

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

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

**Appeal No. 178/SIC/2011**

Mrs. Blanche Carneiro,  
Plot No.51 Journalist Colony,,  
Alto-Betim Porvorim  
Bardez-Goa.

..... Appellant

**v/s**

1. Public Information Officer/  
Secretary,  
V.P. Sodiem-Siolim,  
Siolim Bardez-Goa.
2. First Appellate Authority,  
Block Development Officer (1) Bardez,  
Mapusa Bardez-Goa.

.....Respondents

**Relevant emerging dates:**

Date of Hearing : 14 -07-2016  
Date of Decision : 14-07-2016



**ORDER**

1. Brief facts of the case are that the Appellant had filed a second appeal on 22/08/2011 and that this Commission vide an order dated 26/04/2012 had disposed the said Appeal stating 'no intervention of this Commission is required as information is furnished and that the Appellant to prove his case that the information supplied is incorrect, incomplete and misleading' and the matter was posted for enquiry on 29/06/2012.
2. During the hearing the Appellant although absent has sent a letter/application dated 01/07/2016 stating that he withdraws the above Appeal with respect to his RTI application dated 26/04/2011 filed before the Commission as the same as per his opinion is grossly barred by delays and latches and will not serve any purpose now after a lapse of almost five years from his original RTI application and Justice delayed is justice denied. The Respondent PIO Dipti Mandrekar, Secretary, V.P. Siolim Sodiem and representative of FAA Shri Rajkumar Chodankar, Gram-Sevak are both present.
3. It is apparent that the Appellant by such application is seeking withdrawal of the Appeal inter alia on the ground of that there is a delay in deciding this Appeal. I find no substance in this application that is devoid of any merit more so as the said Second Appeal was disposed by this Commission on 26/04/2012 i.e within one year from the date of filing of the RTI application by the Appellant.

4. Therefore the question of withdrawing the appeal as being barred by delays and latches does not and cannot arise. The matter was posted only for enquiry and it was for the Appellant to prove his case that the information supplied was incorrect, incomplete and misleading.
5. The Commission observes that despite giving an opportunity to the Appellant to prove his/her case, the appellant has failed to avail the opportunity. From the records it is seen that the Appellant has not produced nor adduced any evidence in support of his said claim that the information supplied was incorrect, incomplete and misleading.
6. This apart, the Commission on scrutiny of the file and perusal of the material on record observes that the Appellant had filed a Second Appeal and not a Complaint case and in para 7 of the Order dated 26-04-2012 this commission has stated (last four lines) *'With this view in mind, I am of the opinion that the Appellant must be given an opportunity to substantiate that the information given to him is incomplete, incorrect, misleading, etc as provided in Section 18(1)(e) of the RTI Act'*
7. The point for determination therefore is 'Whether a Commission can order an enquiry under section 18 of RTI when deciding an Appeal case which falls under section 19 of the RTI Act'?
8. The Hon'ble Supreme Court in CIC vs. State of Manipur & Ors has held that the procedure contemplated under Section 18 of the Act was altogether different from the procedure contemplated under Section 19 of the Act.

Section 18 of the Act, to the extent it is relevant provides that it shall be the duty of the Commission to receive and enquire into a complaint from any person who has been refused access to any information requested under the Act or who has not been given a response to a request for information or access to information within the time limits specified under the Act. It is, therefore, obligatory for the Commission to decide such a complaint on merit instead of simply directing the CPIO to provide information which the complainant had sought. If the Commission finds that the CPIO had without reasonable cause refused to receive an application for information or had not furnished information within the prescribed time or had given incorrect, incomplete or misleading information, it is required to impose prescribed penalty upon such a CPIO/SPIO, as the case may be.

Section 19 of the Act, on the other hand, provides for a first appeal to the First Appellate Authority under Sub-section (1) and a Second Appeal to the Commission under Sub-section (3) of the aforesaid Section. Sub-section (8) of the aforesaid Act deals with the power of the Commission with respect to the appeals preferred in terms of Sub-section (3) of the said Section and reads as under:-In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,-

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including- (i) by providing access to information, if so requested, in a particular form; (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be; (iii) by publishing certain information or categories of information; (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records; (v) by enhancing the provision of training on the right to information for its officials; (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4; (b) require the public authority to compensate the complainant for any loss or other detriment suffered; (c) impose any of the penalties provided under this Act; (d) reject the application.

9. A closer scrutiny of the ingredients clearly point out that while the State Information Commission has the power to conduct an enquiry in a matter before it under Section 18 of the Act, however no such power is granted under Section 19 of the RTI Act which is a purely an Appellate procedure.

10. That apart the very fact that this Commission in its Order of 26-04-2012 has stated that no intervention of the commission is necessary as information is furnished is sufficient to prove the bonafide that the PIO has acted reasonably and diligently and that information given was as available and as it existed as per the records and which is the mandate of the RTI Act.

11. As stipulated in the RTI Act the role of the PIO is to provide information as 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. 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.



12. I am of the view that after arriving at such conclusion and being satisfied that there was no malafide intent by the PIO the Commission should have closed the Appeal case completely rather than disposing the Appeal by partly ordering a one sided enquiry which is not only a long drawn time consuming process that may take years for the enquiry to conclude but will also harass the Appellant with delays and unnecessary expenditure, besides not serving any useful purpose and will be an exercise in futility.

12. The decision of ordering an enquiry after disposing off the Appeal therefore in my considered opinion suffers from procedural irregularities and legal infirmity. The Commission therefore finds it prudent to recall the part order passed by this commission on 26-04-2012 and accordingly order the enquiry proceedings to be closed regardless of the letter/application dated 01/07/2016 sent by the Appellant.

All proceedings in the Appeal case stand closed. Pronounced on 14/07/2016. Notify the parties concerned. Authenticated copies of the order be given free of cost.

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

*ms*

