

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.264/SCIC/2011

Kum. Surekha G. Haldankar,
H. No.760/26, Sumagaha Sadan,
Wadakade, Alto Porvorim,
Bardez, Goa ... Appellant.

V/s.

1. The Public Information Officer,
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem - Goa
2. The First Appellate Authority,
The General Manager,
G.A.P.L., Tuem,
Pernem, Goa ... Respondents

Appellant absent
Respondent absent.

J U D G M E N T
(04/07/2012)

1. The Appellant, Kum. Surekha G. Haldankar,, has filed the present appeal praying to conduct the inquiry into the complaints of the appellant and tampering of the records by F.A.A. and P.I.O. and allegedly framing and lodging false complaint by P.I.O. without producing any evidence and that penalties be imposed as provided under Section 20 of the R.T.I. Act including fines and action against the P.I.O. for not providing information and furnishing incorrect information and suppressing the information.

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

That the appellant, vide an application dated 24/8/2011, 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 P.I.O. furnished vague,

false, irrelevant and suppressed information and there was no truth in it. That being not satisfied the appellant filed appeal before First Appellate Authority (F.A.A.)/Respondent No.2. That the F.A.A. without scrutinizing the records passed the Judgement within an hour on 20/10/2011 and the letter enclosing Judgement was received on 8/11/2011 and furnished the same information given by P.I.O. without any change. Being aggrieved the appellant has filed the present appeal to direct F.A.A./P.I.O. to furnish correct information on the paras as set out in the memo of appeal.

3. The respondent No.1 resists the appeal and the reply of the respondent No.1 is on record. In short it is the case of respondent No.1 that the intimation about the hearing fixed by F.A.A. on 20/10/2011 was sent to the appellant by registered A/D post vide letter dated 14/10/2011 and received by the appellant on 18/10/2011. That the appellant at no point of time shown any interest in attending the hearing before F.A.A. conducted on 20/10/2011. That the second appeal has been filed before the Commission after the lapse of 30 days time. That the appellant has conveniently has modified her queries in 2nd appeal against the information sought by her in original application dated 24/8/2011 with malafide intention to mislead the Hon'ble Commission, it is further the case of the respondent No.1 that the appellant is the ex-employee of G.A.P.L. and has been terminated from the service for her unruly behaviour after free and fair inquiry by appointing external Enquiry Officer. That the appellant has approached to the State Industry Tribunal for redressal of her grievances and the matter is sub-judice before the Hon'ble Tribunal. That in the past also the appellant approached the Commission vide Second appeal, Complaint and another Second appeal and the same were disposed off. That time and again the appellant asked for vague and irrelevant information with respect to Company's operation. That the appellant is having misconception/misunderstanding about company's administrative procedures / functions and responsibilities of authorities at various levels. Hence appellant indulged in making confusing and baseless allegations on each and

every officers and authorities of the Company even after working several years with the Company. On merits, it is the case of the respondent No.1 that the appellant vide her application dated 24/8/2011 has sought information from P.I.O. and by reply dated 22/9/2011 the available information was provided. That appellant preferred appeal before F.A.A. but did not remain present. That the F.A.A. passed the order on 20/10/2011. That the P.I.O. by letter dated 9/11/2011 requested the appellant to collect the information from P.I.Os office, however the appellant neither collected the information in person nor requested to provide the same by postal service. That the information sought by the appellant has not been refused to the appellant and sincere efforts were made to provide the information wherever possible.

4. Clarification of the appellant to the reply of the P.I.O./Respondent No.1 is on record. Detail explanation is given.

5. Heard the appellant as well as respondent No.1/P.I.O. Both sides explained in detail about their respective case.

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

It is seen that the appellant vide application dated 24/8/2011 sought certain information consisting of 24 points i.e.Sr. No.1 to 24. By reply dated 22/9/2011 the respondent No.1/P.I.O. furnished the information. Being not satisfied the complainant preferred an appeal before the F.A.A./respondent No.2. By order dated 20/10/2011 the appeal was disposed off. Being aggrieved by the said order the appellant landed before this Commission.

7. It would not be out of place to mention here about the definition of information. Under Sec.2(f) "information" means any material in any form including records, documents, memos, e-

mails, opinions, advices, press releases, circulars, orders, log books, 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.

Section 2(i) “record” includes –

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document
- (c) any reproduction of image or images embodied in such a microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

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

- (a) inspect works, documents, records of any Public Authority;
- (b) take notes, extracts or certified copies of documents or records
- (c) take certified samples of material and
- (d) obtain information of printouts, diskette, folders, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

A combine reading of Sec. 2(f), 2(i) and 2(j) clearly indicates that a citizen is entitled for disclosure of information which is in a material form with a Public Authority and ‘information and right to seek do not include opinions, explanations etc.

8. Coming to the case at hand information at point/Sr.No.(1), (4), (5), (7), (10), (12), (13), (15) and (18) is provided. Regarding information at point 8 and 14 it is informed "information sought is confusing and not clear." In respect of point No.2, 3, 6, 9, 16, 17, 19 to 24 it is stated "As per records such information is not available.

The F.A.A. directed to inform in respect of point at Sr. No.8. In respect of point at Sr. No.14 the F.A.A. observed that appellant should ask for the specific information and not vague questions/information. Regarding point at Sr. No.18 the F.A.A. directed the P.I.O. to furnish the same again.

9. The grievance of the appellant before the Commission is that in respect of para 2,3, 6, 14, 19 to 22 merely stating that as per records such information is not available would not suffice and that it was mandatory to maintain the relevant records as per law.

No doubt, records are to be well maintained, so as to facilitate Right to Information. However, it is equally true that what is not available can not be furnished under R.T.I. R.T.I. Act is only for access to permissible information.

According to appellant in respect of para 5 (i.e. point at Sr. No.5 of the application) which is as under :-

"5. Furnish the names of Directors who proposed my name for suspension and seconded my name for suspension.

Reply : As per records the Board opined that services of Ms. S. G. Haldankar be placed under suspension, pending inquiry and findings thereof."

According to appellant by referring the matter directly to the Board without obtaining clarification/explanation from the appellant for the veracity of the fact, a gross injustice has been done to the appellant. This of course is a grievance of the

appellant. It is to be noted that R.T.I. is not a grievance redressal forum. Again additional documents cannot be furnished at the appellate stage.

Regarding para 7 copy is furnished. However regarding fraud complaint, false show cause, about tampering of the same are to be agitated before a competent forum. Under R.T.I. information as 'held' by Public Authority is to be furnished.

Regarding para 8 the original letter was not sought. However F.A.A. directed P.I.O. to inform regarding point No.8.

Regarding point at Sr. No.14 which is as under :-

"14. Furnish the names of the authority who has sanctioned Mr. Govind Tilve's leave and how many days and from what period.

Reply : Information sought is confusing and not clear."

This could be furnished and in case any clarification is required, appellant to furnish the same.

As mentioned above information as available is to be furnished.

The respondent No.1 has mentioned about earlier appeals/complaint. This Commission is aware of the same. Even records were brought to the Commission to check about the veracity of the same.

10. Respondent No.1 contends that in pursuance of the order of First Appellate Authority appellant was called to collect the information but appellant did not turn up.

In any case the respondent No.1 should comply the order of F.A.A. in respect of point at Sr.8 and 14. Regarding point at Sr. No.14 if any clarification is required the same be obtained from the

appellant and thereafter the information in respect of point at Sr. No.8 and 14 be furnished.

11. Coming to the prayer (a). This prayer is beyond the jurisdiction of this Commission. The powers of the State Chief Information Commissioner is the creation of the statute and his power is restricted to the provisions of the Act. He has the power to direct for supplying of information subject to the provisions of Sec.8. This power would not exceed for adjudication of the rights of the parties based on such information.

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

ORDER

The appeal is partly allowed. The respondent No.1 is hereby directed to furnish information to the appellant in respect of point No.8 and 14 of her application dated 24/8/2011 and/or comply the order of the F.A.A. dated 20/10/2012 in respect of point No.8 and 14 within 20 days from the receipt of this order.

In case the respondent No.1 needs any clarification he can seek from the appellant within 5 days from the receipt of this order. The appellant to furnish any clarification sought. The whole process to be completed within 20 days. The information be furnished free of cost.

The appeal is, accordingly, disposed off.

Pronounced in the Commission on this 4th day of July, 2012.

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