

# GOA STATE INFORMATION COMMISSION

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

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Appeal No. 67/2017

Rudresh S. Naik,  
Radha Bldg. 2<sup>nd</sup> floor,  
Bernard guedes road,  
Near market,  
Panjabi Goa.

.....Appellant

**V/s.**

1. First Appellate Authority & Captain of Ports,  
Captain of Ports Department,  
Panaji Goa.

2. Public Information Officer,  
River Navigation Department ,  
Betim Goa.

..... Respondents

**CORAM:**

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

**Filed on: 26/05/2017**

**Decided on: 26/10/2017**

## **ORDER**

1. The Facts in brief which arises in the present appeal are that the appellant Shri Rudresh Naik by his application dated 6/3/2017 filed u/s 6 (1) of RTI Act ,2005 sought certain information on 2 points as stated therein in the said application. He had sought the following information.
  - a) List of dates from 01/01/2010 on which your employee Mr. Vinod Kubal was posted at Betim Ferry wharf to regulate traffic .
  - b) List of dates from 01/01/2010 on which any other person other than Vinod Kubal was posted to at Betim Ferry wharf to regulate traffic .
2. The said application of the appellant was Respondent by the PIO on 7/4/2017 thereby information the appellant that the information was not available on both the points .

3. Being not satisfied with the reply furnished to the appellant, the appellant approached the Respondent No. 2 first appellate authority on 11/4/17.
4. According to the appellant the respondent No. 2 the first appellate authority disposed an appeal by an order dated 12/5/2017 without hearing him.
5. Being aggrieved by the action of both the respondent the appellant approached this commission on 25/5/2017 by way of second appeal with a prayer seeking direction to Respondent No. 1 PIO for providing him complete information as sought by him by his application dated 6/3/2017 and for invoking penal provisions including disciplinary action.
6. Notice were duly issued to both the parties twice. The appellant vide letter dated 6/9/17 requested to decide the appeal on its merits. Despite of due service of notice both the Respondents have opted to remain absent nor filed their reply despite of granting opportunities to them. As such the commission decided to dispose the appeal based on the records available in the file.
7. On scrutiny of the records it is seen that the appellant had sought the information pertaining to year 2010-2017. The Respondent No. 1 PIO has informed the appellant that the records are not available. The PIO is silent on the aspect whether it was maintained or not and whether it was weeded out. Since the PIO opted to remain absent neither filed reply as such no clarification could be sought from the Respondent .

The PIO reply "not available" appears to be given in very casual manner. I failed to understand the records pertaining to even year 2017 also are replied "as not available" As per office procedure, in Government Department every office has to issue office order to every employees assigning him days to day duties and employees of River Navigation Department would not be an

exception to said rule. It is mandatory to maintain such records and the public authorities are duty bound to maintain the same in order to bring transparency in the affairs of the public authority. The conduct and attitude on the part of public authority herein appears to be adamant and suspicious viz-a-viz in bringing transparency of the affairs of the public authority.

8. Presuming for a while that such records are maintained by other office then the PIO was liable to transfer the application to other authority u/s 6(3) of the Act. It appears that reply of PIO as "not available" appears to be given in an attempt to avoid furnishing of the information.
9. The displeasure is hereby shown by this commission in the manner in which the first appeal was disposed by the Respondent No. 2 first appellate authority. The order is passed without any reasoning. There is no proper application of mind. The act on the part of the Respondent no. 2 herein is condemnable. Since no hearing was given to appellant thereby violating the principles of natural justice. However considering this as a first lapse on the part of the Respondent No. 2, a lenient view is taken, and is directed to be vigilant in dispose of the first appeal in accordance with law.
10. The attitude of PIO is also apparent as in spite of the notice of this commission and granting several opportunities he failed to remain present nor filed any reply to counter to allegation to the appellant. In the said circumstances I find that PIO has failed to prove his bonafides hence I find it appropriate to issue notice u/s 20(1) and 20(2) of the RTI Act.
11. In the aforesaid circumstances following order is passed.

#### Order

1. PIO is hereby directed to provide the information as sought by the appellant vide his application dated 6/3/2017 within 20 days

on the receipt of the order and if not available to file an affidavit affirming non availability of the same.

2. PIO is further directed to showcause why penalty as contemplated u/s 20(1) and /or u/s 20(2) of the RTI Act 2005 should not be imposed on him and matter is fixed on 16/11/2017 at 10.30 am.

In case the PIO at the relevant time, to whom the present notice is issued, is transferred, the present PIO shall serve this notice alongwith the order to him and produce the acknowledgement before the commission on or before the next date fixed in the matter alongwith the full name and present address of the then PIO.

With the above directions the appeal stands disposed 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 under the Right to Information Act 2005.

Sd/-

**(Ms.Pratima K. Vernekar)**

State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

AK/-