

**GOA STATE INFORMATION COMMISSION**

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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Appeal No. 99/SCIC/2015

Smt. Antonia Michelle Abel,  
Flat A-3 Bella Vista Apartments,  
O'Coqueiro circle,  
Alto Porvorim Goa.

.....Appellant

V/s.

1. Public Information Officer  
The Special Secretary to  
Her Excellency the Governor of Goa,  
Raj Bhavan,  
Dona Paula, Goa.
2. The First Appellate Authority,  
Office of the Chief Secretary,  
Government of Goa,  
Secretariat Porvorim Goa.

..... Respondents

**CORAM:**

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

**Filed on: 6/08/2015**

**Decided on:12/10/2017**

**ORDER**

1. The brief facts leading to the present appeal are as under :-
2. That the appellant , vide her application , dated 18/6/2015 sought from the Public Information Officer (PIO), Office of the Chief Secretary, Porvorim, Goa following information

*a) List of all the Right to information Act application that were transferred from special secretary to Governor of Goa to the Chief Secretary of Goa for action over the last five years .*

*b) List of all the letters/petitions /representations addressed to her Excellency the Governor of Goa for action that have been transferred to the chief secretary of Goa over last five years .*

*c) Certified copy of the order /directions passed by Her Excellency the Governor of Goa for effect of the above procedures.*

3. The said application of the appellant was transferred by the APIO/ Section Officer to C.S to the Under Secretary Law , Porvorim –Goa on 22/6/15 u/s 6(3) of the Right to information Act. The PIO of law department inturn transferred the same to the PIO of General Administration Department , Porvorim for necessary action on 23/6/15.
4. Since the appellant did not receive any information she filed 1<sup>st</sup> appeal on 27/6/15 before the First Appellate Authority , Office of the Chief Secretary on the ground that it was incorrect to transfer the said applications to the Law department and to General administration department .
5. According to appellant no decision was given by the First Appellate Authority of the Office of the Chief Secretary.
6. The appellant then approached this Commission and filed application /petition on 5/8/15 u/s 5 and 30 of the right to information act,2005 wherein she has impeded the Special Secretary to her Excellency the governor of Goa as Respondent no.1 and First Appellate Authority of Office of Chief Secretary as Respondent no.2 . The said petition was registered as appeal by the registry of this commission .
7. In pursuant to the notice of this Commission , the Appellant opted to remain absent. Respondent No.1represented by miss vanessia D’cunha . Respondent no. 2 was represented by Prashanti Borkar.
8. Reply filed by respondent No.1 on3/10/17 resisting the present appeal. Copy of the same could not be furnished to the appellant on account of her continuous absence .

9. The representative of Respondent no.1 submitted that her reply may be treated as their arguments .
10. I have scrutinized the records available in the file and also the reply filed by the respondent no.1.
11. The appellant vide her petition have contended that since Her Excellency the Governor of Goa has not appointed the PIO and FAA for the Raj Bhavan as such she was constrained to make RTI applications to the PIO of office of the Chief secretary of Goa on 18/6/2015. It was also further contended that order passed by Her Excellency the Governor of Goa No. DI/INF/35/4/2005-GAD –III/09/1916 dated 22/7/2009 was not correct. It was further contended that His Excellency the president of India replies to the applications under RTI through his appointed CPIO as such Her Excellency the Governor of Goa is bound to reply to applications under RTI Act through her appointed PIO's and FAA.
12. In a petition she had prayed for direction to respondent No. 1 i.e. Special Secretary of her Excellency of Governor of Goa, Raj Bhavan to furnish all the photocopies of RTI application and Appeal made by her so also the certified copy of the information sought under RTI Act . She has also sought direction as against Respondent No. 2 first appellate authority for providing information as sought by her vide her application dated 18/6/15 and for invoking penal provisions.
13. vide reply dated 3/10/17 the respondent no. 1 contended that their office has filed two special leave petition before the Hon'ble Supreme court in which one of the issue is "**whether the Governor is ,or is not, public authority under Right to Information Act , 2005**" which are pending consideration of the Hon'ble Supreme Court of India. It was further contended that the Hon'ble Supreme court has been pleased to

stay the effect and operation of the Judgment and order dated 14/11/2011 passed by the Hon'ble High Court Bench at Goa . A copy of the stay order given in special leave to appeal (Civil) No. (S) 33124/2011 was also enclosed. It was further contended that the application dated 18/6/15 was never made to them nor it was transferred to their office nor made them parts in the first appeal .

14. As per the RTI Act the information can be sought from the CPIO or State Public Information officer as the case may be, of the concerned public authority in terms of section 6 of the Act. In the present case the appellant has sought relief at point (c) as against the FAA and not against the PIO. The PIO of the office of Chief Secretary is also not made a party either in the first appeal nor in the second appeal filed before this commission as such the prayer (c) sought by an appellant in a petition cannot be granted.
15. Since Hon'ble Apex court is seized with the matter and yet to give decision on issue with regards to "whether the Governor is a public authority or not", in such situation, this commission cannot deal with such an issue and cannot grant any relief as sought by the appellant at (a) and (b) at this stage.

Appeal 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 under the Right to Information Act 2005.

Sd/-

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

