

**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.37/2018/CIC**

Shri Suryakant B. Naik,  
R/o H. No.25W/1, Cuchelim,  
Mpausa, Bardez-Goa.

----- Appellant

V/s

- 1) The Public Information Officer,  
Dy. Director of Panchayats, North,  
Junta House, Panaji.
- 2) The First Appellate Authority,  
Director of Panchayat, North,  
Junta House, Panaji.
- 3) Shri Deepak P. Vaingankar,  
S/o Shri Pandharinath Vaigankar,  
H. No.222, Oxel, Siolim,  
Bardez-Goa.

----- Respondents

**Filed on 05/02/2018**

**Disposed on: 05/07/2018**

**1) FACTS IN BRIEF**

**a)** The appellant herein by his application, dated 08/09/2017 filed u/s 6(1) of the Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under nine points therein. The information sought was pertaining to the service /employment of Shri Deepak P. Vaigankar, the respondent No.3 herein.

**b)** The said application was replied on 11/10/2017. Vide said reply the information was refused by the PIO interalia on the ground that by letter the respondent

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no.3 has objected to furnish the information. It was further informed by PIO that information sought is personal and exempted from disclosure u/s 8(1)(j) of the act. According to appellant as the information sought was refused, he filed first appeal to the respondent No.2, being the First Appellate Authority(FAA).

- c)** The FAA by order, dated 04/01/2018 dismissed the said appeal, which according to appellant was after a period of 79 days from the date of filing.
- d)** The appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the act.
- e)** Notices were issued in the appeal to the parties, pursuant to which they appeared on 04/04/2018. However subsequently neither the PIO nor the FAA appeared nor filed any reply to the appeal. The respondent No.3 filed his reply. Arguments of the appellant and respondent No.3 were heard.
- f)** It is the contention of appellant in his submission that under the act, information which cannot be denied to parliament or assembly cannot be refused to a citizen. According to him the information sought is not coming under section (11) of the act as the same is not pertaining to a third party as the information sought is in respect of a public servant and it pertains to discharge of his public duties. It is further according to him that for invoking section (11) the information should be treated as confidential by such party and that for dispensing same notice has to give to such party. In the present case as the information does not fall u/s 11, no notice was given to the respondent No.3 by PIO.

For considering the conduct the FAA appellant submitted that the FAA failed to dispose the appeal within time stipulated and took 79 days to dispose the first appeal. According to him the PIO and FAA are in collusion to deprive the appellant to furnish information, to cover up the illegalities of the respondent No.3.

- g)** While meeting the submissions of the appellant Adv. S. Madgaonkar, for the respondent No.3 submitted that the information sought is personal in nature and if granted would cause invasion on privacy of the respondent No.3. He submitted that the information being personal in nature cannot be ordered to be disclosed u/s 8(1)(j) of the act. In support of his submission Adv. Madgaonkar had relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Girish Ramchandra Deshpande V/s Central Information Commissioner [Special Leave Petition (civil) 27734 of 2012]*** and others and also in the case of ***Canara Bank v/s C. S. Shyam [Civil Appeal No.22 of 2009]***.

**2) FINDINGS:**

- a)** Perused the records and considered the pleadings of the parties. Considered the submissions of the parties. In the present case the information is refused by PIO on the sole ground that the same is personal and hence exempted from disclosure u/s 8(1)(j) of the Act.
- b)** If on analyses the said section 8(1)(j) it reads,

**“ 8. Exemption from disclosure of information.**

\_\_\_\_\_ (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,\_\_\_

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

**c)** Considering the wording of the said section, immunity against disclosure is granted in two cases. Firstly the information should not have any relation to any public activity and secondly disclosure of should cause invasion on privacy. On further scrutiny of the said provision also confers the powers to the Commission to decide whether disclosure involves larger public interest or not. Said section also makes a proviso to clarify the scope of disclosure that whatever which is available to parliament or assembly is also available to seeker.

**d)** In the present case it can be gathered from the appellant’s application u/s 6(1) that the appellant herein

has sought information pertaining to the respondent No.3 herein, as is available with the Directorate of Panchayat. It is also not in dispute that the respondent No.3 is posted with said Authority as a Panchayat Secretary. All the information sought at points (1)to(9) of the application pertains to his employment as a V. P. Secretary and is generated for his employment as a public servant. It is also not the case of PIO that all or any information is not available with the public authority. In the circumstances find that the information which is sought, though pertains to an individual, the same is generated and maintained as is required by the authority in relation to the public duties performed by him.

e) In support of refusal of information Adv. S. Madgaonkar has relied upon the judgment in the case of ***Girish Ramchandra Deshpande (Supra)***. If one peruses the said judgment the information therein was sought pertaining to an employee which included the copies of appointment letter, promotion order, details of salary, transfer orders, allowances claimed by the employee , copies of posting orders. The Central Information Commission while partly allowing the said appeal has ordered the authority to furnish the said information. However the information, which was rejected by the commission and upheld by the Hon'ble Supreme Court was pertaining to the returns of assets, copy of memos, details of investment and gifts and also the income tax details.

Thus by applying the ratio of the said judgment to the matter in hand, Hon'ble Apex court has held that the information like copies of appointment letters, promotion orders, details regarding salaries,

transfer orders, allowances, copies of posting orders etc. which are akin to the information sought herein has to be furnished. In the present case there is no demand for copies of income tax returns, list of assets and liabilities held by respondent no.3, gifts in his favour, taxes paid by him etc. Thus the said judgment on the other hand supports the contention of the appellant.

f) In the case of *Canara Bank (Supra)*, relied upon by Adv. Madgaonkar the facts there in are distinguishable. In the said case the seeker has sought information in bulk regarding transfer and posting of entire clerical staff for 4 years. The said application was rejected by the PIO. The grounds of rejection as put forth by the PIO were set aside by the commission and the High court. However, the Apex Court reverse the said order of the Commission and the High court on the ground that there was no public interest disclosed by the seeker and that no finding were recorded to that effect by the Commission involving any larger public interest.

From the finding therein it is seen that the Apex court has held that in its order the Commission has not come to finding regarding involvement of public interest which is a prerequisite for ordering disclosure under section 8(1)(j) of the Act. There was another aspect involved in this case before the Hon'ble Supreme Court. It is apparent from the facts that the seeker has sought the information pertaining to all the clerical staff and not an individual Clerk. It is in this background it was obvious that larger public interest should have been disclosed while seeking bulk information.

The fact therefore in the said case are distinguishable to the case in hand. Appellant herein has sought the information pertaining to a public servant and which record are generated while discharging his

duties as a public servant and which are maintained by the public authority on account of such service for which he draws salaries from public exchequer.

g) On the other hand Hon'ble High Court of Bombay , Goa bench at Panaji, in the case of *Kashinath J. Shetye V/S Public Information Officer and others (Writ Petition no. 1 of 2009)*, while dealing with the nature of public activist and the responsibility in disclosing information at para 7 of the judgment has observed

*“7) The first thing that needs to be taken into consideration is that the petitioner is a public servant. When one becomes a public servant, he in strict sense becomes a public servant and as such, every member of public, gets a right to know about his working, his honesty, integrity and devotion to duty. **In fact, nothing remains personal while as far as the discharging of duty. A public servant continues to be a public servant for all 24 hours. Therefore, any conduct/misconduct of a public servant even in private, ceases to be private. When, therefore, a member of a public, demands an information as to how many leaves were availed by the public servant, such information though personal, has to be supplied and there is no question of privacy at all.** Such supply of information, at the most, may disclose how sincere or insincere the public servant is in discharge of his duty and the public has a right to know.(**emphasis supplied**)*

h) Considering the above facts and the law and the ratio laid by the Hon'ble High Court of Bombay of Shri Kashiath J. Shetye (Supra) Commission find that the information sought by appellant has a direct relationship to the public activity of the Respondent No.3 herein. Disclosure thereof is thus justified in larger public interest. In this circumstances Commission disposes the present appeal with the following:

**O R D E R**

The appeal is allowed. PIO, Office of Dy. Director of Panchayats, North Goa, is hereby directed to furnish the information sought by appellant vide his application, dated 08/09/2017 **within 15 days** from the date of this order free of cost.

Rest of the prayers of appellant are rejected.

Proceedings closed.

Pronounced in open proceedings.

Sd/-  
**(Prashant S.P. Tendolkar )**  
State Chief Information Commissioner  
Goa State Information Commission  
Panaji - Goa