

**GOA STATE INFORMATION COMMISSION**

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

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**Shri Prashant S. P. Tendolkar**  
**Chief Information Commissioner**

**Appeal No.80/SCIC/2017**

Shri Santosh S. Salkar,  
Jayshridhar Smruti, 182/A,  
Betki, Wadi Wada, Marcel-Goa. .... Appellant

V/s

1) The Public Information,  
Executive Engineer, Works Division-3,  
St. Inez Panaji-Goa. .... Respondents

Filed on :20/6/2017

Disposed on:11/10/2017

**1) FACTS:**

a) The appellant herein by his application, dated 30/12/2016 and inwards on 2/1/2017, (wrongly dated as 2/1/16), filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under three points therein.

b) The said application was replied on 19/1/2017 by Asst. Engineer-IV, informing the appellant that the same is forwarded to the office of executive engineer WD III, PHE, PWD St. Inez Panaji Goa and that the said information be collected from said divisional office after payment of necessary fees.

c) By another letter, dated 27/1/2017 the said Asst. Engineer-IV, informed the appellant that the said letter, dated 30/12/2016 is not readable. Similar letter was also addressed

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by the Executive engineer-III(PHE), being the PIO to the appellant that the contents of the letter are not readable.

d) According to appellant the information, as sought was not furnished within time, he filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

e) FAA by order, dated 19/4/2017, allowed the said appeal and directed PIO to furnish the information as was sought by the appellant.

f) According to appellant the information as is furnished by the PIO after the order of FAA is incomplete and misleading. The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

g) Notices were issued to the parties, pursuant to which they appeared. The PIO on 7/9/2017 sought to file the copy of the information purportedly furnished to the appellant. However as the same was not certified, Advocate Mandrekar for PIO was directed to file the copy of information, duly certified. Accordingly he filed certified copy of information on record. However the appellant submitted that the meter reading register at annexures C-1 to C-9 does not contain the period to which it refers to. PIO was therefore directed to produce the original register for the purpose of verification.

h) On the subsequent date of hearing the PIO produced the original register for inspection of the appellant and the same

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was inspected by him. On inspection the appellant confirmed that the copies furnished to him as information are the true and correct copies of the said register.

i) Submissions of the parties were heard. The appellant submitted that though the copies submitted are the same as held in the register, the said register is not dated nor the names of area wise meter readers are recorded therein. He further submitted that as per the reply of PIO the meter reading register is not maintained but same is required to be maintained.

j) In his submissions Adv. Mandrekar for PIO submitted that the information as is held by the authority is furnished and nothing is withheld. According to him as the information is furnished the appeal has to be disposed off.

## **2) FINDINGS:**

a) I have perused the records and considered the submissions of the parties. Information is defined under section 2(f) of the act as under:

**"2. Definitions.**\_\_ *In this Act, unless the context otherwise requires, \_\_*

*(f) "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;*

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b) While considering the extent and scope of information that could be dispensed under the act, the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para 35 has observed :

*"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a 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. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to*

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*such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.*

c) Applying the above observation of the Hon'ble apex Court and as confirmed by the appellant he has been furnished with the information which is and as is available and in the form in which the same is held by the authority. The appellant expects that the said registers are required to be maintained with the dates and with the names of meter readers. Such expectation appears to be true and necessary for the purpose of clarity but the same is not presently held and hence not available for dispensation with the PIO as on today. I therefore hold that the appellant has been furnished with the information as is held by the authority and no interference of this commission is required on that aspect.

d) The appellant has also sought for penal action against the PIO for delay in furnishing the information. In the present case the FAA in the first appeal filed by the appellant, the FAA has considered the request of the appellant and has directed the PIO to furnish the information by dismissing the grounds for rejection of PIO. The same were accordingly furnished by PIO on 25/4/2017. By applying the principals as laid down by the High court of Calcutta in the case of ***Metropolitan Cooperative Housing Society Ltd. and another V/S The State Information Commission & others***, the appellant

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had no locus standie to approach this commission. However the doubts as raised by the appellant were clarified that the information as is existing is furnished. Hence I find no grounds to invoke my powers under the act for imposing penalty.

e) However considering the gesture of the Asst. Engineer-IV on 19/1/2017 transferring the application to Executive Engineer (EE) and directing appellant to collect the information after payment of fees and thereafter on 27/1/2017 intimating the appellant that the application is not readable smacks of malafide. Firstly having transferred the application to EE, he had no locus to deal with the request any further. I also fail to understand as to how the Asst. Engineer transferred the said application to EE or direct the appellant to pay fees, if the application was not readable. Such a practice is not in conformity with the provisions and spirit of the act. Hence I find it appropriate to issue directions to the concerned Asst. Engineer-IV, Sub division IV/W.D.III,PHE, PWD, Daag, Ponda, Goa to be diligent in his duties for promoting the spirit of The right to Information Act 2005 and to desist from adopting such practices.

f) In the light of the above discussions and findings as above I dispose the present appeal with the following :

### **ORDER**

As the requested information is furnished no intervention of this commission is warranted from this commission. However the rights of the appellant to seek any further information on the

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subject is kept open. Appeal disposed accordingly.

Notify the parties.

PIO is hereby directed to send a copy of this order to the concerned Asst. Engineer-IV, Sub division IV/W.D.III,PHE, PWD, Daag, Ponda, Goa.

Proceedings closed.

Pronounced in the open proceedings.

Sd/-

**(Mr. Prashant S. P. Tendolkar)**  
State Chief Information Commissioner  
Goa State Information Commission  
Panaji-Goa