

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

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Shri. Prashant S. P. Tendolkar ,  
State Chief Information Commissioner

**Misc. Appl. No.05/2017**

The Section Officer/  
Public Information Officer,  
Personnel Department,  
Secretariat Complex,  
Porvorim –Goa.

..... Appellant

V/s

1) The First Appellate Authority/  
Addl. Secretary (Personnel),  
Secretariat Complex,  
Porvorim-Goa.

2) Shri Praveen Shirodkar,  
7/F-2/Rosary Apartments,  
Miramar- Panaji –Goa.

..... Respondents.

Filed on:25/09/2017

Decided on: 29/12/2017

**O R D E R**

1) This appeal is filed by Section Officer/PIO of the Personnel Department against the order of First Appellate Authority (FAA) dated 08/09/2017.

2) The registry of this Commission has raised objection on the maintainability of the appeal as the same is filed by PIO, who is junior in rank to the respondent FAA, and the same was placed before me for orders. The appellant was notified.

3) Adv. K. Bhagat filed his appearance on behalf of appellant and submitted that appropriate orders be passed.

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4) I have considered that matter. The appeal is filed by PIO. PIO is the custodian of the information of the concerned authority i.e. Department of Personnel. The Right to Information Act 2005 (Act) grants powers to PIO to decide whether information sought should be granted or not. Such powers are not absolute or final. They are subject to the appeal under section 19(1) of the Act before the FAA who is the officer senior in rank to the PIO. Even if the decision of the PIO U/s 7(1) is reversed, the same cannot be considered as a grievance of PIO. PIO thus is not an aggrieved party in such cases. PIO can be aggrieved only in case when he is saddled with penalty under the act, being personal in nature.

5) There is another angle to be considered. The PIO while dealing with an application u/s 6(1) of the act has to perform a quasi Judicial duty u/s 7(1) vis a vis the authority to whom it represents. Being so, the PIO cannot be held as an aggrieved party as he is only an adjudicatory authority.

6) The Hon'ble Supreme Court in the case of *Karnataka Information Commissioner V/s State Public Information Officer/Petition for special leave to appeal (Civil) 2013 CC. 1853/2013*, while deciding the locus of the authority under the act like the Commission, to challenge the order passed by authority higher in hierarchy, has held that Commission has no locus standie challenge the order of High Court setting aside the order of Commission as the Commission is not a aggrieved party.

7) By applying the same principals, herein the PIO has discharged its judicial function and hence any order passed by

the higher authority constituted under the act would prevail. The forum lower in rank cannot challenge the said order of higher forum. No doubt the Commission in second appeal can look into the legality of the order of FAA.

In the above circumstances I hold that the present appeal filed by PIO as not maintainable. The proceedings therefore are closed.

Notify appellant.

Sd/-  
**(Mr. Prashant S. P. Tendolkar)**  
State Chief Information Commissioner  
Goa State Information Commission  
Panaji-Goa