

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 121/2007-08/KTC

Shri. Mahesh P. Kamat,
Shivnery Co-op. Housing Society,
Comba, Margao - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Shri. Shrikant V. Naik,
The General Manager,
Kadamba Transport Corporation,
Alto Porvorim, Bardez – Goa.
2. Assistant Public Information Officer,
Shri. George Fernandes,
The Manager EDP,
Kadamba Transport Corporation,
Alto Porvorim, Bardez – Goa.
3. First Appellate Authority,
Shri. Sanjay Goel,
The Managing Director,
Kadamba Transport Corporation,
Alto Porvorim, Bardez – Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 17/04/2008.

Appellant present in person.

Adv. Kakodkar represented Respondents.

ORDER

This disposes off the second appeal of the Appellant requesting information from the Respondent No. 1 which was not given to him. The Appellant has requested to impose penalty on the Respondents for providing incomplete, incorrect information and also to refund excess amount of Rs.8/-.

2. Notices were issued and the Appellant argued for himself whereas the learned Adv. Kakodkar represented all the three Respondents. Written statements were filed and the matter was argued.

3. By his application dated 1/11/2007, the Appellant requested for information on 10 points. The Asst. Public Information Officer informed on the last day of the statutory period allowed for reply by the Public Information Officer i.e. on 30/11/2007 asking the Appellant to make payment and collect part of the information. He also informed the

...2/-

Appellant "balance information desired shall be provided on receipt of the same". On a first appeal before Respondent No. 3, an order came to be passed by the first Appellate Authority that the "available and relevant information" is already supplied to the Appellant. At the same time, he also rejected the request for "some of the information sought by him (Appellant) through his present representation dated 1/11/2007, is personal in nature serving no public purpose".

4. During the course of the hearing and in the written statements before us, the Respondents maintained that so far, the procedure followed by the Public Information Officer is to submit the request for information to the Managing Director who in turn sends it to the Asst. Public Information Officer. The Asst. Public Information Officer collects the information from the officers concerned and replies to the citizen whatever is received by him. If some information is not received, he faithfully informs the citizen (as in the present case) that the balance information will be supplied as and when he received it. Clearly this is not the aim of the Right to Information Act, 2005 (RTI Act for short). It specifically enjoins on the Public Information Officer, and only the Public Information Officer, to reply to the citizen either giving the information or to reject it with reasons. He has to also inform the period of limitation and the first Appellate Authority's name and designation in case the request or a part of the request for information is rejected. Though this procedure is laid down in the Act itself we have taken the trouble of mentioning it in the hope that the Respondent No. 1 will discharge his statutory duties henceforth.

5. As to the request proper, the learned Advocate for the Respondents has taken exception to information sought under points C, D and H of the request for information. He has fairly conceded that the rest of the information has to be furnished to the Appellant which will be done by the Public Information Officer. We direct that all the information requested and not supplied so far except the three items mentioned above should be issued to the Appellant within 5 days from the date of this order.

6. We now come to the three specific items of the request C, D and H. Item C of the request refers to the reasons of the management to transfer the Appellant as Dy. Finance Controller. Suffice it so say that the Hon'ble High Court of Bombay, Panaji Bench in its order dated 3rd April, 2008 in Writ Petition No. 419/2007, in the case of Celsa Pinto Vs. Goa State Information Commission and another, held that the reasons for taking a particular course of action by a public authority is not covered under the definition "information" of the RTI Act. Hence, the Respondent No. 1 need not furnish the reply to the item C. The question D contains two parts namely, orders, circulars not being departmental notings appointing Shri. V. V. S. Kunkolienkar as MD, KTCL, and the periods of officiating of Shri. V. V. S. Kunkolienkar as M. D., KTCL. Copies of these orders were requested by the Appellant. The second part is about the vesting of disciplinary powers to Shri. V. V. S. Kunkolienkar. The learned Advocate has difficulty in

parting with the second part of this information stating that it is not covered under the definition of section 2(f). We agree with him and he need not furnish this information. However, the first part has to be complied with. The next item H is about filling of the post of Dy. Finance Controller (costing and budget). The Appellant asked for confirmation. Frankly, we have also not been able to understand what is meant by "confirmation". The resolution mentioned therein was already furnished to the Appellant and if the resolution mentions about the filling up all the posts specified by the Appellant, the Public Information Officer need not confirm anything further. Accordingly, this request also need not be complied with by the Public Information Officer.

7. Before parting with this case, the Appellant drew our attention to a note dated 28/11/2007 from Shri. A. S. Shirvoikar, Officer on Special Duty sent to the Public Information Officer which assails the character of the Appellant. While it is for the Appellant to take appropriate action in an appropriate forum, we would like to refer to certain observations about the Appellant which directly affect the implementation of the RTI Act by the public authority, KTCL. It is mentioned therein and we quote: "..... the present applicant is seeking information very frequently under RTI..... The information sought by him in the past are personal and vindictive in nature serving no public purpose....."

It should be noted that RTI is bonafide Act and such usage of the same is malafide, vindictive and unjustifiable"

This reveals a bias against the Appellant besides wrong interpretation of the RTI Act. Neither the frequent use of the Act is malafide nor any public purpose has to be assessed before supplying the information except under certain circumstances mentioned at section 8 of the Act. The Public Information Officer is hereby warned that any denial of information to the Appellant in future on the above illegal grounds will be seriously viewed by this Commission.

8. We are not inclined to take up penalty proceedings against Respondent No. 1. However, if he continues to ignore the provisions of the Act as mentioned above, in future the Commission will be compelled to take adverse notice of the denial of information by the Public Information Officer. With the above discussion, the appeal is partly allowed. The information requested by the Appellant explained above in this order should be supplied to the Appellant within 10 days.

Pronounced in the open court on this 17th day of April, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kambli)
State Information Commissioner

