

# GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

**Penalty No. 43/2017/CIC**

**In**

**Appeal No.75/SCIC/2016**

1) Shri. Lindo J. Furtado  
Hno-51, Copelwaddo,  
Serabatim, Salcete-Goa.

...Appellant

V/s

1) The Public Information Officer  
O/o The Deputy collector & SDO  
Salcete – Goa.

2) The First Appellate Authority  
O/o The Additional collector-I  
Margao, Salcete- Goa.

...Respondent(s)

**Disposed Date: 14/08/2018**

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**ORDER**

- 1) While disposing the above appeal this commission by order, dated 03/07/2017 has directed the then PIO, office of Dy. Collector & SDO, Salcette, Margao Goa, to show cause as to why penalty in terms of section 20(1) and/or 20(2) should not be imposed.
- 2) In response to the said notice the then PIO, Shri. Ajit Panchwadkar filed affidavit on 27/04/2018. Vide said affidavit he submitted that the application filed by appellant was transferred on 28/05/2015 by Add. Collector & SDO, Salcette to his office. On receipt of said application he made search through his subordinate staff to trace the concerned file but could not trace the file inspite of efforts as the information, over 16 years old.

Then PIO has narrated in his said affidavit the efforts made by his staff to trace the file. In sum and substance, according to the then PIO Shri. Ajit Panchwadkar, the information as sought by appellant

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could not be furnished as it is not found in the records or not available now.

- 3) Commission, after considering the records and on perusal of the pleadings, observes that the information sought pertains to the year 1999 and was sought in 2015, which is about 16 years later from the date when it was generated. The information was not refused but could not be furnished due to non traceability of the file at the relevant time. Non traceability of sixteen years old records cannot be attributed to PIO.
- 4) 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*

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*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."*

- 5) Considering the ratio as laid down above, as the information sought was not available at the relevant time, commission find no malafides on the part of then PIO and thus no grounds to proceed with the proceedings.
- 6) In the result the notice dated 03/07/2017, stands withdrawn. Proceedings closed.

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