

GOA INFORMATION COMMISSION

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

Appeal No. 33/2007-08/DIT

Shri Joao J. Caldeira
La Campala Colony,
Miramar, Panaji - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Dy. Director (Admn. & Accts.),
Department of Information Technology,
Panaji - Goa.
2. First Appellate Authority,
The Director,
Department of Information Technology,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 05/10/2007.

Shri John S. D'Mello represented the Appellant.

Adv. K. L. Bhagat for the Respondents.

ORDER

This disposes off the second appeal filed on 4th July, 2007 regarding not getting complete information from the Respondent No. 1. The facts are that a request was filed by the Appellant for physical verification of records and detailed information on 7 points on 23rd April, 2007. Having received no reply from the Public Information Officer, he filed a first appeal on 25th May, 2007, before the Respondent No. 2. Thereafter, on 28th May, 2007, the Respondent No. 1 has given partial information. Not satisfied, the Appellant filed the present second appeal. While the first appeal was under the consideration of the Respondent No. 2, the Appellant rushed to this Commission with a complaint which was dismissed by the Commission as not maintainable. The first Appellate Authority also has not disposed off the appeal within 30 days which could be extended for reasons to be recorded in writing to 45 days. He has taken

...2/-

the plea that because a complaint was filed by the Appellant and the matter was "sub-judice" before the Commission, he did not dispose off the first appeal in time. The Public Information Officer, on the other hand, stated that the information requested was available with the Respondent No. 2 and hence, he could not give his reply in time. However, after filing of the first appeal, the Public Information Officer has given whatever information is available with him. He filed an affidavit stating that the Respondent No. 2 has not given him the file for furnishing complete information. The first Appellate Authority in his written statement filed before us admitted that the documents are with him. His exact words are "I say that the relevant documents of which the information was sought in my possession". However, he contended that the information regarding the candidates appeared for selection interview about whom the request for information was made, is third party information and hence, could not be given to the Appellant.

2. Notices were issued. Shri John S. D'Mello appeared on behalf of the Appellant as authorized representative and Adv. K. L. Bhagat represented both the Respondents. Written statements-cum-affidavits were filed by both the Respondents.

3. There is no doubt that incomplete information was given by the Public Information Officer to the Appellant, that too, belatedly. However, on perusal of the request for information and replies given by the Public Information Officer, we find that some of the information given on some points is inadequate. These are regarding the list of candidates and their details at question No. 2 posed by the Appellant; names of the members of the Selection Committee at question No. 6; select list alongwith grading and certificates of successful candidates at question No. 7. The plea taken by the Respondent No. 2, who is the first Appellate Authority, that such information is third party information is not tenable. It is for the Public Information Officer to take such a plea and not by the first Appellate Authority. Again, the mere fact that some information is third party information is, ipso facto, not sufficient for withholding of information from the citizens. In such a case, the Public Information Officer has to use his own discretion to weigh the consequences of disclosure vis a vis larger public interest. If he treats the information as third party information under Section 8(1)(d), he has to follow further provisions of law as laid down under Section 11 thereof.

Incidentally, there is no Section 8(1)(3) of Right to Information Act (for short the RTI Act) as relied by the Respondent No. 2. We, therefore, reject the contention of the Respondent no. 2. The reply given by the Public Information Officer in respect of other questions is found to be satisfactory. These are matters regarding the recruitment rules, why the Appellant was not called and why the names were not called from the Employment Exchange. The replies in respect of remaining questions should be given by the Public Information Officer immediately and in any case, not later than 7 days from this order on payment of fees. The records in the possession of the first Appellate Authority, Respondent No. 2 herein, have to be made available to the Public Information Officer for this purpose. If he does not do so, he is liable for penal action as deemed Public Information Officer.

4. The Appellant has submitted that he is entitled to free information as it was not given within statutory time of 30 days. We have already held that the provision for such free information after 30 days of request, under Section 7(6) is subject to provision of Section 7(5) which is in respect of printed documents and information available with the Public Authority in electronic format. The information requested by the Appellant is none of the above and hence, the benefit of free information as provided under sub-section (6) of Section 7 is not available to him. His request is, therefore, rejected. In the circumstances of the case, we are also not inclined to grant any compensation to the Appellant nor start any penalty proceedings under Section 20 against the Respondents. The cost demanded by the Appellant also are not awarded as there is no such provision in the RTI Act.

Pronounced in the open court on this 5th day of October, 2007.

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

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

/sf.
sf./dk.