

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

**CORAM: Shri Juino De Souza : State Information Commissioner**

**Appeal No. 131/SIC/2012** } 699

Adv. Suresh K. Raikar,  
Kamakshi Vihar, 145, G-1,  
Fatima Colony,  
Alto Dabolim-Goa.

..... Appellant

**v/s**

1. Public Information Officer,  
South Goa Planning &  
Development Authority,  
4<sup>th</sup> Floor, D' Wing,  
Osia Commercial Arcade,  
Margao-Goa.

2. First Appellate Authority,  
Chairman,  
O/o South Goa Planning & Dept.  
Authority, Margao Goa.



..... Respondent

**Relevant emerging dates:**

Date of Hearing : 24-08-2016

Date of Decision : 24-08-2016

**ORDER**

1. Brief facts of the case are that the Appellant filed an RTI application dated 13/01/2012 seeking certain information under RTI Act, 2005 asking the information in question form. The Complainant in his RTI application is asking the following:-

- (i) **Whether the change of zoning was done by your Department for orchard to settlement.**
- (ii) **On what basis the said change of Zone change was done?**
- (iii) **Was there any application from the owner/individual/interested party requesting change of zone? if yes, kindly furnish a copy of the said application.**
- (iv) **If change of zone was done, then from when the said change of zone came into effect? And to furnish a copy of change of zoning notification.**

2. It is seen that the PIO vide letter no. SGPDA/RIA/2268/11-12 DATED 10/02/2012 had informed the Appellant that the information sought is by means of hypothetical question for which purpose the PIO will have to undertake research work which is beyond the scope of the RTI Act and hence cannot be made available.
3. Not being satisfied with the reply of the PIO, the Appellant filed First Appeal dated 13/03/2012 and the FAA passed an order dated 15/06/2012 dismissing the Appeal by upholding the reply of the PIO and maintaining that the information sought is by asking different questions which would entail the PIO to do research and investigation.
4. Being aggrieved that the First Appellate Authority passed an order without hearing the Appellant a Second Appeal came to be filed on 20/07/2012 before the commission.



During the hearing the Appellant Adv. Suresh K. Raikar is absent despite advance notice by RPAD without intimation to this Commission. It is seen from the Roznama that the Appellant has continuously remained absent on 14/06/2016, 01/08/2016 and 24/08/2016. The Respondent PIO is represented by Adv. Sulaksha Parab is present in person.

6. The Adv for the PIO submits that the PIO had replied within the prescribed time frame informing the Appellant that the information sought is in the manner of asking hypothetical questions for which the PIO was required to do research work and which is beyond the scope of the RTI act 2005.
7. It is further submitted that the Appellant had filed a FIRST APPEAL and despite of sending reminders as well as telephonically informing the Appellant to remain present for hearings before the FAA, the appellant did not put up an appearance and therefore the FAA proceeded to dismiss the matter by upholding the reply of the PIO in the absence of the appellant.

8. It is finally submitted that even from the questions asked it is not clear as to which ODP such questions relate to and therefore it is impossible for the PIO to scrutinize the dates and answer the questions as from the RTI application it is evident that the questions asked are vague and ambiguous besides do not refer to any specific date.
9. The Commission has perused the material on record including the RTI application dated 13/01/2012, reply of the PIO dated 10/02/2012, order of the FAA dated 15/06/2012, the Appeal memo, the affidavit –in-reply of the PIO dated 28/07/2016. The point for determination is whether the information sought by the Appellant in his RTI application is in question form and hence does not fall within the ambit of section 2(f) of the RTI act 2005 and thus cannot be answered by the PIO.?
10. **As per Section 2(f) of The Right To Information Act, 2005** "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 accessed by a public authority under any other law for the time being in force;
10. Thus, asking of hypothetical questions or demanding reasons for a decision or asking as to why a particular decision was taken or what future course of action a public authority will take or whether a particular policy applies to a particular set of circumstances are all questions beyond the purview of the RTI Act to be precise and does not fall under the ambit of the information as per the sections of 2(f).
11. The Honorable High Court of Bombay at Goa in W.P no 419/2007 has held that an RTI applicant cannot ask 'why' and cannot claim an answer. In decision of Goa State Information Commission in Appeal no.87/SCIC/2009 dated 14/1/2010 it has been held that no one can claim answers for questions like whether , why, what, how etc. ....5



12. As stipulated in the RTI Act the role of the PIO is to provide information as is available from the records. Regrettably the PIO cannot procure information for the satisfaction of the Appellant. The PIO is not authorized to give any information which is non-existent nor can he create or analyze the information correctly as per the whims and fancies of the Appellant.
13. It is not a case where the PIO has denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information.
14. The very fact that the PIO had furnished a letter bearing no. SGPDA/RIA/2268/11-12 DATED 10/02/2012 informing the Appellant the correct facts is sufficient to prove the bonafide that there was no malafide intent by the PIO to conceal any information.
15. Further although the Appellant had filed a First Appeal he failed to remain present for hearings before the FAA despite telephonic reminders and therefore the FAA had no option but to proceed with the appeal on merits which resulted in dismissal by upholding the reply of the PIO. The Commission comes to the conclusion that indeed the RTI applicant has sought information in question form which cannot be answered by the PIO.

**No intervention is required with the order passed by the FAA, the appeal is devoid of any merit and accordingly stands dismissed.**

All proceedings in the Appeal Case stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the Order be given free of cost.

Under Secretary cum Registrar  
Goa State Information Commission

**(Juino De Souza)**  
**State Information Commissioner**