

GOA STATE INFORMATION COMMISISON

“Shrama Shakti Bhavan”, Ground Floor, Patto Plaza, Panaji – Goa.

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

Appeal 19/SCIC/2013

Decided on: 06/01/2014

Mr. Sandeep Heble
BF-1, Astral Gardens, Santismo Wado,
Taleigao – Goa.

V/s

- 1) Public Information Officer,
Sports Authority of Goa,
Myles High Building, Near KTC
Bus-stand, Panaji – Goa
- 2) Goa Table Tennis Association,
Through its President,
Mr. Vero Nunes,
C/o. Bambolim Beach Resort,
Bambolim-Goa
- 3) First Appellate Authority,
Sports Authority of Goa,
Myles High Building, Near KTC
Bus-stand, Panaji – Goa

Respondent No. 2 – Through Adv. Talaulikar

ORDER (Open Court)

This Second Appeal is filed on 06/02/2013. It arises out of the RTI application filed before the Public Information Officer of Sports Authority of Goa (SAG) filed in respect of Goa Table Tennis Association, following applications were filed.

- 1) Application 1 dated 19/06/2012, No. of Questions 6
- 2) Application 2 dated 19/06/2012, No. of Questions 9
- 3) Application 3 dated 19/06/2012, No. of Questions 2
- 4) Application 4 dated 19/06/2012, No. of Questions 8
- 5) Application 5 dated 19/06/2012, No. of Questions 16

...2/-

- 6) Application 6 dated 19/06/2012, No. of Questions 4
- 7) Application 7 dated 28/06/2012, No. of Questions 5
- 8) Application 8 dated 27/06/2012, No. of Questions 20

With these questions the applicant has virtually asked about the entire record of the Goa Table Tennis Association for last few years.

Before I proceed with the order it is pertinent to note that the Government of Goa has issued Guidelines initially vide No. SAG/Co/Gen-Corres/2010/552 dated 14/05/2010 whose subject reads as below,

“Guidelines pertaining to RTI Act 2005 to be adhered by the Sports Associations/Clubs, recognized/registered with SAG.”

This is addressed to the President/Secretary to all the State Sports Association. **This has also been notified in the Gazette of Government of Goa on 08/07/2010.** More particularly, I find para 2 of this Guidelines as more relevant to the present case and is quoted below,

*“By virtue of applicability of the RTI provisions, your Association/Sports Club shall promptly furnish the requisite information sought by the citizen(s) of India, within the meaning of RTI Act, 2005 and Section 3 thereof and provide such details to this office, or directly to the applicant, as the case may be, as laid down under Section 2(h) of this Act, as reproduced in the Annexure attached herewith for your ready reference. You are also advised to immediately procure a copy of the **“Right to Information Act, 2005”**, from the Govt. of Goa, Department of Information and Publicity, Panaji for your record and reference.”*

It is also pertinent to use the citation of Sanjay Bharve v/s Goa Chess Association by which the Goa State Chief Information Commissioner has, by order dated 22/11/2011 held that *“Guidelines dated 08/07/2010 stand, unless declared otherwise”*.

Coming back to the case, as the original RTI applicant (present appellant) did not receive any replies, he filed Six (6) RTI First Appeals on 17/08/2012 and two (2) on 22/08/2012.

...3/-

Ignoring these details of his RTI applications and First Appeals we can come straight to the fact that on 22/08/2012 he submitted yet another prayer to the First Appellate Authority referring to all the Eight (8) appeals and restating/redrafting some specific questions claiming to be his priority questions. He describes it as having scaled down the information, sought by him through all the Eight (8) RTI applications. Thus, he would be satisfied by getting replies to his new questions at Sr. No. 1-9,10A-F and 11-17. In these First Appeals as well as in the separate prayer he has implored the Goa Table Tennis Association through its president as second respondent.

From the order of the First Appellate Authority dated 07/11/2012 it is seen that he has given opportunity to both the respondents before him. The Respondent No. 2 raised point of jurisdiction challenging the guidelines gazetted on 08/07/2010 by the department of Sports which proclaims that all the Sports Associations/Sports Club registered in Sports Authority of Goa are covered under RTI Act. The Respondent No. 2 claimed before First Appellate Authority that the said Guidelines were ultravires to the RTI Act.

The First Appellate Authority therefore framed 2 questions for his considerations and answered as below,

- I) Does the Government Guidelines dated 08/07/2010 stand – Yes, In view of the order of the SCIC quoted supra. It is therefore held that Goa Table Tennis Association is a Public Authority under RTI Act.
- II) In the absence of Public Information Officer and First Appellate Authority appointed by the respondent Association, whether information can be denied to the appellant – No, in view of the same Judgment of the State Information Commissioner, non appointment of Public Information Officer does not per se defeat the provisions of the Act and the Respondent Association must take recourse to the guideline dated 08/07/2010 and furnish the information to the PIO of Sports Authority of Goa who is Respondent No.1.

Thus discussing, the First Appellate Authority has passed order on 07/11/2012 directing that the Respondent No. 2 should furnish information to the Applicant as sought by him in letter dated 20/08/2012 within a period of 10 days from the date of his order.

...4/-

The Goa Table Tennis Association having failed to comply with the direction of the First Appellate Authority in Sports Authority of Goa this Second Appeal has been filed.

Notices were issued to respondent No. 1 namely PIO of Sports Authority of Goa, Respondent No. 2 namely Goa Table Tennis Association through its president and Respondent No. 3 namely First Appellate Authority. None have filed any reply. The Respondent No. 2 he failed to remain present on all the dates fixed for hearing though on some dates their Adv. Talaulikar has remained present. In view of this it has to be concluded that the Respondent No. 2 has failed to fulfill their obligations under the RTI Act even to attend to the hearing where they are impleaded as parties. I therefore proceed to pass the final order.

To begin with, Respondent No. 2 has failed to comply with the directives of Government gazette notification dated 08/07/2010 and also failed to comply with the order of the First Appellate Authority hence they are liable for action under Section 20(1).

The First Appellate Authority has not administratively proceeded to examine as to why the Respondent No. 2 has failed to appoint a PIO and FAA within their own organization as required by the notification dated 08/07/2010 and has also failed to take necessary administrative action against them..

The First Appellate Authority has not proceeded as per requirements of good administration, to examine whether any grants or concessional land or any other Government recognition or help is being given to Respondent No. 2 at present and whether the same needs to be withdrawn in view of the refusal of Respondent No. 2 so far to comply with the said notification defining their obligation under the RTI Act.

Hence I pass following Order:-

- (1) The Appeal is allowed.
- (2) The Respondent No. 2 shall give the information as requested by the appellant in his letter dated 22/08/2012, within 15 days from receiving this order.

...5/-

- (3) Respondent No. 2 to take steps to appoint Public Information Officer and First Appellate Authority within 30 days from the receipt of this order.
- (4) On appointment of PIO for the Table Tennis Association, the PIO to deal with all RTI applications having regard to the time frame as prescribed by the RTI Act.
- (5) Registry to issue notice under Section 20(1) of the RTI Act to Respondent No. 2 asking why Penalty action should not be taken against the president in person and against the Goa Table Tennis Association.
- (6) Also issue notice under Section 20(2) to the Director of Sports Authority of Goa asking him to explain what administrative actions he has taken for ensuring that the various Sports Associations comply with the gazette notification dated 08/07/2010.

Appeal is allowed as above. Operative part is pronounced in Open Court. Parties to be informed of this detailed order.

(Leena Mehendale)
Goa State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa