

**GOA STATE INFORMATION COMMISSION**

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

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**Appeal No. 32/SIC/2017**

Shri Surendra J. Kalangutkar,  
H.No. 178, Chinchal wado,  
Behind Hotel Raviraj,  
Margao, Goa.

..... Appellant

**V/s.**

1. Public Information Officer  
Office of the Mamlatdar,  
Administrator of Devasthan,  
Bicholim Goa.

..... Respondents

**CORAM:**

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

**Filed on: 5/4/2017**

**Decided on: 10/08/2017**

**ORDER**

1. The Facts in brief which arises in the present appeal are that the appellant Shri Surendra J. Kalangutkar by his application dated 29/7/2016 filed u/s 6 (1) of RTI Act ,2005 sought certified copies of registered catalog of Mahajan list of devasthan of Shri Shantadurga Kalangutkarin at Nanoda , Latambarsen, Bicholim, Goa from the PIO Administrator of Devasthan , Bicholim who is the Respondent No. 1 herein .
2. On the receipt of the said application by the Respondent NO.1 PIO , he vide letter dated 18/8/16, purportedly sent u/s 5(4) of the RTI Act ,sought assistance of the president/secretary of said Devasthan requesting them to furnish the registered catalog of Mahajans list along with the copy of the bye laws of the said Devasthan to him within a weeks time . vide said letter also they were directed to furnish relevant copies to the Appellant .The copy of the said letter was forwarded to the Appellant also.

3. Since no information was received by appellant , he again vide his letter dated 23/9/16 brought the said to the notice of the Respondent NO.1 PIO.
4. The appellant then preferred first appeal on 20/10/2016 before the Deputy collector ,being first appellate authority and the First appellate authority by an order dated 6/1/2017 dismissed the Appeal of the Appellant by upholding the say of the Respondent No. 1PIO.
5. Being aggrieved by the order of First appellate Authority , the Appellant have approached this commission on 4/4/17 by way of present appeal filed under 19(3) of the RTI Act 2005 on the grounds raised in the memo of Appeal .
6. In pursuant to the notice of this commission , the appellant was represented by Adv Vaibhavi Kalangutkar . Respondent PIO shri Madhu Narvekar appeared and filed his replies on 20/6/17 and on 14/7/17 .
7. Vide above replies the Respondent PIO has contended that the records of the Devasthan are under the custody of Devasthan as such he by letter dated 18/8/16 , 28/9/16, 15/6/17 had sought for said information from the president /secretary of said Devasthan .and the president of Devasthan committee has informed him that they are unable to comply as the said records are not handed over to them by the previous committee . It is further the case of the Respondent PIO that he had also written to the previous committee and that Ex- President has informed that the records are handed over to new committee . PIo has relied upon the correspondence exchanged between him and Devasthan in support of his contention .
8. The Application is also filed by appellant with the registry of this commission on 21/7/17 where the appellant wants PIO to direct Ex-committee to furnish proper proof of the documents which are handed over by the Ex-committee to the present committee and the proper proof of records which are received by the present committee from Ex-Committee and appellant has sought for the intervention of

this commission for said directions to the PIO . The said application cannot be granted as it is beyond the scope and Jurisdiction of this commission to do so as the said information was not sought by the appellant vide application dated 29/07/2016 and appellant if so desire may seek the said information from the PIO by filing fresh application.

9. The PIO is supposed to furnished the information as available on their records . He is not required to create information for the purpose of furnishing the same to the information seeker. Since the said information was not available with PIO , he in the capacity of the Administrator had tried his level best to secure the said information The PIO has showed his inability to furnish the same since he is not the custodian of the said information .

10. 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."*

11. The prayer for directions of providing him the information cannot be granted as the said information is not available with the PIO. This observations of mine are based on the ratio laid down by the Apex court.
12. Based on the available records it is seen that on the receipt of the application dated 29/7/16 from the appellant the respondent PIO by his letter dated 18/8/2016, 28/9/2016, 15/6/2017, 27/6/2017 addressed to the President /Secretary Shantadurga kalangutkarin Devastan sought assistance and have requested them to furnish the said information . The PIO have acted deligently in performing their duties under the RTI Acts. There is no cogent and convincing evidence brought on record by the appellant establishing malafide intention on the part of the PIO as such the prayer of penalty also cannot be granted.

Proceeding 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.

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

