

**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.73/SCIC/2017**

Miss Elvina Barreto,  
H. No.553, Colsor, Galgibaga,  
Canacona –Goa. .... Appellant

V/s

The Public Information Officer,  
Deputy Collector & Sub Divisional Officer,  
Quepem Sub – Division,  
Quepem –Goa. .... Respondent

Filed on :12/6/2017

Disposed on:29/3/2018

**1) FACTS IN BRIEF:**

a) The appellant herein by her application, dated 19/9/2016 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information, being the certified copy of file under case No.CRC/ CORR/39/95 from the PIO Mamlatdar of Quepem. Said application also demanded a copy of Quepem Mamlatdar/Joint Mamlatdar/dealing hand /circle inspector/clerk during the year 2001 to 2011 at the office of Quepem Mamlatdar.

b) The said request was transferred to the respondent herein u/s 6(3) by the Mamlatdar vide letter, dated 30/9/2016.

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c) The said application was replied by PIO herein on 31/10/2016 informing the appellant that there is no file numbered as CRC/CORR/39/95 and that there are two files nos. LRC/CORR/39/95 pertaining to which the appellant has already received the desired information. However according to appellant the information as sought was not furnished and hence the appellant filed first appeal to the First Appellate Authority (FAA).

d) The FAA by order, dated 5<sup>th</sup> June 2017 disposed the same upholding that the said file was not available.

e) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

f) Notices were issued to the parties, pursuant to which they appeared. The PIO on 17/1/2018 filed a reply cum arguments to the appeal . Submissions of the parties were heard.

g) As the PIO vide his reply had inter alia contended that there is no file with the said office as file no.CRC/CORR/39/95 was not existing, which according to him was based on the records he was directed to call upon the then PIO to affirm the fact of non availability of file, on an affidavit. Accordingly Shri Prashant P. Shirodkar, then PIO filed affidavit on 6/2/2017.

## **2. FINDINGS:**

a) I have perused the records. In the instant case the information is refused on the ground of non availability of records. To find out the reason of non availability, the PIO was directed to file the affidavit. As per the said affidavit

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there does not exist file bearing no.CRC/CORR/39/95 in the office of Dy. collector/SDO Quepem. He has further explained that said office deals with the cases u/s 103 of The Land Revenue Code for correction of clerical errors of survey records and therefore the file is identified by the act as LRC and the relief as CORR and there is no act as CRC which is dealt with by said office. According to him the said word CRC was a clerical mistake.

b) On considering the above averments it is seen that the file with no.CRC/CORR/39/95 is not at all generated and that there is a file numbered as LRC/CORR/39/95. In view of the non existence of the file the PIO cannot be held to be liable to comply with the demand of the appellant.

c) 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."*

- b) Considering the fact of the above case and the ratio laid by Hon'ble apex Court as above, I hold that as the information as sought is not existing the same was not furnished. In the circumstances I find no irregularity or illegality in the response of the PIO. In the result I dispose the appeal with the following:

**O R D E R**

The appeal is dismissed. However the right of the appellant to inspect the records and locate the relevant file with the correct number, if any and seek the required information if required, are kept open.

Notify the parties.

Proceedings closed.

Pronounced in the open hearing.

Sd/-

**(Mr. Prashant S. P. Tendolkar)**  
State Chief Information commissioner  
Goa State Information Commission  
Panaji-Goa