

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 41/SCIC/2009

Shri Reginaldo D'Souza,
216, Bela Vista Vaddo,
Sangolda, Bardez, Goa

... Appellant.

V/s.

1) The First Appellate Authority
Superintending Engineer II (N),
Electricity Department, 3rd floor,
Vidhyut Bhavan,
Panaji-Goa

... Respondent No. 1

2) The Public Information Officer,
Executive Engineer, Div VI,
Electricity Department,
Mapusa-Goa

... Respondent No. 2

Appellant present in person.

Adv. Ms. Harsha Naik for Respondents present.

J U D G M E N T

(26/11/2009)

The Appellant has preferred this appeal praying that the Respondent be ordered to issue information and for adequate compensation.

2. The brief facts of the case are that the Appellant by his letter dated 12-11-2009 sought some information under Right to Information Act 2005 (RTI Act for short). That the information was purposely withheld by the concerned Authorities and not furnished to the Appellant and hence he preferred appeal before the first Appellate Authority (F. A. A. for short)

...2/-

Being aggrieved by the decision of F. A. A. the appellant has preferred this appeal on the grounds as set out in the application/memo of Appeal.

3. The case of the Respondent is fully set out in their reply which is on record. In short it is the case of the Respondent that the application is infructuous as the same does not come within the purview of RTI Act; that this Commission has no jurisdiction to entertain the present application and the appeal suffers from non-joinder of necessary party. On merits it is their case that the Respondents were not bound to furnish the information as the application was vague, misleading, infructuous and vexatious.

4. Heard the arguments. The Appellant took me to various documents on record to drive home the fact that information was not furnished to him. According to Advocate for Respondent the appeal does not lie and be dismissed.

5. I have carefully gone through the records of the case, considered the arguments advanced and also perused the order of F. A. A. The point that arises for my consideration is whether the Appellant is entitled for the relief prayed?

At the outset I must say that the object of the Act is to ensure greater and more effective access to information under the control of Public Authorities. Information is like oxygen for a democratic society. Section 3 of the Act ensures that subject to the provisions of the Act all Citizens have the right to information. As per the scheme of the RTI Act the same ensures maximum disclosures and minimum exemptions consistent with constitutional provisions prescribing at the same time confidentiality of sensitive information.

6. It would not be out of place to mention about the definition of information. Under section 2(f) "Information" means any material in any form, including records, documents, e-mails, opinions, advices, press releases, circulars, orders, logbooks, 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. In an old case (AIR 1957 Punj 226) the Punjab High Court explained information as synonymous with knowledge or awareness in contradistinction to apprehension, suspicion or misgiving.

7. Coming to the case at hand the Appellant herein asked four questions. According to him one question was answered and he has no grievance about the same. The said questions are as under:-

Point No. 1:- As per Gazette notification 120/2/CEE/Tech dated 11-4-2002 clause 3(ii) the installation has to be disconnected when power factor is below 0.7 lagging and a penal charge of 2.5 % on the monthly bill corresponding to energy charges is imposed. Why then was no penalty imposed?

Point No. 2:- At the first instance why it was not disconnected for causing damage to domestic appliances?

Point No. 3:- Why penalty was not imposed on the consumer?

The above questions particularly point No. 1 supplies the information in terms of the Gazette. So the question of providing information as such does not arise. The rest are in the nature of "why" that means asking reasons. It has been held that no queries like Why, What, How etc. can be answered by a public authority and in the guise of information seeking explanations and queries about nature and quality of actions of public authority need not be raised for answer.

The eloquent reply to the contention of the Appellant is found in the Dr. Celsa Pinto, Ex-Officio Joint Secretary V/s Goa State Information Commission & anr. 2008 (2) RTI 434 (High court of Bombay at Goa). In para 8 it is observed as under:-

"8.....
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The definition cannot include within its fold answers why, which, would be the same thing as asking the reason for a justification of particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are a matter within the domain of adjudicating authorities and cannot properly be classified as information."

In view of this position this Commission's jurisdiction can go no further than only directing that information in the form held be provided. In the case before me answer to one query has been provided as mentioned herein above.

In view of all the above the appeal fails and is hereby dismissed.

Pronounced at Panaji on 26th November, 2009.

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

