

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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**CORAM: Shri Juino De Souza State Information Commissioner**

**Second Appeal No: 73/2018/  
SIC-II**

Mr. Uday R. Naik,  
Draughtsman Gr. III Civil,  
Works Division XII, W.R.D.  
Gogol, Margao, Goa – 403602.

**..... Appellant**

v/s

1. Public Information Officer,  
O/o The Chief Engineer, W.R.D.,  
Sinchai Bhavan, Near Police Station,  
Alto Porvorim – Goa.
2. The Public Information Officer,  
O/o The Executive Engineer,  
Works Division XII, Water Resources  
Department, Gogol,  
Margao, Goa – 403702
3. The Public Information Officer,  
O/o. Civil Register cum Register of  
Quepem, Quepem, Goa
4. The Public Information Officer,  
O/o Vigilance Department,  
Anti Corruption Branch,  
Altinho, Porvorim – Goa.
5. State Through the First Appellate  
Authority,  
O/o The Superintending Engineer,  
Central Planning Organization,  
Water Resources Department,  
Sinchar – Bhavan, Near Police  
Station, Porvorim, Bardez – Goa.

**..... Respondents**

**Relevant emerging dates:**

Date of Hearing : 07-06-2018

Date of Decision : 07-06-2018

**O R D E R**

1. Brief facts of the case are that the Appellant Shri Uday R Naik has filed an Appeal case before this Commission registered on 03/04/2018 being aggrieved by the order of First Appellate Authority (FAA) dated 16/03/2018 and has prayed for an Interim Order to quash and set aside the impugned order of the FAA, as the same is passed without hearing him being the third party against whom information was sought. ...2

2. Pursuant to the notices served, the parties appear before the commission and during the hearing the Appellant Mr. Uday R. Naik is present in person alongwith Adv. Amarnath Desai who has filed Vakalatnama which is taken on record. The Respondent No.1 PIO, Dy. Director O/o Chief Engineer, Water Resource Department, Dr. Geeta Nagvekar is present in person. Respondent No.2 PIO, Shri Mohan Halkatti Executive Engineer, Water Resource Department is also present in person. The Respondent No.3 & 4 are absent. The present FAA, Shri. P.J. Kamat is also present in person.
3. At the outset Adv. Amarnath Desai submits that it was the bounden duty of the FAA to issue notice to the third party who is the Appellant herein and hear him in the matter more so as the third party had filed written objections before the PIO dated 06/02/2018 not to furnish information to the original RTI applicant one Mr Bandagit Nadaf who vide his RTI application dated 23/01/2018 had sought certain information some of which related to third party personal information pertaining to the Appellant and which the PIO after considering the said objections had rightfully denied the information being exempted u/s 8(1)(h) and 8(1)(j).
4. Adv. Amarnath Desai further argues that the appellant did not receive any reply to his objections and the FAA without hearing him the Appellant passed an order directing to furnish information to the RTI applicant and which order is arbitrary and perverse and deserves to be quashed and set aside.
5. The Respondent No.1 in her submissions states that after receiving the RTI application which was addressed to the Chief Engineer, WRD, the same was transferred as per section 6(3) to the Executive Engineer, WRD who is Respondent No.2 more so as the said information was held by the O/o the Executive Engineer and not with the Chief Engineer.

6. The Respondent No. 2 submits that immediately after receiving RTI application, he had verbally brought to the notice of the third party, who is the Appellant herein who also works with the same Public Authority.
7. It is also submitted by Respondent No. 2 that the Appellant Shri Uday R Naik being the third party had filed his written objections vide letter dated 06/02/2018 and accordingly the RTI applicant was denied information being exempted u/s 8(1)(h) and 8(1)(j).
8. The Respondent No. 2 further submitted that the RTI applicant not being satisfied with the reply had filed a First Appeal bearing entry date as 05/03/2018 and the FAA vide his Order dated 16/03/2018 directed the Respondent No. 1 & 2 to provide the information free of cost to the Appellant on or before 6<sup>th</sup> April 2018 and also transfer information at sr no 7 & 16 to the concerned authorities within the stipulated period as per the RTI act 2005.
9. Respondent No. 2 stated that the FAA had observed in his order that information in para 1,5, & 8 are to be furnished by Respondent No 2 (Dy Director Adm) and information pertaining to points 2, 3, 4,6,9,10,11,13 & 15 are to be furnished by Respondent no 1 (PIO, O/o Executive Engineer) and information in para 14 is not coming under pruvew of definition of information and RTI under clause (f) & (j) of the section 2 of RTI Act 2002 and OM No 11/2/2008-IR dated 10/07/2008.
10. Finally, Respondent No. 2 submits that during the hearing before the FAA, he had placed on record the objections raised by the third party Shri Uday R Naik vide his letter dated 06/02/2018, however the FAA did not consider the same and passed the order without hearing the third party. The FAA submits that the former FAA has since retired from government service and that the Commission may pass an order on merit of the case.

11. The Commission observes that since the PIO had verbally notified the third party who is the Appellant herein and who had filed his objections dated 06/02/2018 as a result the information was denied to the RTI applicant being exempted u/s 8(1)(h) and 8(1)(j), the FAA was duty bound to issue notice and hear him as third party in the matter before passing the order and which has not been done.

12. The impugned order of the First Appellate Authority dated 16/03/2018 therefore deserves to be quashed and set aside as otherwise grave and irreparable injustice will be caused.

**Accordingly the order of the FAA is hereby quashed and set aside and the matter is remanded back to the present FAA.**

13. The Commission directs the FAA to issue fresh notices to the concerned PIO's i.e Respondent No 1 & 2, the original RTI applicant Shri Bandagit Nadaf and the third party Shri Uday R Naik who is the Appellant herein within 15 days of the receipt of this order and hear the respective parties and thereafter pass an order purely on merits of the case in accordance with the RTI act 2005.

14. It is kept open for either party i.e the original RTI applicant Shri Bandagit Nadaf or the third party Shri Uday R Naik to thereafter approach the Commission by way of Second Appeal under section 19(3) or a Complaint case under section 18, if aggrieved with the order of the FAA. The Respondents No 3 & 4 are dropped.

**With these directions the Appeal case stands disposed.**

All proceedings in the 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**

***The Registrar is directed to also send a copy of this order to the original RTI applicant Bandagit Nadaf who has not been made a party in the present appeal case for information.***

