

**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.229/2017/SCIC**

Dr. N. V. Markande,  
E-69, Ganeshpuri, Mapusa,  
Bardez-Goa, Pin 403507. .... Appellant

V/s

- 1) The Public Information Officer,  
Goa Housing Board, Alto Betim,  
Porvorim, Goa Pin 403501.
- 2) The Managing Director and FAA,  
Goa Housing Board, Alto Betim,  
Porvorim Goa.  
Pin 403501. .... Respondents

Filed on :18/12/2017

Disposed on:01/06/2018

**1) FACTS IN BRIEF:**

**a)** The appellant herein by his application, dated 12/7/2017 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO regarding the sale of plot no.E-17 at Hilltop Altinho, Mapusa, Goa.

**b)** The said application was replied on 22/8/2017 furnishing part and informing the appellant that the file is not traceable. According to appellant he sent another letter on 23/8/2017 to facilitate the PIO to trace the information, which according to appellant was not replied. It is further according to appellant the information as sought was not furnished he filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

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- c)** According to appellant FAA till date has not passed any order and hence he has landed before this commission in this second appeal u/s 19(3) of the act.
- d)** Notices were issued to the parties. The appellant on 8/3/2018 was represented by Shri J.T. Shetye but on subsequent dates of hearing neither the appellant appeared nor his representative. The PIO on 22/3/2018 filed a reply to the appeal. The FAA failed to file any reply to the appeal.
- e)** In the said reply filed by the PIO he has given the sequence of events pertaining to filing of the application u/s 6(1) of the act. According to him as part of the information was available the same was furnished to appellant on payment of fees. According to PIO subsequently by letter, dated 12/7/2017 the appellant had asked for inspection of file and certified copies of the documents. Pursuant to said letter instructions were issued to Executive engineer seeking the information. Thereafter on 18/7/2017 another letter was addressed by appellant seeking further information which was also sent to Executive Engineer but the same was not available as per the certificate issued by the clerk. The PIO thus has summed up his reply stating that the file was not traceable and hence information. The PIO has also attached the correspondence entered.
- f)** In view of the contention of the PIO that the concerned file was not traceable for furnishing the information, he was directed by this commission to prove the said fact by affidavit. Accordingly on 21/5/2018 the PIO filed the affidavit. Vide said affidavit, the PIO has reiterated the contents of the reply and stated that whatever information which was available has been furnished to appellant and the

balance information which is not furnished, is in view of the fact that the concerned original file is not traceable.

**2. FINDINGS:**

**a)** Perused the records and considered the reply and the affidavit of the PIO. In the present case the appellant has applied for certain information pertaining to allotment of the plot no.E-17 to Miss Pushpalata Markande in 1986.Vide said application u/s 6(1) of the act what was sought by him are the inspection of the file and the certified copy of the documents therein. It is an admitted fact that the appellant was furnished part information and the appellant has placed the copies on record.

**b)** The records sought pertain to the year 1986 i.e. 30 years prior to the date of the application. The same is refused by PIO as the same are not traceable. The fact of non availability is proved by affidavit. Hence I find no reasons to hold that the same is refused as alleged by appellant.

**c)** Coming to the contention of the appellant that as the file is not traceable the respondent authority should search the records and thereafter furnish the same to appellant. In this context the appellant has relied upon the order by this commission in complaint no.95/SIC/2012.I have perused the said order. The same is distinguishable. The information sought therein was for the periods just two years prior to the application. Hence the records were fresh and there was no reason for un traceability of the records. However in the present case the information sought was pertaining to period of 31 years prior to the application. Considering the said period the grounds as put forth by PIO appears probable.

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d) Coming to the demand of ordering the search of the records, as observed by this Commission herein the records pertain to the period of over 30 years back. It is quite probable that the same are in existence but not traceable. The appellant herein has not shown any larger public interest in seeking the information. Though the reason for seeking information is immaterial for the act, ordering search would disproportionately divert the resources of the respondent authority. The Hon'ble High Court of Gujarat in the case of **Pankesh Manubhai Patel V/S Chief Information Commissioner and others in Special Civil Application no.16480 of 2014**, while upholding the order of the central Information Commission, has observed :  
“5.The commission has recorded reasons in para-4,which reads as under.

*“4. We agree with the respondents that collecting this information would disproportionately divert their resources from the day to day work.The appellant has not established any larger public interest,which would warrant a directive to respondents to collect information, sought by him, even at the cost of diverting their resources from their day to day work. In the above context, we also note the following observations of the Supreme Court in central Board of Secondary Education and anr. Vs Aditya Bandopadhyay and ors.”*

*“Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-*

*productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."*

*6. Having considered the relationship between the petitioner and the respondent authorities and the information asked for by the petitioner, this court finds that, the view taken by the commission in the facts of this case does not call for any interference. Further the commission has noted the observations of the Hon'ble Supreme Court of India, which would apply with full force in the facts of this case. This court does not see any infirmity in the impugned decision of the commission. This petition therefore needs to be dismissed."*

e) In the present case the appellant has not made out any case involving public interest in seeking information which would warrant a direction to the respondent authority to search the information sought at the cost of the day to day work of the authority. Considering the above ratio laid by the Hon'ble Gujrat High Court based on the judgment of the Apex Court, such a relief therefore cannot be granted to the appellant herein.

f) It is also the contention of the appellant that the FAA failed to pass any order on the appeal file by him. Opportunity was offered to the FAA but no reply is filed by FAA denying the said contentions. From the records also Commission find that the FAA has shown scant concern to the provisions of the act. FAA is a forum granted to the seeker for redressal of the grievances under the act. In view of the inaction on the part of the FAA the appellant was deprived of such forum. Such practice of the FAA of the Goa Housing Board is not in conformity with the provisions of and spirit of the act and hence appropriate recommendations are required to be issued.

**g)** In the back drop of the above facts and circumstances, the appeal stands disposed with following:

**O R D E R**

The appeal is dismissed.

In exercise of my powers conferred under section 25(5) of The Right to Information Act 2005, This Commission recommends that The Goa Housing Board Shall issue instructions to the First Appellate Authority to deal with the first appeals appropriately in accordance with the provisions

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of the said act and any lapse on the part of First Appellate Authority be considered as dereliction of duties.

A copy of this order be also sent to the Chief Secretary for information.

Parties to be notified.

Proceedings closed.

Pronounced in the open hearing.

Sd/-

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

State Chief Information Commissioner

Goa State Information Commission

Panaji - Goa