

**GOA STATE INFORMATION COMMISSION**

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

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**CORAM: Smt. Pratima K. Vernekar,**

**State Information Commissioner**

**Appeal No. 184/2016**

Jawaharlal T. Shetye,  
H.No. 35/A Ward No. 11,  
Near Sateri Temple,  
Khorlim Mapusa- Goa.

....Appellant

V/s.

1. Public information Officer,  
The Head clerk (Uday Salkar)  
Mapusa Municipal Council,  
Mapusa Goa.

2. The First Appellate Authority,  
The Chief Officer (Mr. Clen Madeira),  
Mapusa Municipality,  
Mapusa Goa.

.....Respondents

Appeal filed on :- 14/09/2016

Disposed on:- 23/05/2017

**ORDER**

1. The Appellant Shri Jawaharlal T. Shetye by an application dated 23/05/2016 filed under section 6(1) of Right to Information Act, 2005 sought certain information from Public Information Officer (PIO), Mapusa Municipal Council, Bardez-Goa as stated therein in the said application.
2. The said application was not responded by Respondent No. 1 Public Information Officer (PIO) as such deeming the same as rejection, the appellant preferred first Appeal before Chief Officer of Mapusa Municipal Council on 30/06/2016 being First Appellate Authority who is responded No. 2 herein. And the Respondent No. 2 First Appellate Authority (FAA) by an Order dated 01/08/2016

allowed the appeal and directed PIO to furnish the information free of cost within period of 30 days.

4. Being not satisfied with the decision of the FAA the appellant have approached this Commission on 14/09/2016 by way of second appeal. It is his case the Respondent No. 2 FAA has mechanically decided the first appeal without proper analysis of the issue involved. In the present second appeal the appellant has sought for the relief for providing him correct information in respect of his RTI application dated 23/05/2016, for invoking penal provision and for directions as against both the Respondent to take necessary steps in the implementation of section 4(1)(a) and 4(1)(b) of the RTI Act 2005.
5. In pursuant to the notice of this Commission the appellant appeared in person. PIO was represented by Advocate Madhavi Salkar. In the course of the hearing the Advocate for the Respondent No. 1 PIO sought time to furnish the information and submitted that Shri Uday Salkar was appointed as PIO of Mapusa Muncipal Council w.e.f 1/06/2016 who didnot responded to the application of appellant dated 23/05/2016 within time. She further submitted that the said Uday Salkar was also the PIO when the Order was passed by the Respondent No. 2 FAA and he was the one who did not complied the order of FAA. She further submitted that Uday Salkar has retired from service on attaining the age of superannuation. She placed on record the Order dated 28/02/2017 relieving said Uday Salkar from the services of Government on attaining age of superannuation. She also undertook to furnish the information to the Appellant and prayed for the time to furnish the same. However there is nothing placed on record by PIO that information is furnished to the Appellant.
6. In the present case undisputedly the then PIO has retired and is entitled for pension. Pension Act 1871, which governs such pension, at section (11) grants immunity to the pension holder against its attachment in following words.

**“Exemption of pension from attachment:** *No Pension granted or continued by Government or Political consideration, or on account of past service or present infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be*

*liable to seizure, attachment or sequestration by process of any court at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such court"*

7. Section 60 (1) (g) of civil procedure code which is reproduced here under also bars attachment of pensioner following words:

*1) The following particulars shall not be liable to such attachments or sale namely:*

(a) .....

(b) .....

(C) .....

(d) .....

(e) .....

(f) .....

*(g) Stipends and gratuities allowed to pensioners of the Government or of a local authority or any other employer, or payable out of any service family pension fund notified in the gazette, by the central government or the state Government in this behalf and political pension.*

From the reading of above provisions there leaves no doubt on the point of non-attachability of pension , gratuity etc.

8. Hon'ble Apex Court in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra in Appeal (Civil) 1874 of 1999 have held

*"This Court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands....."*

9. Under the above circumstances this commission is neither empowered to order any deduction from his pension or from

gratuity amount for the purpose of imposing penalty or compensation . Thus the proceedings for penalty has become infructuous.

10. In the above given circumstances, I feel the ends of justice will meet with following order:-

**ORDER**

- a) Respondent No. 1 Public Information Commission directed to furnish the information to the Appellant as sought by him vide his application dated 23/05/2016 within fifteen days from the receipt of the order.
  
- b) The prayer (2) is hereby rejected, in view of the retirement of the PIO
  
- c) Public Authority is hereby directed to take necessary steps in the implementation of the section 4(1)(a) and (b) of the RTI act 2005 on the priority basis.

Proceeding 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