

# GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

**Shri Prashant S. P. Tendolkar,**  
State Chief Information Commissioner

**Appeal No. 56/2018/CIC**

Ramesh S. Kerkar,  
H.No.3/15, Muddawaddi,  
Saligao, Bardez-Goa. 403 511.

**...Appellant**

**V/s**

- 1) Shri Vikas S. N. Gaunekar,  
Additional Collector –I,  
First Appellate Authority,  
North Goa District, Panaji.
- 2) Gaurish J. Shankwalkar,  
Administrator of Comunidades,  
North- Zone.
- 3) The Public Information Officer,  
Administrator of Comunidades,  
North- Zone,  
Mapusa, Bardez –Goa.
- 4) Ramesh A. Tulaskar,  
Acting Secretary of Administrative and APIO.
- 5) Managing Committee Member,  
Comunidade of Saligao,  
Saligao, Bardez –Goa.

**...Respondents**

**Date: 15/11/2018**

## **O R D E R**

- 1) The appellant herein by his application dated 08/12/2017, filed u/s 6(1) of The Right to Information Act 2005 (Act) sought information from the PIO, Administrator of Comunidade, Mapusa Goa.
- 2) Vide letter dated 22/12/2017, the PIO, through APIO, sought assistance of the clerk of Comunidade of Saligao and directed him to supply the information to the PIO within three days therefrom.
- 3) In spite of said letter, no information was provided to the appellant and hence he filed first appeal to the First Appellate Authority (FAA) on 17/01/2018.

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- 4) The FAA by order dated 14/02/2018 directed the PIO, Administrator of Comunidade Mapusa Bardez Goa to furnish the information free of cost.
- 5) On receipt of said order the PIO, Administrator of Comunidade Mapusa, Bardez vide memo dated 20/02/2018, once again directed the said Escrivao/clerk to submit the information to it to provide the same to appellant. However inspite of the said memo the information is not received by the appellant hence this second appeal to this commission u/s 19(3) of the Act.
- 6) In this second appeal, in addition to the PIO, Administrator of Comunidade, Mapusa Bardez, APIO and the FAA, the appellant has also joined the Managing Committee member of concerned Comunidade of Saligao as party Respondent No. 5. The appellant has also joined Shri Gaurish Sankhwalkar in his individual capacity as a party Respondent No.2 to this appeal, in addition to his joining as per the designation is the PIO as respondent No.3.
- 7) On being notified Shri Gaurish Sankhwalkar, who is also the PIO, filed his reply on 11/05/2018. The Escrivao/clerk of Comunidade Shri Uday Mandrekar was also notified to file his reply. Accordingly vide his reply filed on 01/08/2018 he has submitted that all records of the accounts and books are kept by treasurer and that he is maintaining with him only records of meetings, resolutions and contas corentas, Matriculas do Jonerios.

The Comunidade of Saligao which is joined herein as Respondent No. 5, through its attorney also

has filed its reply. Vide said reply it is submitted that the matter covering subject matter is subjudice before the High court of Bombay in writ petition no.1004/17 and hence question of proceeding further does not arise and hence prayed the matter to be kept subjudice. Attorney has also relied upon the order passed by this commission in Appeal No.263/SIC/2016.

- 8) On perusal of the records it is seen that while filing the appeal the appellant has haphazardly added several parties who have no role in dispensation of information under the Act. It is to be noted that the parties to this appeal, except the PIO were not joined in the first appeal. Unlike any other civil proceedings, no other person other than a PIO, APIO and a deemed PIO has a role in dispensation of information and the seeker can seek redressal of his grievance under the act, only against said designated authorities. Thus joining said Shri Gaurish Sankhwalkar in person and the managing committee of Comunidade is uncalled for. Granting any relief under the act against parties i.e. Respondent Nos. 2 and 5 is beyond the scope and jurisdiction granted to the commission under the act. It is also to be noted that these persons were not joined as parties in the first appeal and are joined only in second appeal before this commission.
- 9) From the records of this appeal it is seen that on appellants application u/s 6(1) of the act the PIO by exercising his rights u/s 5(4) of the act sought assistance from the Escrivao/clerk of the concerned Comunidade i.e. Comunidade of Saligao. Being so in terms of section 5(5), such person assumes the status

as a deemed PIO under the act. In view of such status the clerk/escrivao of Comunidade being a deemed PIO u/s 5(5) as also the APIO, u/s 5(2) read with section 2(m) ought to have been granted an opportunity to discharge their onus u/s 19(5) of the act in the first appeal. They were not joined as parties in first appeal. As such the entire proceedings in first appeal is vitiated as the APIO and the clerk/escrivao, who is the deemed PIO were deprived of their valuable right. The order of the FAA therefore cannot survive.

- 10) In view of the above, I find that the present appeal cannot survive. However an opportunity is granted to the appellant to file a fresh appeal before the FAA by joining the APIO, as also escrivao/clerk of Comunidade of Saligao being deemed PIO, alongwith PIO as parties to such first appeal.
- 11) In the above circumstances the present appeal is dismissed. Liberty is granted to appellant to file first appeal u/s 19(1) against refusal/deemed refusal of his request for information dated 08/12/2017 by joining PIO, APIO and escrivao/clerk of Comunidade of Saligao as parties to such appeal.

Incase such appeal is filed, the FAA shall dispose the same on merits without insisting for the period of limitation.

Proceeding closed.

Pronounced in open hearing.

Sd/-

**(Shri. P. S.P. Tendolkar)**

Chief Information Commissioner  
Goa State Information Commission  
Panaji –Goa

