

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

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

Misc. Appl. No.06/2017

Shri Subodh V. Prabhu,
H. No.55,Nr. General Post office,
Panaji-Goa. Appellant

V/s

- 1) Shri Advino Fernandes,
R/o H. No.92, Sonarbhat, Reis-Magos,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer,
Mapusa-Goa. Respondents.

Misc. Appl. No.07/2017

Shri Subodh V. Prabhu,
H. No.55,Nr. General Post office,
Panaji-Goa. Appellant

V/s

- 1) Shri Advino Fernandes,
R/o H. No.92, Sonarbhat, Reis-Magos,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer,
Mapusa-Goa. Respondents.

Misc. Appl. No.08/2017

Shri Subodh V. Prabhu,
H. No.55,Nr. General Post office,
Panaji-Goa. Appellant

V/s

- 1) Shri Advino Fernandes,
R/o H. No.92, Sonarbhat, Reis-Magos,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer,
Mapusa-Goa. Respondents.

Misc. Appl. No.09/2017

Shri Subodh V. Prabhu,
H. No.55,Nr. General Post office,
Panaji-Goa. Appellant
V/s

- 1) Shri Advino Fernandes,
R/o H. No.92, Sonarbhat, Reis-Magos,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer,
Mapusa-Goa. Respondents.

Misc. Appl. No.10/2017

Shri Subodh V. Prabhu,
H. No.55,Nr. General Post office,
Panaji-Goa. Appellant
V/s

- 1) Shri Advino Fernandes,
R/o H. No.92, Sonarbhat, Reis-Magos,
Bardez-Goa.
- 2) The First Appellate Authority,
Block Development Officer,
Mapusa-Goa. Respondents.

Filed on:25/09/2017

Decided on: 28/12/2017

C O M M O N O R D E R

1) As all the above matters are between same parties and involving common point of maintainability of these proceedings, all the above proceedings are disposed by this common order.

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2) These appeals are filed by PIO of the V.P. Reis Magos against the order of First Appellate Authority (FAA) dated 13/09/2017.

3) 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 no.2 FAA, and the same was placed before me for orders.

4) The appellant was notified but inspite of notice and subsequent opportunities he failed to remain present.

5) I have considered that matter. The appeal is filed by PIO. PIO is the custodian of the information of the concerned authority. The Right to Information Act 2005 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.

6) 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 it is only an adjudicatory authority under the act.

7) 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.

8) 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. The merit of the order of FAA can be very well looked into by the commission in second appeal.

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