

**GOA STATE INFORMATION COMMISSION**

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

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**Complaint. 09/SCIC/15**

Miss Elvina Barreto,  
H.No. 553, Colser,  
Galgibag, Canacona-Goa.

..... Appellant

**V/s.**

1. Shri Sushant Loliencar,  
The Secretary Cum  
The Public Information Officer,  
Village Panchayat Poinguinim,  
Poinguinim, Canacona Goa.

..... Respondents

**CORAM:**

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

**Filed on:03/03/2015**  
**Decided on: 21/02/2017**

**ORDER**

1. Complainant Smt. Elvina Barretto applied under section 6(3) of the RTI Act 2005 (hereinafter refer to as the RTI Act) to the PIO, Village Panchayat Poinguinim, Canacona, Goa on 25 /2/14 sought information as stated at para 1,2 & 3 of the said information pertaining to the ownership of House No./ 553 which was on the name of Victoria Barreto.
2. In response to her application, the Respondent No. 1PIO vide their letter dated 28/3/14 provided her the information .
3. Being not satisfied with the information provided to her, first appeal came to be filed on 29/04/2014 by the complainant before the Block Development officer being First Appellate Authority. and the first appellate authority vide order dated 21/5/2014 allow the appeal and thereby directed the Respondent No. 1 PIO to provide the information sought by the appellant by the letter dated 25/2/14 within seven days free of cost from the date of the order .

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4. In compliance to the order to the first appellate authority, the Respondent vide their letter dated 26/5/2014 provided the information to the complainant in respect of all three points.
5. Being not satisfied with the information provided to her by the Respondent in compliance of the order of the First appellate authority, the complainant therefore landed before this commission by way of complaint u/s 18 of the Act .
6. Notices were issued to the parties pursuant to which the appellant appeared in person and Respondent No. 1 represented by Sushant Loeinkar. The Respondent No. 1 PIO filed reply on 14/2/17 enclosing copy of the RTI Application dated 25/2/14, their reply to RTI application dated 28/3/14, the written arguments filed by them before first appellate authority, written argument filed by the appellant before the Block development officer and the copy of the order of the first appellate authority dated 21/5/14. Letter dated 26/5/2014 alongwith postal acknowledgment card etc.
7. In the present complaint the relief which is sought by the complainant is for the directions to provide the information as sought by her vide her application dated 25/2/2014 and for taking deem fit action against Respondent..
8. I have considered her submission made by a both the parties and also perused the records available in the file.
9. Findings ;

Under section 18 of the Act the central information commissioner or a state information commissioner has no power to provided access to the information which has been requested for by any person or which has been denied to the said person. The only order which can be passed by the central information commission or the

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state information commission as the case may be, u/s18 is an order of penalty provided u/s 20 of Right to Information Act.

10. the Hon'ble Apex Court in the case of ***Chief Information Commissioner and another v/s State of Manipur and another (civil Appeal No. 10787-10788 of 2011)*** has observed at para (35) thereof as under:

*“Therefore, the procedure contemplated under [Section 18](#) and [Section 19](#) of the said Act is substantially different. The nature of the power under [Section 18](#) is supervisory in character whereas the procedure under [Section 19](#) is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under [Section 19](#). This Court is, therefore, of the opinion that [Section 7](#) read with [Section 19](#) provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the appellant that information can be accessed through [Section 18](#) is contrary to the express provision of [Section 19](#) of the Act. It is well known when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. It is a time honoured principle as early as from the decision in Taylor v. Taylor [(1876)1 Ch. D. 426] that where statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden.”*

The rationale behind these observation of apex court is contained in para (37) of the said Judgment in following words.

*“ 37. We are of the view that section 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies, one cannot be substitute for the other.”*

Again at para (42) of the said judgment their lordship have observed.

*“42. Apart from that the procedure under [Section 19](#) of the Act, when compared to [Section 18](#), has several safeguards for protecting the interest of the person who has been refused the information he has sought. [Section 19\(5\)](#), in this connection, may be referred to. [Section 19\(5\)](#) puts the onus to justify the denial of request on the information officer. Therefore, it is for the officer to justify the denial. There is no such safeguard in [Section 18](#). Apart from that the procedure under [Section 19](#) is a time bound one but*

*no limit is prescribed under [Section 18](#). So out of the two procedures, between [Section 18](#) and [Section 19](#), the one under [Section 19](#) is more beneficial to a person who has been denied access to information.”*

- 11.** In the High Court of Karnataka At Bangalore dated in writ Petition No. 19441/2012 and Writ Petition Numbers 22981 to 22982/2012 C/W Writ Petition No. 24210/2012 and Writ Petition Numbers 40995 to 40998/2012 (GM-RES) Between M/s Bangalore Electricity Supply Company Limited. V/s. State Information Commissioner, Karnataka information Commission. has held that “*information Commissioner has got no powers under section 18 to provide access to the information which has been requested for by any person and which has been denied and that the remedy available would be to file an Appeal as provided under section 19 of the RTI Act*”
- 12.** By applying the same ratio, this Commission cannot entertains complaint with regards to application dated 25/2/2014 and has no powers to provide information in an complaint
- 13.** With regards to other prayer which are nature of penal provision, before any such any order is passed, the commissioner must be satisfied that the conduct of the information officer was not bonafied. Section 20 (1) of the Act provided that the commission , while deciding an complaint or an appeal , shall impose penalty on erring PIOs in case where the PIO has , without any reasonable cause, refused to receive an application for information, or has not furnished information within the time specified u/s 7(1) or malafiedly denied the request for information ,or knowingly given incorrect, incomplete information, or destroyed information which was the subject of request, or obstructed in any manner in furnishing the information.
- 14.** In the present case the records shows that the application u/s 6(1) was promptly replied, and the order of the first appellate authority was duly complied by the Respondent PIO. The PIO has diligently and bonafide has acted and had provided the information to the appellant. As such the other relief which is in penal nature also cannot be granted.

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The complaint is disposed with following order.

Order

Complaint is dismissed.

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.

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