

**GOA STATE INFORMATION COMMISSION**  
Kamat Tower, Seventh Floor, Patto Panaji-Goa

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Appeal No. 107/2017

Mr. Belarman Fernandes,  
Behind New Collector Office,  
Balepand, Fatorda,  
Margao Goa.

.....Appellant

**V/s.**

1. Public Information Officer (PIO),  
Executive Engineer, WD-VI,  
Public Work Department, Margao-Goa

2. The First Appellate Authority (FAA)  
SSW, PWD, Althino Panaji Goa.

..... Respondents

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on: 19/07/2017**  
**Decided on:14/11/2017**

**ORDER**

1. The brief facts leading to present appeal are that the appellant Shri Belarman Fernandes by his application, dated 15/3/2017, filed u/s 6(1) of The Right to Information Act , 2005 sought certain information from the Respondent No.1,PIO of office of the Executive Engineer ,works division VI (Roads) ,PWD, Fatorda –Margao ,under three points as stated therein in the said application .
2. The said application was not responded by Respondent and as the information as sought was not furnished , the appellant filed first appeal to the respondent No.2 being the first appellate authority on 12/5/2017.
3. According to the appellant , during the hearing before the FAA, the representative of PIO handed over letter dated 24/5/2017 addressed to him by the PIO informing him that files pertaining to the information at point No.1 and 2 are missing and that

information at point no.3 is already provided to him vide letter dated 8/10/2010 .

4. The Respondent No. 2 FAA by order, dated 19/6/2017 disposed the said appeal thereby giving directions to the PIO to pursue the matter with Margao police station with regards to the FIR filed by them on 17/10/2011.
5. The appellant being aggrieved by said response of PIO and order of FAA, has approached this commission in this second appeal u/s 19(3) of the Act on 17/7/2017 with the contention that the information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for other reliefs, including compensation.
6. Notices were issued to the parties, pursuant to which appellant was present along with his representative Shri Ulhas Dessai. Respondent no. 1 PIO was represented by Shri Meghashayam Naik .
7. The PIO on 19/9/2017 filed a reply to the appeal interalia contending that measurement book and works files pertaining to the said work are missing and not traceable from the office records as such he was unable to provide said information to the appellant. It was also contended that he has filed police complaint with margao police station on 19/1/2011 and reminder letter to carry out the investigation is also submitted to the Margao police .PIO further contended that vide Report dated 28/9/2017, the above facts have been brought to the notice of his higher-ups .Affidavit was also filed by PIO Shri Ratnakaran Challan on 17/10/2017 along with all supporting documents, affirming the above facts .
8. It is the contention of the appellant that Respondent have not conducted inquiry and fixed responsibility on a concerned person for a missing files and that the Report dated 28/9/2017 is just an eye wash .

9. I have perused the records and also considered the submissions of the parties.
10. The information sought pertains to the year 2004 and the same is sought by the appellant initially in the year 2009 and also by the RTI application dated 15/3/17 , which is the subject matter of present appeal.
11. It is the contention of PIO that the records are missing and not traceable . It is not the contention of the PIO that the said information is destroyed based on any order or as per the law or that records are weeded out as per the procedure . In this case it is only the lapse and failure of the authority to preserve the records which has lead to non traceability of the file. From the above it appears that the authority itself was not serious of preservation of records. Such an attitude would frustrate the objective of the act itself .Besides that that ground of " non availability of records " is not qualified to be exempted u/s 8 of the RTI act .
12. Considering the above position and the file/documents Registers is not traced till date, I am unable to pass any direction to furnish information as it would be redundant now. However that itself does not absolve the PIO or the public authority concerned herein to furnish the information to the appellant. An appropriate order therefore is required to be passed so that the liability is fixed and records are traced.

In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following :

### **ORDER**

- a) The Principal chief engineer or through his representative shall conduct an inquiry regarding the said missing file and fix the responsibility for missing said file. And shall complete

such inquiry within 4 months from the date of receipt of this order by him. The principal chief Engineer shall also initiate appropriate proceedings against the person responsible as per his/ her service condition. A copy of the report of such inquiry shall be sent to the appellant and the right of the appellant to seek the same information from the PIO free of cost is kept open, after the said file is traced.

b) The Public authority concerned herein also shall carry out the inventory of their records within 3 months and are hereby directed to preserve the records properly.

c) The Public authority may also appoint Records officer for the purpose of maintaining and preserving the official records .

With the above directions , the appeal proceedings stands closed .

Notify the parties.

Pronounced in the open court.

Sd/-

**(Ms.Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa