

# GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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**CORAM: Shri Juino De Souza: State Information Commissioner**  
**Appeal No. 263/SIC/2016**

Mr. P. Vincent Dias,  
R/o House No. 19/1, Non-Mon,  
Vasco –da-Gama,  
Goa - 403802

.....**Appellant**

v/s

1.The Public Information Officer,  
Mr. Deepesh N. Priolkar  
Administrator of Comunidades,  
Comunidade Building,  
South Zone,Margao - Goa,

2.First Appellate Authority,  
L.S. Pereira,  
Additional Collector – I,  
Mathany Saldanha Administrative Bldg.,  
Margao – Goa.

..... **Respondent**

## **Relevant emerging dates:**

Date of Hearing : 21-08-2018

Date of Decision : 21-08-2018

## **O R D E R**

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 06/07/2016 addressed to the PIO office of Administrator of Comunidades, South Zone, Margao-Goa sought certain information u/s 6(1) from the Respondent PIO. It is seen that the information sought is voluminous and sought has 37 points.
2. The Appellant is *inter alia* is seeking information regarding names of encroachers over the land belonging to Comunidade of Mormugao, as maintained under the Encroachment Register since last 10 years; total number of Lotes, including reserved Lotes covering the Comunidade of Vaddem and areas of each of such Lotes; names of encroachers in each of the Lotes of Comunidade of Mormugao and area covered by such encroachment by each of them in last 10 years; names of encroachers in each of the Lotes of Comunidade of Vaddem and areas covered by such encroachment.....

..... by each of them in last 10 years; total number of encroachment and trespass cleared by the Administrator of Comunidades of South Zone and till date after 20/01/2011 from the land covering the Comuindades within South Zone, with details; total number of grants forfeited covering the land of Comunidade of Mormugao, with details, since last 10 years; total number of reserved Lotes covering the cattle grazing grounds as per record of Tombo/Register No. 1 of Comunidade of Vaddem and area of the said Lotes with details as may be available; total number of grants, with details, made from the reserved Lotes for housing purpose within jurisdiction of Comunidade of Vaddem; copy of Order issued by Competent Authorities foreseen under Codes of Comuindades permitting multi housing dwellings as well as commercial structure over the land granted by Comunidade of Mormugao and other such related information.

3. It is the case of the Appellant that the PIO did not furnish any information and as there was no reply was filed by the PIO and as such, a First Appeal was filed on 12/08/2016 and the First Appellate Authority (FAA) vide an Order dated 16/09/2016 disposed off the said First Appeal by directing the Escrivao of the Comunidade of Vaddem and Mormugao to furnish information to the Appellant within 7 days.
4. Being aggrieved that despite the Order of the First Appellate Authority (FAA), no information has been furnished, the Appellant thereafter filed a Second Appeal before this Commission registered on 21/11/2016 and has prayed that PIO be directed to provide true, correct, specific, complete and authentic information and for penalty, disciplinary action and other such reliefs. It is seen that this Appellant had earlier filed Complaint no 157/SIC/2012 which withdrawn with the liberty to file a fresh RTI application seeking more clarity regarding the information sought.

5. **HEARING:** This matter has come up before the Commission on several previous occasions and thus taken up for final hearing. During the hearing the Appellant is absent. The former PIO, Shri. Deepesh Priolkar, Administrator of Comunidade is present.
6. **SUBMISSIONS:** Shri. Deepesh Priolkar submits that the Appellant has sought voluminous information at 37 different points in one RTI application. It is also submitted that pursuant to the direction of First Appellate Authority, a Memorandum no ACSZ/1/120/RTI/2016-17/460 dated 19/09/2016 was issued to the Escrivao of the Comunidade of Mormugao and Vaddem to provide the information and after which, the said Comunidades have furnished information.
7. It is further submitted that the Comunidades of Mormugao has furnished a detailed list of encroachers and about 30 pages of information documents pertaining to the list of encroaches in Mormugao Comunidade including the survey number and area encroaches was furnished to the appellant. The Comunidade of Vaddem has submitted a statement showing the details of properties of comunidade as shown in the cadastral plan containing Lote no, area and remark plan no and that the complete list is already on record of the Commission.
8. The former PIO also points out that detailed reply dated 19/05/2017 was furnished before this Commission containing details of information and a copy of which was received by the Appellant by endorsing his signature. It is stated that in regards from point No. 1 to point no 3, the list was enclosed in Annexure A, in point no 4 list is as per Annexure B and on point nos 11,12,15 & 16 the list is as per Annexure C & D and information with respect to point nos 2, 5,6,7,8, 9 10, 17 to 31 the same is not available in the office, and as regards point no 13 the office has not forwarded any report and regarding point no 14 the encroachments are not cleared. ...4

9. **FINDINGS**: The Commission after hearing the submission and perusing the material on record finds that the PIO has indeed made every attempt to collect information from the respective Comunidade of Mormugao and Vaddem. It is seen that about 30 pages of information documents have been furnished to the appellant. It is also seen that the PIO had issued an earlier Memorandum no ACSZ/1/120/RTI/2016-17/345 dated 12/07/2016 to the Escrivao of the Comunidade of Mormugao and Vaddem soon after receiving the RTI application from the appellant and to which there are replies from Comunidade of Vaddem and Mormugao dated 25/07/2016 issued by the escrivao stating that the RTI information is huge, vast and expensive and single handedly it is humanly impossible to dwell on the said matter and to provide assistance of staff. There is also a reply filed by the PIO dated 06/03/2017 confirming all the facts.
10. As stipulated in the RTI Act, the role of the PIO is to provide information as available from the records. The very fact that the PIO had issued two Memorandums dated 12/07/2016 & 19/09/2016 to the Escrivao of the Comunidade of Mormugao and Vaddem to provide the information is sufficient to prove the bonafide that there was no malafide intentions on the part of the PIO to delay or deny the information. Hence the PIO cannot be faulted.
11. This apart, it is known fact that Comunidades are not Public Authorities and as such do not furnish information under the RTI act. This Commission has come across a number of such cases where respective Comunidades do not furnish information to the office of the Administrator of Comunidades even after the RTI application is dispatched to their respective offices and reminders are sent to the escrivao, thus rendering the PIO helpless.

12. It is pertinent to note that the matter regarding Comunidades had also reached the High Court and the Bombay High Court at Goa in Writ Petition no 1004 of 2017 in the matter of Comunidade of Mapusa V/s PIO Administrator of Comunidade, has stayed the Judgment of the Goa State Information Commission presided over by the CIC dated 04/07/2017 while also staying the Order of the First Appellate Authority (FAA) dated 26/09/2011 directing the PIO to furnish information. There is an Order dated 12/06/2018 in the same petition where the Division Bench of the High Court of Bombay at Goa has ruled that pending the hearing of this petition, the petitioner (Comunidade of Mapusa) need not supply information as sought by Respondent No 2 (Administrator of Comunidades)
13. **DECISION:** In view of the above decision of the Division Bench of the High Court of Bombay at Goa and further in view that the PIO has furnished information as was received from the respective Comunidade of Mormugao and Vaddem and which the appellant has received and further as no other information is available in the records, **Nothing survives in the appeal case which accordingly stands disposed.**

All proceedings in Appeal case stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-  
**(Juino De Souza)**  
**State Information Commissioner**

