

**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.24/2018/CIC**

Shri Jawaharlal T. Shetye,  
H. No.35/A, Ward No.11,  
Khorlim, Mapusa –Goa.  
Pin 403507.

..... Appellant

V/s

- 1) The Public Information Officer,  
The Sub-Divisional Police Officer,  
Bicholim Police Station,  
Bicholim-Goa.
  - 2) The First Appellate Authority,  
Superintendent of Police (North),  
Porvorim Police Head Quarters,  
Alto Porvorim-Goa.
- ..... Respondents

Filed on: 08/01/2018  
Disposed on: 01/06/2018

**1) FACTS IN BRIEF:**

**a)** The appellant herein by his application, dated 10/10/2017, filed u/s 6(1) of The Right to Information Act 2005 (Act for short) addressed to Respondent No.1, PIO herein sought information regarding action if any taken on the letter, dated 6/9/2017 addressed to PI by the Mamlatdar Bicholim.

**b)** The said application was replied by PIO on 30/10/2017 and furnished the information. However according to appellant as he was not satisfied with the information as furnished, he filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

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**c)** The FAA by order, dated 15/12/2017, dismissed the said appeal by upholding the say of the PIO.

**d)** The appellant, being aggrieved by the said order of the FAA has landed before this commission in this second appeal u/s 19(3) of the act. In this appeal the appellant has prayed for an order directing the PIO to furnish the information as also implementation of section (4) of the act.

**e)** Notices were issued to the parties, pursuant to which they appeared. The PIO on 26/3/2018 filed his say to the appeal. Copy of the same was furnished to the appellant. The appellant thereafter remained absent.

**f)** On going through the reply and the response of the PIO dated 30/10/2017,u/s 7(1) of the act it was seen that the PIO has refused the information at points (5) to (7) submitting that the information on said points is nil and that at point (8) as not applicable. In the said circumstances PIO was directed to prove the facts in his response, by affidavit, clarifying the response.

**g)** Accordingly the PIO filed his affidavit on 25/4/2018. In his said affidavit the PIO has furnished the sequence and movement of the processing of the complaint filed by the appellant before the Mamlatdar. According to him the said complaint along with the supporting affidavit was forwarded to Bicholim Municipal Council to submit the report to PI for further action and that till date the such report is not received by PI.

According to PIO he has reported the said fact of pendency of matter before Chief Officer Bicholim to the

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appellant and that as the information as sought by the appellant was not generated there was nothing to be supplied.

The appellant has not filed any say on the said affidavit. Hence I proceed to dispose the appeal on the bases of the records before me.

**2.FINDINGS;**

a) Considered the matter. In short in the present case the appellant has sought the progress report of the complaint filed by him to the Mamlatdar Bicholim in connection with alleged dereliction of duties of one Shri Rajaram Gaokar. The same was forwarded to the PI of the respondent authority for inquiry. According to PIO the same is further forwarded to Chief Officer Bicholim Municipal Council for inquiry and report. These facts are informed to the appellant by PIO. However regarding the further progress of the inquiry, after the same is referred to the Chief officer, is not furnished. According to PIO it is not so furnished as the report is not yet received. In other words the information as sought by appellant thereon is not generated with it to be furnished to the seeker. Thus the further information, as sought, is not in existence with the respondent authority.

b) While considering the extent and scope of information that could be dispensed under the act, 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 has observed :

*“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' 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."(emphasis supplied).*

c) The appellant has not rebutted the said contention of the PIO to discard or disbelieve the said contention of PIO that the information as sought does not exist. Considering the above ratio as laid down by the Apex Court, I find that the information which is not in existence cannot be ordered to be furnished and the PIO herein has appropriately responded to the appellant's application.

**d)** Coming to the prayer of the appellant to direct the respondent Authority to implement section (4) of the act, I find that the said requirements is a mandate under the act and has to be complied with by all the public authorities. The respondent authority herein has not made out any case to the satisfaction of this commission that the said requirements are complied with. Hence, notwithstanding the fact that the said requirements are mandatory, I find it appropriate to direct the compliance of the same.

**e)** In the above circumstances I dispose the present appeal with the following:

**O R D E R**

The appeal is partly allowed. The respondent authority i.e. Sub divisional Police Officer Bicholim is hereby directed to strictly comply with the requirements under section (4) of The Right To Information Act 2005, within four months from the date of receipt of this order.

Rest of the prayers are rejected.

Notify the parties.

Proceedings closed.

Pronounced in the open proceedings.

Sd/-

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

State Chief Information Commissioner  
Goa State Information Commission  
Panaji - Goa