

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.220/SCIC/2011

Shri Uday M. Rege,
President,
Goa I.D.C. Staff Welfare Association,
C/o.Joshi Wine Stores,
Panaji - Goa

... Appellant.

V/s.

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

Appellant present.

Adv. Shri R.V.S. Varde for appellant present.

Respondent No.1 in person

Shri M. Shirodkar as representative of respondent No.2 present

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

1. The Appellant, Shri Uday M. Rege, has filed the present appeal praying that the appeal be allowed setting aside the order passed by the First Appellate Authority; that respondent No.1/P.I.O. be directed to provide the information free of costs and that costs be provided to the appellant.

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

That the appellant, vide an application dated 16/05/2011, 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 respondent No.2 vide reply dated 13/6/2011 informed the appellant to pay Rs.3,100/-

towards xerox copies. That the appellant vide letter dated 13/6/2011 paid Rs.3,100/- vide receipt dated 15/6/2011. That in reply to the said letter the respondent No.1 vide letter dated 20/6/2011 informed that lot of xerox copies are being taken and informed further that the same will be furnished to the appellant as soon as Xeroxing is over, however no specific date is mentioned in the said letter. That the appellant, vide letter dated 21/6/2011, brought to the notice of the respondent No.1 that it is mandatory on his part to give the requisitioned information within 30 days as per sec.7 of the R.T.I. Act. From the reply dated 20/6/2011 it is seen that the respondent No.1 has failed to give information as requested and hence the appellant preferred first appeal before the F.A.A. on 27/6/2011. That the F.A.A. by order dated 10/8/2011 disposed off the appeal. Being aggrieved by the said order the appellant has preferred the present appeal on various grounds as set out in the memo of appeal.

3. The case of the respondent No.1 is fully set out in the reply which is on record. In short it is the case of the respondent No.1 that the application of the appellant was received by the P.I.O. on 18/5/2011. That the then P.I.O. vide note No. Goa IDC/RTI A/F-23/10-11 dated 18/5/2011 forwarded the application to G.M.(A) & CAO for submitting the requested information. That the Management Assistant vide note dated 03/06/2011 informed, that the information asked by the applicant at point No.5, 6 and 7 contains huge number of xerox papers. That the appellant was informed to make payment of Rs.3100/- by letter dated 13/6/2011. That the appellant paid an amount of Rs.3100/- by receipt dated 15/6/2011. That the then P.I.O. vide letter dated 20/6/2011 informed the appellant that the documents are being Xeroxed and the same will be furnished to the appellant as soon as possible. That the then P.I.O. vide letter dated 28/6/2011 had asked the appellant to collect the information on payment of balance amount of Rs.1,104.00. That the then P.I.O. vide his letter dated 29/6/2011 requested the appellant to pay additional Rs.104/-. That the appellant vide letter dated 29/6/2011 received

by Goa I.D.C. on 30/6/2011 informed the then P.I.O. that they are going to appeal and they did not agree to pay. That the appellant preferred the First Appeal before the F.A.A. for providing information free of cost. That by order dated 10/8/2011 rejected the appeal.

4. Heard the appellant. Learned Adv. Shri R.V.S. Varde argued on behalf of the appellant and the respondent No.1 argued in person. Shri M. Shirodkar argued on behalf of respondent No.2.

Adv. for the appellant referred to the facts of the case in detail. According to him application is dated 16/5/2011 and reply is dated 13/6/2011. Letter dated 21/6/2011 is beyond 30 days. He also referred to ground 2 of the appeal. Adv. for appellant next submitted that nothing is on record to show that the information was ready. He also referred to filing of appeal, letter dated 28/6/2011 as well as Sec.7(1) of the R.T.I. Act. Referring to ground No.6 of the appeal Advocate for the appellant submitted that the said letter is at belated stage and beyond time. According to him the information be given free of cost.

During the course of his arguments the respondent No.1 submitted that information is bulky about 2100 pages and that time was required. According to him they are within time. Respondent No.1 also referred to First Appeal and order of the F.A.A. According to respondent No.1 F.A.A. ordered to pay the amount.

Shri M. Shirodkar representative of respondent No.2/F.A.A. submitted that notice was issued on 30/6/2011. According to him intention was clear and that information was collected and given. According to him the question of giving the information free of cost does not arise.

5. I have carefully gone through the records of the case and also considered 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 16/05/2011 the appellant sought certain information. This information was received in the office on 17/5/2011. The information was in respect of sponsorship/advertisement/donation for the financial year 2009-10, 2010-11 from the respondent No.1. It appears that the respondent No.1 vide note dated 18/5/2011 sought information from various sections. By letter dated 13/6/2011 the P.I.O./respondent No.1 informed the appellant that the information sought by him is under compilation and requested to pay an amount of Rs.3,100/- towards the xerox copies to enable them to furnish the documents within the stipulated time. By letter dated 13/6/2011, received by respondent No.1 on 15/6/2011, the appellant enclosed a cheque dated 13/6/2011 for Rs.3,100/- and also requested to give the break up of the payment of all six applications. By letter dated 20/6/2011 the P.I.O. informed the applicant that they have received the amount paid by him vide cheque No.043208 dated 13/6/2011 towards six of his applications and further informed that they have already furnished the information of F-23 pertaining to sponsorship/advertisement/donations. It was also informed that lot of xerox copies are to be taken and as soon as Xeroxing is over the same would be furnished. By letter dated 21/6/2011 the appellant mentioned about delay and preferring appeal. By letter dated 28/6/2011 the P.I.O./respondent No.1 called the appellant to collect the information for paying the balance amount of Rs.1,104.00. By letter dated 29/6/2011 the break up was given. On 27/6/2011 the appellant preferred the appeal before the F.A.A By order dated 10/8/2011 it was observed as under:-

“The appellant can collect the information as kept ready by the P.I.O. as informed to the appellant vide letter dated 29/6/2011 upon payment of necessary charges. The

respondent is directed to furnish the information upon receipt of the payment.

The appeal is disposed off with above direction.”

It is the contention of the Adv. for the appellant that the information ought to have been given free of cost.

6. **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-sections(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. However, in the instant case the amount is already paid and the information was not provided within the time limit. However some amount is yet to be paid.

7. I have perused the correspondence taken place between the parties. It appears that information in respect of applications has been furnished and the application i.e. information pertaining to sponsorship/advertisement/donations is not furnished. It was also informed that lot of xerox copies are to be/being taken and as soon as the Xeroxing is over the same will be furnished to the appellant.

It appears that information is voluminous. In any case some amount is paid. Technically speaking the appellant is right but since the amount is already paid it is not possible for this Commission to direct to refund the said amount. No doubt there is reasonable cause for delay, however, the appellant ought to have been informed within 30 days about the same. The P.I.O. informed to the appellant only on 20/6/2011. There is a letter from P.I.O. dated 13/6/2011, however the same does not mention that it would take time. Since no such intimation was given to the appellant within the time limit of 30 days the information sought comes under Sec.7(6) of the R.T.I. Act and shall be provided free of charge. It is to be noted here that since Rs.3100/- have been paid only the additional amount/balance amount of Rs.1208/- need not

be charged. The information be given free of charge only in the context of Rs.1208/-.

8. 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.

9. Coming to the aspect of delay. It is seen that initially the reply was in time. In any case as observed above there is reasonable cause for delay. In any case it is not the case of malafide intention.

Besides P.I.O. at the relevant time has expired.

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

ORDER

The appeal is allowed. The respondent No.1 is hereby directed to provide/furnish the information to the appellant as sought by him, vide his application dated 16/05/2011 and/or comply the order of F.A.A dated 10/8/2011 without charging the balance amount of Rs.1208/- only, within 20 days from the date of receipt of this order.

Needless to add that only balance amount of Rs.1208/- only is not to be paid.

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