

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

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

**Appeal No.171/SCIC/2017**

Jawaharlal T. Shetye,  
H. No.35/A Ward No.11,  
Khorlim-Mapusa-Goa. .... Appellant

V/s

- 1) The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa-Goa.
- 2) The First Appellate Authority,  
The Chief Officer,  
Mapusa Municipal Council,  
Mapusa-Goa. .... Respondents

Filed on : 19/10/2017

Disposed on: 30/4/2018

**1) FACTS IN BRIEF:**

**a)** The appellant herein by his application, dated 6/6/2016 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under fourteen points therein.

**b)** According to the appellant the said application was not responded within the stipulated period and hence he preferred appeal to FAA on 11/7/2016

It is further according to appellant that the FAA having failed to dispose the said appeal, the appellant has approached this commission in second appeal u/s 19(3) of the act, being appeal No.233/2016. Said appeal was disposed and the matter was remanded to FAA for deciding the appeal again.

...2/-

**d)** According to appellant, the said first appeal was thereafter disposed on remand by order, dated 28/06/2017 directing PIO to furnish information but till date information was not furnished hence this second appeal.

**e)** Notices were issued to the parties, pursuant to which they appeared. The PIO on 5/4/2018 filed a reply to the appeal. In view of the absence of the parties the arguments could not be heard and hence the matter is taken up for disposal based on the records.

**2. FINDINGS:**

**a)** Perused the records and considered the pleadings of the parties. By said application, dated 6/6/2016 the appellant has sought 14 points information. On going through the said application it is seen that the information sought at **points (2) and 13(b)** is in the form of opinion of PIO whether the authority has followed prescribed procedure and whether certain file is returned. The information as sought being in the form of opinion of the PIO the same cannot be ordered to be furnished being beyond the scope of definition of Information under the act.

**b)** At **points (1),(3),(5) & (11)** appellant requires the PIO to furnish **detail information** but the details of such information are not specified by appellant. To enable the PIO to identify the information as sought the seeker has to be specific in his request as to which and what information he seeks. Seeking general information, under the heading of “detail information”, would amount to fishing of information. It would also require the PIO to collect or collate information, which is beyond the spirit

of the act as held by the Hon'ble Supreme court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) at para. 35 thereof.

*“35. 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 analysed 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, the Act does not cast an obligation upon 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 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’*

...4/-

*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."*

In the above circumstances the said information cannot be ordered to be furnished.

**c)** In respect of **points (4),(8) & 13(a)** of the application the PIO has answered that the records are not available.

**d)** The information at **points (6) & (10)** is offered by the PIO.

**e)** Regarding **point (7)** information is denied on the ground that subject matter is not specified. I am unable to accept this contention of PIO. The appellant in his application has specified the reference number of the letter sought. Such letter can be traced based on the said reference and irrespective of the subject. Hence as the information can be identified based on the said reference the same can be given.

**f)** Similar is the case in respect of **point (9)** of the application. As the letter referred by the appellant would pertain to a particular subject, the PIO could have furnished the response received to their letter referred by the appellant.

**g) Regarding point (12)** of the application I fail to understand as to why PIO feels it as beyond the act. The appellant has referred to a letter which is in turn referred to in the reply filed by the PIO before this commission. The subject thus being clear, the same

could have been furnished or informed accordingly if was not available.

**h)** The appellant has also contended that the PIO did not respond to the application within the stipulated time. The appellant himself has attached alongwith his appeal memo has annexed the response of the PIO,dated 5/7/2016.The application being dated 6/6/2016 the said response was in time. I therefore find no delay in the response.

**i)** Coming to the issue of penalty as prayed at paras (iii) and (iv) of the appeal I find that though the entire information is not furnished the PIO has given reason for arriving at his conclusion. I find now that in case of some reasons are justified and in others not but that by itself is not a ground to invoke my rights u/s 20(1) and/or 20(2) of the act unless it is found to be intentional and deliberate. The denial of information was based on some grounds which the PIO held as reasonable but it cannot be held as intentional or malafide as is held by the High court of Delhi in the case of that: *“Significantly, imposition of penalty does not follow every violations of the act but only such violations as are without reasonable cause, intentional and malafide” ( Ankur Mutreja V/S Delhi University LPA 764/2011) .*

**j)** In the light of the above findings and my observations above I dispose the present appeal with the following:

#### **ORDER**

The appeal is partly allowed. The PIO is directed to furnish to the appellant free of cost the following information:

...6/-

**i)** Certified copy of letter, no.EST/RTI/2170/2011,dated 19/4/2011 as requested at point (7) of the application,

**ii)** Certified copy of the approval conveyed by Administrative reforms Department and/or Government for revival of the posts in Mapusa Municipal Council in response to its letter no.EST/5352/2010,dated 21/9/2017,addressed to DMA, as sought at point (9) of the application **And**

**iii)** Certified copy of letter No.EST/RTI/2543/2016 dated 22/03/2016, as sought at point (12) of the application.

Rest of the prayers are dismissed. Proceedings closed  
Notify parties.

Pronounced in the open proceedings.

Sd/-

**(Prashant S.P. Tendolkar )**

State Chief Information Commissioner  
Goa State Information Commission  
Panaji - Goa