

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 191/SIC/2010

Shri Milagres Coutinho,
H. No. 728, Fradilem, Navelim,
Salcete - Goa

... Appellant.

V/s.

1) Mr. Peter Fernandes,
State Public Information Officer,
Executive Engineer, Division-IV,
Electricity Department, Division-IV,
Aquem, Margao – Goa

... Respondent No. 1.

2) Superintending Engineer,-II(N),
First Appellate Authority,
Electricity Department, Vidyut Bhavan,
Panaji – Goa

... Respondent No. 2.

Adv. Ms. L. Coutinho for Appellant.
Respondent No. 1 in person

J U D G M E N T **(24.03.2011)**

1. The Appellant, Shri Milagres Coutinho, has filed the present Appeal praying that the Respondent be directed to pay fine within the provisions provided under section 20 of the said Act; that the Respondent be directed to furnish the detailed information sought by the Complainant on the application dated 15.03.2010; that disciplinary action be taken against the Respondent under the service rules applicable; that order passed by the First Appellate Authority be quashed and set aside and that cost be provided.

2. The brief facts leading to the present Appeal are as under:

That the Appellant is a consumer of the Respondents who has taken connection of electricity on 02.06.1980. That the Complainant is

making the payment regularly as per the bill issued by the Department from the time of connection to his residential house till August 2008. That the Appellant received bill in the month of March 2006 for a sum of Rs. 508/- and in the month of June 2006 he received the next bill for a sum of Rs. 5638/-. That the Appellant submitted an application on 12.06.2006 addressed to the Assistant Engineer requesting for rectification/correction of the electricity bill. That in August 2008 all of a sudden he received a bill for a sum of Rs. 4777/-. That the Department promised that they will make the correction and based on their advice the Appellant paid the bill. That on October 2008 the Appellant received a bill for a sum of Rs. 527/-. That the Appellant could not make the payment as the due date was 10.10.2008 and bill was received on 10.10.2008. That again on 02.09.2008 the Appellant received bill for a sum of Rs. 567/-. That on 04.09.2008 the Appellant submitted an application to the Assistant Engineer requesting for rectification/correction of the electricity bill. That thereafter the Appellant visited the office of the Respondents many times requesting to make the necessary correction but the Department did not heed to his request nor sent any reply. Again in April 2009 the Appellant received another bill for a sum of Rs. 5725/-. That on 15.04.2009 the Appellant again submitted an application addressed to the Assistant Engineer. That there was no response from the Department. That thereafter Appellant sent two more letters. That on 26.06.2009 he received a letter from the Department. That on 06.08.2009 the Appellant replied to the said letter. That since there was no reply, correspondence flowed from the Appellant to the Respondent. That ultimately on 15.03.2010 the Appellant submitted an application seeking certain information under Right To Information Act, 2005 ('R.T.I Act' for short) from Respondent No. 1/Public Information Officer (PIO). It is the case of the Appellant that Respondent No.1/PIO has provided incorrect, incomplete and misleading information on 05.04.2010 and 26.03.2010. Being not satisfied with the said information the Appellant preferred an Appeal before the First Appellate Authority(FAA)/Respondent No. 2. After hearing the parties the FAA was pleased to pass the order on

12.05.2010 directing the PIO/Respondent No. 1 to furnish the information called for at Sr. No. 1 and 2. It is further the case of the Appellant that the Respondent gave incomplete, wrong and not satisfactory information for the second time also. Being aggrieved by the same the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their replies are on record. It is the case of Respondent No. 1 that the Appellant submitted an application dated 15.03.2010 under RTI. That the application alongwith reply of APIO was received by PIO on 27.03.2010. That the said information was issued to the Appellant vide letter dated 05.04.2010. That the Appellant preferred Appeal before FAA and the FAA directed the PIO to furnish proper information in respect to points at Sr. No. 1 and 2 and upheld the reply of PIO in respect of Sr. No. 3, 4 and 5. That in pursuance of the said order the PIO obtained the information and issued to the Appellant vide letter dated 27.05.2010. It is further the case of the Respondent No. 1 that PIO did not have any intention to mislead and misinterpret the RTI Act. That the Appellant wanted to rectify the electricity bill issued to the Appellant at his residence which is not within the scope of RTI Act. Respondent No. 1 also denies that he has refused information or gave wrong information. According to Respondent No. 1 appeal is liable to be dismissed.

It is the case of Respondent No. 2 that Appellant filed the Appeal/First Appeal and after hearing both sides Order was passed dated 12.05.2010. It is the case of Respondent No. 2 that he decided the Appeal within the statutory period and that there is no specific provision in the Act for implementation of the Orders of the FAA. According to him he may be deleted as Respondent in the present case.

4. Heard the arguments. The learned Adv. Ms. L. Coutinho argued on behalf of the Appellant and the Respondent No. 1 argued in person.

Advocate for Appellant referred to the facts of the case in detail and also Electricity Bills on record. She also referred to the payments made and clarification sought. According to her, application seeking information was made on 15.03.2010 and that by reply dated 05.04.2010 the request is not complied fully. She next referred to the Order of the FAA. According to her Respondents ought to have complied the request fully.

According to the Respondent request is fully complied with and available information is furnished.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not?

It is seen that the Appellant, vide his application sought certain information. The information consisted of 5 points, i.e. Sr. No. 1 to 5. By reply dated 05.04.2010 the Respondent No. 1 furnished the information in respect of point at Sr. No. 4 and regarding other points it was mentioned as per the same is not covered under section 2(f) of the R.T.I. Act. Being aggrieved the Appellant preferred the Appeal before FAA. By Order dated 12.05.2010 the F.A.A. directed to furnish the information in respect of point No. 1 and 2. The contention of P.I.O. in respect of point at Sr. No. 3, 4 and 5 was upheld.

It is the contention of the Advocate for the Appellant that the information ought to have been furnished in respect of all the points.

6. It would not be out of place to mention here about the definition of information. Under section 2(f) "information" means any material in any form including records, documents, memos, 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 assessed by a Public Authority under any other law for the time being in force.

Section 2(i) "record" includes -

- (a) any documents, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document;
- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

It is to be noted here that the term "record" for the purpose has been defined widely to include any documents, manuscript, file, etc. Under clause 2(j) "The Right to Information" means the right to information accessible under this Act which is held by or under control of any authority and powers under the Act include the right to:- (a) inspect works, documents, records of any Public Authority; (b) take notes, extracts, or certified copies of documents or records; (c) take certified samples of material and (d) obtain information of printouts, diskettes, folders, papers, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

7. Coming to the case at hand the Appellant sought information as under:-

The F.A.A. has directed to furnish the information in respect of point No. 1 and 2. The other points are as under:-

1.

2.

3. What action would be taken against these officials for not doing their work and for causing harassment to the public? By whom would that action be taken?

4. By whom would my work be done now?

5. By whom would vigilance inquiries be initiated in the above matter, if any?

It is seen that by reply dated 21.05.2010 the Respondent No. 1 furnished the information in respect of point No. 1 and 2. However, the reply to point No. 2 is not clear. In my view the Respondent No. 1 will have to furnish information fully and clearly.

In respect of point No. 3, 4 and 5, it is to be noted that section 2(j) provided only information held by or under the control of any Public Authority. Non-existent information cannot be furnished and it is not obligatory on the part of PIO to furnish non-existent information. Again, information relating to future course of action which is not in any material form is not "information" within the definition of information in section 2(f) of R.T.I. Act. I concur with the view of F.A.A. in respect of point at Sr. No. 3, 4 and 5.

8. Advocate for Appellant submits that inspection be given. The prayer for inspection is not in the original Application. However, Respondent No. 1 has no objection and agrees to give inspection. Since the Respondent No. 1 has no objection to give inspection this Commission has no objection to grant the same at Second Appeal stage.

9. In view of all the above, the Respondent No. 1 to furnish full information in respect of point No. 2. Inspection be given on a mutually agreed date. Hence, I pass the following Order:

ORDER

Appeal is partly allowed. Respondent No. 1 is hereby directed to furnish information in respect of point at Sr. No. 2 fully and clearly within ten days from the receipt of the Order.

Respondent No. 1 to give inspection to the Appellant on 25.04.2011 at 03:00 or 04:00pm or on a mutually agreed date and time.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 24th day of March, 2011.

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