

# GOA STATE INFORMATION COMMISSION

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

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**Appeal No. 22/SCIC/2015**

Shri Gajanan G.S.Dhumatkar,  
*Office at Hill top Apts.,*  
Teen Building Alto Betim,  
Bardez Goa.

..... Appellant

**V/s.**

1. Public Information Officer  
Civil Registrar Cum Registrar (HQ),  
Registration Dept. 7<sup>th</sup> floor,  
Shram Shakti Bhavan Patto, Panajim.

2. First Appellate Authority,  
State Registrar Cum Head of Notary Services,  
7<sup>th</sup> floor, Shramshakti Bhawan, Patto,  
Panajim Goa.

..... Respondents

**CORAM:**

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

**Filed on: 18/02/2015**

**Decided on: 27/07/2017**

## **ORDER**

1. The appellant Shri Gajanan Dhumatkar by his application dated 7/11/2014 filed u/s 6 (1) of RTI Act sought from Respondent No. 1 PIO State registrar cum Head of the Notary services, Panajim sought certain information on 3 point as stated therein in the said application .
2. The said application was responded by Respondent No. 1 PIO on 17/11/14 thereby providing the information at point No. 1 and the information at point No. 2 (A)(B)(C) was denied to him by quoting section 8(1) (h), as it would impede the process of investigation and the information point No. 3 was not provided to him on the ground that questioner information cannot be given.
3. Being not satisfied with the reply given by Respondent No. 1 PIO, the appellant filed first appeal u/s 19(1) before Respondent No. 2 herein on 28/11/14 and the Respondent no. 2 FAA by an order

dated 28/1/15 disposed the said appeal by upholding the say of Respondent No. 1 PIO .

4. Being aggrieved by the decision of the respondent No. 2 First appellate authority dated 28/1/15, the appellant approached this commission by way of second appeal on 19/2/15 with a prayer for quashing, set aside and reverse the impud order 28/1/15 passed by respondent No. 2 FAA, for directions for providing him information as sought by him vide his request dated 7/11/14 and for invoking penal provisions.
5. In pursuant to the notice of this commission the appellant appeared only once and thereafter his son Advocate Nikhil Dhumatkar was present on his behalf. Respondent No. 1 PIO Ms. Shubha Dessai was present . Advocate Harsha Naik appeared on behalf of both the Respondent and filed memo of appearance on 21/2/17.
6. The Respondent no. 1 offered to provide information to the appellant and accordingly vide forwarding letter dated 27/7/16 the same was sent to the appellant by Registered A.D. by the PIO. The Advocate for the appellant on the subsequent date of hearing confirmed of having received the same, however insisted and pressed for the other relief which are in penal nature as against respondent PIO.
7. The appellant filed his written argument on 29/11/16. The copy of the same was furnished to the Respondent.
8. Argument were advanced by Advocate Harsha naik on behalf of both the respondents.
9. Since the letter dated 27/7/2016 by which the information was furnished to appellant at point No. (3) it was replied that "no investigation/process/proceedings is pending against appellant, a clarification was sought by this commission and were directed to specify the date of commencement and conclusion of inquiry . A copy of the letter dated 7/7/2017 by which said information at

point no. (3) was furnished to appellant was submitted to this commission by PIO where in PIO have given the date of commencement of inquiry as on 20/12/2013 and conclusion on 10/09/2014.

10. I have perused entire records available in the file and also considered the submission of both the parties.
11. Since the information is now furnished to the appellants on all point and as the appellant has not come up with any grievances against the information furnished to him the commission holds the appellant is satisfied with the information was furnished to him during this present appeal proceedings as such the prayer (C) becomes redundant .
12. With regards to the prayer (B), it is the contention of the appellant that the respondent were duty bound to specify the details of the investigation. It is his further case that the authority withholding the information must shows the satisfactory reason as to why the release of investigation is hamper the investigation process and such reasons should be german and should be based on some material. It is his further contention that process of investigation as referred 2 in section 8(1) (h) of the RTI Act 2005 is meant to include such investigation of matters pertaining to criminal acts and that the Respondents failed to correctly appreciate and apply most basic rule of interpretation of statutes and thus came to the wrong conclusion in giving "process of investigation" as reason for refusing the information to the appellant . It is their further contention that respondent failed to consider section 10 of Right to information act before coming impudent decision. He has relied upon number of decisions of the apex court on the interpretation and expression of term "Ejudem generies".
13. In the nutshell it is a case of the appellant that the respondent wrongly reused the information to him on a false ground , thereby completely negating the scope and purview of the RTI Act 2005.

14. It was argued on behalf of both the respondent by Advocate Harsha Naik that the application of the appellant was promptly responded by them within 30 days as contemplated under the act. Further it was submitted that information at point NO. 2 it was refused as the inquiry was pending, and as such PIO has not faulted in any manner in giving the reply.
15. It is seen from the records i.e the letter dated 7/7/2017 addressed to appellant and the copy was marked to this commission that the investigation was completed much before filing of the application by the appellant u/s 6(1) of the Act as such, I am in agreement with the appellant that the information was refused to him on a wrong ground.
16. It is the responsibility of the PIOs to verify the records and to give correct reply to the information seeker in the inception itself. From the gesture of PIO, I find the entire conduct of PIO is not in consonance with the Act.
17. PIO is an designated person of the Department who is responsible to ensure to the compliance of RTI Act.and is under obligation to render assistance to the information seeker. The PIO should extend all reasonable assistance in making information available rather other then putting hurdles in different ways. If the respondent PIO had given the information in time, the unnecessary harassment caused to the appellant in running from pillar to post for securing the said information could have been avoided.
18. Considering the conduct of the PIO and her in different approach to the entire issue, I find some substance in the arguments of the appellant that PIO purposely and malafidely refused access to the information. However before imposing any penalty an opportunity has to be given to the PIO to explain the same.
19. I proceed to dispose this appeal with following order.

ORDER

(i) Issue notice to PIO to show cause as to why penal action as contemplated u/s 20(1) of the Right to information Act, 2005 should not be initiated against her.

1. The PIO Respondent No.1 shall personally present himself before this Commission on 23/08/2017 at 10.30 a.m. along with written reply to said notice. Order to be communicated to the parties.

Pronounced in open proceedings.

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/-

**(Pratima K. Vernekar)**

State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

Ak/-

