

**GOA STATE INFORMATION COMMISSION**

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

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**Appeal No. 129/2016**

Shri Vishwanath B. Solienkar,  
S-1 Artic Apts,  
Behind Don Bosco Eng. College,  
Fatorda Margao Goa.

**.....Appellant.**

**V/s.**

1. Public Information Officer (PIO),  
Office of the Chief Town Planner,  
Town and Country Planning,  
Panaji Goa.

**.. ..Respondents**

2. The First Appellate Authority,  
The Senior Town Planner (HQ)  
Officer of the Chief Town Planner,  
Dempo Towers Patto Panaji Goa.

**CORAM:**

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

**Appeal filed on: 11/07/2016**  
**Decided on:26/04/2017**

**ORDER**

1. This Judgment and order shall dispose off an appeal dated 11/7/2016 filed by the appellant Shri Vishwanath B. Solienkar against the Respondent No. 1 PIO , office of the Chief Town planner, Panaji Goa and Respondent 2 the First appellate authority, Panaji Goa,
2. The present appeal came to be filed as the Respondent No. 1 PIO failed to provide him information as sought by the appellant by his application dated 14/03/2016 which was filed u/s 6(1) of the RTI Act 2005 and as against Respondent No 2 First appellate authority for conducting the entire procedure/proceedings in partial manner.

3. In the present appeal the appellant has sought for the direction as against Respondent No.1 PIO for providing him information as sought by him and for invoking penal provisions against both the Respondent .
4. Notices were issued to both the parties. In pursuant to the notice appellant was present in person and PIO M.K.C. Srikant was present on behalf of Respondent No. 1. Respondent No.2 absent.
5. Reply filed by the Respondent No. 1 PIO on 10/02/2017.
6. Written argument are also filed by the appellant on 16/3/17 and on 30/03/2017 alongwith annexures.
7. Respondent No. 1 PIO also filed additional statement on 30/03/2017 thereby enclosing the information which was again provided to the appellant on 20/03/2017.
8. It is the case of the appellant that the vide his application dated 14/3/16 he requested to Respondent No. 1 PIO to furnish the information in respect of functions of deputy town Planner of Town and country planning Department, Office Taluka Darbhadora/ Sanguem on three point as stated therein the said application. It is his case that part of the information provided to him and that the Respondent No. 1 PIO has falsely represented that a information serial no. (b) is provided at serial number (a) It is his further contention that the Respondent No. 1 PIO also failed to provide the simple 'yes' or 'no' answer to his query at serial No. C which is in violation of section 4(1) (a) (b)(2) (3) (4) of the RTI act. It is his further case that Respondent No. 1 PIO should have obtained information from the PIO of various branches of office of Town and country Department if the said information sought for was unavailable in his office . It is his contention that the Dy. Town planner gives contrary say in the matter pertaining 16(A)

and 17(A) in order to protect some persons and in support of his contention relied upon the say filed by the Dy. Town planner, Taluka Quepen, before the Judicial magistrate first class at Sanguem.

9. It is his further case that vide in reply dated 10/2/2017 PIO have contended that the information sought by the appellant at point No. (a) and (b) have been already furnished and information pertaining to (b) is provided in serial number (a) however the PIO in his reply dated 16/3/17 have taken contrary stand and have submitted that information is not available in the records .
10. It is his further contention that the citizen charter is provided to him in the course of the hearing does not include information which was sought by him and also duties and powers of the Deputy Town planners, Dharbandora are not available on the website of department and the said page is not updated from the last five years as required under section 4 of the RTI Act . In support of his contention he enclosed the copy of the information available on the website where the name of the Chief Town planner Morad Ahmad is shown whereas in reality the present Town planner is Shri S.T. Putturaju.
11. It is the contention the Respondent PIO that information at serial no. (a) of his application have been collected by the appellant on 15/4/16 and appellant have acknowledged the same. it is his further contention that PIO can only furnish available information which are in their official records. It is his further contention that he has not made any false representation and the document pertains to the section 17 (A) of the TC P. Act sought at serial No. (B) of his application has been included for the information sought at serial No.(a) and answering queries as "yes" & "no" are outside the purview of RTI Act.

12. It is his further contention that order dated 28/11/2016 which is relied by the appellant is subsequent to the RTI application .
13. It is his further contention that vide his letter dated 20/3/2017 he has clarified all the points and has given cleared answered .
14. I have perused the records and also considered the submissions of both the parties. The additional reply of respondent PIO dated 30/3/2017 filed before this commission, annexure "A" i.e. forwarding letter dated 20/3/17 addressed to the appellant by which further clarification was given by PIO, on perusal of the same it is seen that the information has been clearly provided at query no. (b) and (c).
15. In the contest of the nature of the information that can be sought from the PIO. the 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 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 analyzed 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, 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 of 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 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."*

16. Hon'ble High Court of Bombay at Goa in **Writ Petition 419/2007** in the case of **Dr. Celsa Pinto V/s. The Goa State Information Commission and another** to answer the requisition at Sr. no. 4 by the Appellant. His Lordship held as follows:

*The definition for information as defined by section 2(f) cannot include within its fold answers to the question "why" which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."*

In the light of above Judgment of the Hon'ble supreme court I find no illegality or Irregularity on the part of the PIO for non furnishing the information of point No. (b) and (c) . In the light of the above judgment also the contention of the appellant that Respondent No. 1 PIO ought to have collect the information from the respective PIO does not also sustain .

17. It is seen from the records that present PIO has been very cooperative while dealing with the entire issues and even by going out of way had provided additional information i.e. the citizen charter of their Department and have also provided website of their Department where the duties and power can be

accessed. As such I do not find any lapse on the part of PIO to attract section 20(1) of the Act.

18. The grievance of the appellant as stated at para 3 of the written Argument dated 30/3/2017 can be agitated by him before appropriate forum as this commission has no powers to take cognizance of the same.
19. It appears from annexure (e) i.e. relied by the appellant, it is seen that the website is not updated for the last 4 years.
20. section 4 (2) States  
“ It shall be constant Endeavour of every public authority to take steps in accordance with the requirements of clause(b) of subsection (1) to provide access much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort of the use of this Act to obtain information.  
  
For the purposes of subsection (1) every information shall be disseminated widely and in such form and manner which is easily accessible to the public.  
  
All materials shall be disseminated taking into consideration the cost effectiveness local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronics format with the central public information office or state public information officer, as the case may be available free or at such cost of the medium or the print cost price as may be prescribed”.
21. The commission has observed in the cases filed by information seeker against TCP Department which have come up before this commission, the similar stand of document “not traceable” “ not available” is taken by the public authority which is not a healthy practice.

In the above given circumstances the ends of justice will meet with following order is passed.

Order

1. The office of the Chief Town Planner, Panaji to undertake the work of updating their website periodically and regularly as per the provision of section (4) (2) (3) and (4) of the Act on war footing and complete the work within period of one month.
2. Rest prayer are not granted.

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