

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 124/SCIC/2011

Mr. Vinayak Dattaram Porob,
H. No. 1274/5, Auchit Vaddo,
Near Laxmi Narayan Temple,
Tivim, Bardez,
Goa – 403 502

.... Appellant.

V/s.

1) Mamlatdar of Bardez &
Public Information Officer,
Mapusa,
Bardez – Goa

.... Respondent No.1.

2) Dy. Collector of Bardez &
First Appellate Authority, Mapusa,
Bardez – Goa

.... Respondent No. 2.

Appellant in person.

Shri R. Mayenker, representative of Respondent No. 1.

J U D G M E N T
(29.06.2012)

1. The Appellant, Shri Vinayak D. Porob, has filed the present Appeal praying that the Respondents be ordered/directed to provide/issue proper information immediately to the Appellant; that the Respondents be directed to pay exemplary costs for failure to provide full information and that Respondents be directed to pay penalty.

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

That the Appellant, vide an application dated 26.11.2010, 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 Respondent No. 1 has not given the detail information as to the nature of proceedings bearing No. MAM/BAR/BUND/ 2010/2544 whether it is of civil nature, criminal nature, quasi-criminal nature or quasi-civil nature. Being aggrieved the Appellant preferred an appeal before the First Appellate Authority on 24.12.2010 and the said Appeal was dismissed vide Judgment and Order dated 02.03.2011. Being aggrieved by the said

Judgment and Order the Appellant has filed the present Appeal on various grounds as set out in the Memo of Appeal.

3. It is seen from the records that initially Respondent No.1 remained present and later on Shri R. Mayenker representative of the Respondent No. 1 was present. Various opportunities were given to the Respondent No. 1 to advance arguments and even to file written arguments. However Respondent No. 1 did not file nor argue the matter. In any case I am proceeding on the basis of record.

4. Heard the Appellant and perused the records of the case. It is seen that by application dated 26.11.2010 the Appellant sought certain information consisting of 3 points/items at Sr. No. 2, 3 and 4. By reply dated 22.12.2010 the information was furnished. Being not satisfied the Appellant preferred an Appeal before the First Appellate Authority/Respondent No. 2. By order dated 02.03.2011 the Appeal was dismissed.

It is seen that all the information is furnished and that too in time. So there is no question of delay as such.

5. The only grievance of the Appellant is that information in respect of nature of proceedings is not furnished that is whether civil or criminal or quasi-civil nature or quasi-criminal nature. The Appellant has also relied on 3 rulings of the Central Information Commission.

The short point that falls for consideration is whether such a request can be granted or not?

6. At the outset it is to be noted that under R.T.I. Act an information seeker/citizen is entitled to seek disclosure of information that is available in the material form with a public authority, that is, the information as available in any file or documents and the like. P.I.O. is not supposed to create information. Under R.T.I., P.I.O. cannot give the personal opinion on any matter. So also opinion, explanation and clarification cannot be furnished. A combine reading of Section 2(f), 2(i) and 2(j) would show that a citizen is

entitled for disclosure of information which is in material form with the Public Authority.

Now it is to be seen about point No. 4. I shall reproduce the said point.

“..... as to what nature is the proceeding bearing No:- MAM/BAR/Bund/2010 is of, whether it is of civil nature, criminal nature, quasi criminal nature or quasi civil nature”

This cannot be simply termed as opinion.

Appellant has relied on 3 rulings of C.I.C. which are as under:-

(i) Shri Ashok Sardana *v/s.* Delhi Development Authority (Appeal No. CIC/WB/A/2008/00006/LS) in which it was directed to give categorical reply to the points raised by the Appellant and if need be, in consultation with the Building Department of DDA.

(ii) Shri B. K. Thakur *v/s.* BSNL (CIC/AD/A/X/09/00037/AD) in which it was held that complete information is to be provided.

(iii) Dr. Arun Sood, Punjab *v/s.* Medical Council of India (Appeal No. 1784/ICPB/2008 F. No. PBC/07/1482 dated 31.03.2008). In this case complainant was interested in knowing whether the person who was appointed in a Medical College can be removed by this regulation, 1998 by applying it retrospectively. It was observed as under:-

“Specific reply is required from the CPIO of MCI. I, therefore, direct the CPIO to furnish this information within 15 days from the date of this direction.”

I have also perused some of the rulings of the C.I.C. on the point:-

(i) In M. L. Vishwakarma *v/s.* Survey of India, Jabalpur 482 002 (F. No. CIC/AT/A2007/00040 dated 28.03.2007). In this case appellant had received from the Central Administrative Tribunal (CAT) Jabalpur Bench a favourable order which also imposed cost on the respondents. One of the item i.e. item (b) read as follows:-

“(b) Whether any memorandum of the Chargesheet is issued to them as per C.C.S.(C.C.A.) Rules 1965 before fixing the responsibilities and recovery of panel interest from their salary.”

The C.P.I.O. stated “the ensuing action in this regard is yet to materialize”. The A.A. stated “the identity of the person or persons should not be disclosed.” CIC observed as under:-

“I am not able to appreciate the logic of A.A. in not disclosing an information in a matter which concerns implementation of a Tribunal’s orders. To my mind it is a straightforward question to which a straightforward answer should be given. The answer could be anything ³/₄ it may state the names of those from whom this amount has been recovered, or it may state that it has not been recovered from any officer of the public authority, but has been released from the budget of the public authority. It is not open to the A.A. to say that no such information could be disclosed.”

(ii) In *Rajendra Prasad v/s. Principal Accountant General (Civil audit)* (File No.CIC/AT/A/2008/01195 decided on 30/01/2009) all that the appellant had asked was the exact criterion which was followed in selecting the awardees and the notification/instruction in which these criteria were contained. The request was rejected but on appeal CIC granted the same holding that cloud of secrecy in selection process is more injurious to public interest than the transparency in its operation.

In the case before me the above mentioned point cannot be construed as opinion particularly in view of the above rulings. In fact it is a straight forward question requiring a straight forward answer. There is no harm in furnishing the information in respect of this point.

7. Coming to the aspect of delay. The application is dated 26.11.2010 and reply is dated 22.12.2010. The same is in time. Therefore the question of delay does not arise.

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

ORDER

The Appeal is allowed. The Respondent No. 1/P.I.O. is hereby directed to furnish the information to the Appellant in respect of nature of proceedings as mentioned in point No. 4 of the application dated 26.11.2010

(or as mentioned in para 6 hereinabove) within 20 days from the receipt of this Order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 29th day of June, 2012.

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