

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 157/SCIC/2009

Dr. D. J. Desouza,
C/o Luz Lab, Libania Bldg.,
New Market, Margao – Goa.

..... Appellant.

V/s.

Public Information Officer,
Mr. Peter Fernandes,
Executive Engineer – IV,
Electricity Department,
Margao – Goa.

..... Respondent.

Appellant absent.

Respondent in person.

J U D G E M E N T **(29-03-2010)**

1. The Appellant, Dr. D. J. de Souza, has preferred this Appeal praying as: - (1) Apply the necessary provisions of RTI Act against the said Asst. Public Information Officer for his deliberate and willful act of denying the said information sought under the Act of 2005 and (2) the necessary punitive and administrative action to be taken against the concerned Asst. P.I.O. for deliberately denying the said information sought.

2. The facts leading to the present Appeal can be enumerated as follows: -

That the Appellant preferred an application dated 26/9/2009 seeking certain information under Right to Information Act, 2005 ('RTI' Act for short) before the Public Information Officer (P.I.O.), Electricity Department, Margao – Goa. That the said application was received by

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P.I.O. on 5/10/2009. That the P.I.O. has refused to give him the information on flimsy grounds that the payment of Rs.10/- by I.P.O. is not the correct form of payment for RTI application. It is the case of the Appellant that the said P.I.O. exposed his limited knowledge about the rules of RTI Act, 2005 by his stand on the mode of payment and in the process denied the said information and therefore, liable for punitive action under the guidelines of the Act, 2005. The Appellant has also produced Xerox copies received by him from Central Information Commission which shows that I.P.O is the right and approved mode of payment of fees under RTI Act, 2005.

Being aggrieved the Appellant has preferred the present Appeal.

3. The Respondent resist the Appeal and their say is on record. It is the case of the Respondent that Application was received on 5/10/2009 from the Appellant accompanied by Indian Postal Order of Rs.10/- towards the Application fee. That the applicant was informed vide their letter No. EE-IV/O&M/Tech-129(75)/4591 dated 6/10/2009 that as per the provisions of R.T.I. Act as applicable to the State of Goa, the request for obtaining information under section 6(1) is to be accompanied by an application fee of Rs.10/- by way of cash against proper receipt or by affixing a Court Fee Stamp of Rs.10/- or by demand draft or by banker's cheque payable to the P.I.O. as per notification No.DI/INF/RTI/BILL/05/6474 dated 15/2/2006 and No.DI/INF/RTI/BILL/05/1129 dated 27/7/2007 issued by the Government of Goa and was requested to pay the application fee as prescribed to enable to process the application under the Right to Information Act, 2005. It is also the case of the Respondent that the applicant has failed to pay the application fee inspite of their

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request; that Appellant filed the Appeal directly with the Commission without filing 1st Appeal. That there is no willful denial of information.

4. The Appellant remained absent throughout. However, he sent written submissions. Respondent remained present except on 17/3/2010. The Respondent argued on similar vein as mentioned in his reply.

5. I have carefully gone through the written arguments and also gone through the records of the case.

It is seen that the Appellant preferred an application dated 26/9/2009 under R.T.I. Act. The same was accompanied by I.P.O. of Rs.10/-. It is seen that by letter dated 6/10/2009 the P.I.O. informed that as per notification the request is to be accompanied by an application Fee of Rs.10/- by way of cash against proper receipt or by affixing court Fee Stamp of Rs.10/- or by demand draft or by banker's cheque payable to the Public Information Officer.

In short the grievance of the Appellant is that I.P.O. that was sent by him was not considered.

6. It is to be noted here that for obtaining information under RTI Act the Applicant/Information seeker is called upon to pay certain charges, or fees, depending upon the type or volume of information sought. Whenever an applicant seeks information under the Act, he is required to pay a prescribed application fee failing which information would not be supplied. Under section 6(1) of the Act, the application for information is to be accompanied with the prescribed fee.

I have perused some of the rulings of C.I.C. on the point application without Fee is not treated as RTI Application, nor it is maintainable under R.T.I. Act.

Now regarding mode of payment. We are governed by Goa Right to Information (Regulation of Fee and Cost) Rules, 2006 [Notification No. DI/INF/RTI/BILL/05/6474 dated 15/2/2006 and Notification No. DI/INF/RTI/BILL/05/1129 dated 27/7/2007]. As per the same fee is payable by way of cash against a proper receipt, or by demand draft, or by Banker's cheque payable to the concerned P.I.O. or by affixing a Court Fee Stamp of Rs.10/-. Payment by Indian Postal Order is not permissible in view of rules as framed by the State of Goa.

It is to be noted here that when statute and/or rules lay down a particular mode the same is to be followed in the said fashion. Although cash is a valid mode of payment, the same has to be deposited in person or through representative and receipt should be obtained. I have perused some of the rulings of Central Information Commission on this point. In one case currency note of Rs.10/- was sent alongwith the application. However, the same was not considered holding that currency note cannot be sent in envelope alongwith the application.

7. Appellant/Complainant in his written arguments submissions refers to Xerox copies of Central Information Commission on the mode of payment of fees etc.

I have perused the letter dated 3/2/2009 from Tarun Kumar to the Appellant/Complainant and also the notification on the Gazette. Notification is dated 17/5/2006.

The letter mentions Fee Cost Rules of Government of India. As per notification Payment by 'Indian Postal Order' was inserted. This is done by Central Government. Payment by I.P.O. is accepted by Central Information Commission.

Since State of Goa has its own rules the same are to be followed.

In view of the above, P.I.O. cannot be blamed for not accepting I.P.O.

8. It is pertinent to note that R.T.I. Act is a people friendly and people user Act. R.T.I. Act has been enacted to provide for a legal right to information for citizens to secure access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every Public Authority. No democratic Government can survive without accountability and the basic postulate of accountability is that people should have information about the functioning of Government citizens should know the facts, the true facts. Therefore, even if fee is not paid alongwith the application or paid in a manner not prescribed in the Fee Rules, the P.I.O. should start processing the application immediately on receipt. The information may actually be provided on payment of Fee.

9. In the factual backdrop of this case no action can be taken against the P.I.O. as prayed by the Appellant. In any case the following Order would meet the ends of justice.

ORDER

P.I.O./Respondent to process the application and furnish the information sought within 15 days from the receipt of the Order. The

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Appellant be advised to remit the fee and the information be provided on payment of fee.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 29th day of March, 2010.

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

