

# GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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**Appeal No. 172/2016**

Mr. Jesus Victoria,  
H.No. 28 Khairikatem,  
Sanguem Goa.

.....Appellant

V/s.

1. State Public Information Officer/Asst. (PIO)  
The Chief Officer,  
The Sanguem Municipal Council,  
Sanguem Goa.

2. The First Appellate Authority,  
The Additional Director of  
Municipal Administration, DMA,  
Panaji Goa

..... Respondents

## **CORAM:**

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

**Filed on: 07/09/2016**

**Decided on: 09/10/2017**

## **ORDER**

1. The appellant , Shri Jesus Victoria has filed the present appeal praying the information as requested by the appellant in his application dated 9/5/2016 be furnished to him correctly and for invoking penal provisions for providing him wrong and misleading information.
2. The brief facts leading to the present appeal are as under :-  
That the appellant , vide his application , dated 9/5/2016 addressed to the public information officer (PIO) of the office of the Directorate of Municipal Administration Panajim ,Goa requested to furnish the certain information on the point No. (a) to (c) with respect of construction of road site footpath from Dando Sanguem by Sanguem Municipal council in the name of upgradation of roads,

footpaths and infrastructure core network for the town of Sanguem.

3. The PIO of Department of Urban Development vide his letter dated 13/5/2016 transferred the said application u/s 6(3) of RTI Act 2005 to the Respondent No. 1 PIO, of Sanguem Municipal Council Sanguem Goa.
4. As no reply was received from Respondent No. 1 PIO within stipulated time as such the appellant on 17/6/16 preferred first appeal as contemplated u/s 19(1) of RTI Act with the Respondent No. 2 Director of Municipal Administration being the first appellate authority .
5. It is the case of the appellant that the Respondent PIO vide letter dated 23/6/16 provided him the information which according to the appellant was incorrect.
6. The Respondent No. 2 by an order dated 20/7/16 directed the Respondent PIO to provide correct information to the applicant.
7. As no information is provided to him in Pursuant to order of Respondent No. 2 First Appellate Authority being aggrieved by the action of both the respondents, the appellant approached this commission on 7/9/2016 by way of second appeal filed u/s 19(3) of the RTI Act on the grounds as raised in the memo of appeal.
8. In pursuant to the notice of this commission Appellant was represented by Savio Victoria. Respondent No. 1 PIO was represented by Advocate Dattesh Naik. Respondent No. 2 FAA absent.
9. In the course of the present proceedings the Advocate for the Respondent furnished the information to the representative of appellant on 15/5/2017. On verification of the said information the representative of appellant submitted that he is satisfied with the

information provided to him at point No. (a) and (c). However he submitted that information at point (b) is not correct as according to him Town & Country planning permission is required. He relied upon the letter dated 24/9/13 issued by the Dy. Town Planner Quepem to the Chief Officer Sanguem Municipal Council in support of his above contention. He also pointed out the provision 44 of the Town and Country Planning Acts and Rules.

10. The Advocate for Respondent was directed to clarify on point (b). Accordingly clarification was given on 14/9/2017 with respect to Point No. (b). It was submitted that the state High Ways comes under PWD and as such they have obtained no objection Certificate from PWD to construct the footpath. The copy of no objection certificate dated 14/9/11 issued by the Executive Engineer Ponda was annexed to his reply in support in its contention.
11. On perusal of the letter dated 24/9/13 issued by the Dy. Town Planner Quepem to the Chief Officer Sanguem Municipal Council it is seen that the Dy. Town Planner has informed the Chief Officer of Sanguem Municipal Council that the area proposed for Land Acquisition for upgradation of Road, Footpath and Infrastructure Network at Sanguem falls within the road widening area of State High Way and as such the NOC from the PWD shall be obtained. And they were directed to resubmit the proposals for necessary action.
12. On perusal of the application filed under section 6, it is seen that appellant at point no (a) to (c) has raised certain queries and sought about the provisions of law under which certain acts could be done or not done by Sanguem Municipality.
13. Hon'ble supreme Court in "**Central Board of Secondary Education and another V/s Aditya Bandopadhyay and Others (Civil Appeal No. 6454 of 2011)**", while dealing with the extent of information under the Act at para 35 has observed:

“At this juncture, it is necessary to clear some misconception about the RTI Act . The RTI Act provides access to all information that is available and existing . This is clear from the combined reading of section 3 and the definition of “information ” and “right to information ” under clause (f) and (j) of section 2 of the Act . **If the public authority has any information in the form of data or analysed data or abstracts or statistics , an applicant may access such information ,subject to the exemptions in section 8 of the Act .”**

14. Yet in another decision Hon’ble High Court of Bombay at Goa in the case of **Dr. Celsa Pinto V/s. The Goa State Information Commission and another, reported in 2008(110)Bombay L.R.1238 at relevant para 8 has held**

“ The definition of information cannot include within its fold answers to the question” why” which would be same thing as asking a reason for a Justification for a particular thing, **The Public information authorities cannot be expected to communicate to the citizens the reasons why a certain thing was done or not done in the sense of justification because the citizen makes a requisition about information. justifications are matters within the domain of adjudicating authorities and cannot properly be classified as information .**

15. Based on the ration laid down by the courts in the above judgment , I am of the opinion that the information sought by the appellant at point no. (a) to (c) doesn’t come within the purview of definition of “ INFORMATION’ as defined in section 2 (f) of RTI act ,

It is a duty of the PIO to furnish the information as available in their records he cannot create records to suit the requirement of the information seeker. He is also no supposed to answer queries put forth by appellant Since now vide their reply before

this commission , have clarified and never the less have come out with a clear case in respect to point no. "b" and has provided him the available information from the records as such I am of the opinion that no intervention of this commission is required .

16. If appellant is of the view that the Sanguem Municipal Council has done any irregularities and illegalities with respect of construction of foot paths and foot bridges within the road widening areas and have not followed the proper procedure, the appellant can redressed his grievance before appropriate forum.
17. No cogent and convincing evidence brought on record by the appellant as required as per the ratio laid down by the Apex Court in case of Shri A. A. Parulekar V/s Goa State Information Commission and others (Writ Petition No. 205/2007), to substantiate his case that PIO has deliberately provided wrong information as such the prayer of the appellant for imposing fine and cost on the PIO is not granted.
18. The appeal is disposed accordingly proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

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

Ak/-

