested to go through the file so that information could be supplied. Next he was informed to make payment. However, no payment was made. According to the respondent No.1 further submitted that the then P.I.O. has expired. According to him appeal stands abated and the same is liable to be dismissed.

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 by application dated 16/5/2011 the appellant sought certain information. The application was received in the office on 17/5/2011 as can be seen from the endorsement. By letter dated 13/6/2011 the P.I.O. requested the appellant to come to their office to peruse both the files i.e. Performance Allowance and disbursement of loan to K.T.C. Ltd. By reply dated 14/6/2011 the appellant informed the P.I.O. that he has asked specific information pointwise and there was no need to peruse the files. Being aggrieved the appellant preferred an appeal before the First Appellate Authority (F.A.A.) on 11/7/2011. The F.A.A./respondent No.2 passed the order dated 10/8/2011 as under :-

“It is ordered to provide the entire correspondence as well as noting of both the files i.e. performance allowance for the year 2009-2010 and loan to K.T.C. Ltd., within 10 days from the date of this order.”

By letter dated 24/8/2011 the P.I.O. informed the appellant that the information is kept ready and the appellant is required to pay an amount of Rs.600/- towards documents fees and collect the same on any working day.

The contention of the appellant is that information ought to have been provided free of cost.

Sec.7 of the R.T.I. Act is as under :-

“7. Disposal of request.

1. Subject to the proviso to sub-section (2) of Sec.5 or the proviso to sub-section(3) of Sec.6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days

of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in Section 8 and 9.

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request.

2.

3.

(a).....

(b).....

4.

5.

6. Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1)

7.

8.

9.”

In short as per the section where the public authority fails to comply within prescribed time limit the applicant/information seeker shall be provided the information free of cost.

In Sarbajit Roy V/s. D.D.A (Appeal No.10/1/2005-CIC) the D.B. of the Central Information Commission held that if the D.O.A.

has failed to provide the information within the time limit prescribed under sec.7, it shall provide the information free of charge to the applicant as per Sec.7(6).

In Dewan Singh & others V/s. Land and Building Department D.D.A. (Appeal No.CIC/WB/A/2006/00273, 276, 277 dated 2/11/2006) where copies of unsigned documents (being part of record) were not provided certifying them to be unsigned documents, the Commission held since the information was not supplied in time, now required to be given free of charge as per Sec.7(6).

In the case before me the P.I.O. by letter dated 13/6/2011 requested the appellant to visit office and see the files. By letter dated 14/6/2011 the appellant informed the P.I.O. that he has asked specific information. The P.I.O. should have furnished the information after this letter. Instead by letter dated 24/8/2011 the P.I.O. informed the appellant that the information is ready and to make the payment. Looking at this sequence of events the P.I.O. should have given the information free of cost in terms of Sec.7(6) of the R.T.I. Act. To my mind in this factual backdrop, the information ought to have been given free of cost.

6. Apart from that there is order of the F.A.A. of course the same does not mention about charges. The respondent No.1 has not denied the information but the matter got stuck on the issue of payment.

7. Coming to the aspect of delay. It is seen that initially the reply was in time. In between appeal was filed. Since order of F.A.A. did not mention about 'free of cost' again letter was sent requesting to pay charges. In any case it is not the case of malafide intention but the same was on account of non-appreciation of provision of law. Besides the P.I.O. at the relevant time has expired.

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

ORDER

The appeal is allowed. The respondent No.1/P.I.O. is hereby directed to provide/furnish information to the appellant as sought by him, vide his application dated 16/5/2011, and/or comply the order of F.A.A. dated 10/8/2011 but free of cost within 20 days from the date of receipt of this order. Needless to add that information is to be furnished free of cost.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 28th day of May, 2012.

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