

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

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**CORAM: Smt. Pratima K. Vernekar**, State Information Commissioner

**Appeal No. 187/2017**

Minaxi K. Sakate,  
 H. No. 689, Manaswada,  
 Kundaim-Goa 403115  
 V/s

.....Appellant

1. The Public Information Officer,  
 Navnath Naik,  
 Office of the Deputy Collector &  
 S.D.O., Ponda Sub-Division, Ponda-Goa

2. The First Appellate Authority,  
 Office of the Additional Collector-I,  
 Mathany Saldanha Complex,  
 Margao-Goa

.....Respondents

**Filed on: 16/10/2017**

**Decided on: 18/01/2018**

**ORDER**

1. The appellant Mrs. Minaxi K. Sakate by her application dated 24/04/2017 filed under section 6(1) of Right To Information Act, 2005 sought information from Public Information Officer (PIO), O/o. Deputy Collector and S.D.O., Ponda Sub-Division, Ponda-Goa on 2 points.
2. The Respondent No. 1 PIO replied the same on 12/05/2017. It was informed that the information at point No. 1 was given by them vide letter dated 11/05/2017 and with regard to information at point No. 2 it was replied that information at point No. 2 cannot be answered.
3. Being not satisfied with the response of PIO the appellant filed 1<sup>st</sup> appeal on 25/05/2017 who by an order dated 28/07/2017 directed PIO to furnish the same to the appellant within period of 15 days free of cost and to report compliance.

4. The Respondent PIO, after the order of FAA vide letter dated 10/08/2017 and 24/08/2017 informed that both the information cannot be furnished in view of the ratio laid down in the judgment passed by the hon'ble High Court in writ petition No. 419 of 2007 of Celsa Pinto V/s Goa State Information Commission. It was informed to her that Land Acquisition Act 1894 would answer her query and the PIO cannot provide answer to such queries.
5. The Appellant then being aggrieved by the action of the Respondent PIO have approach this Commission with the grievances that inspite of the order of the FAA, the information is not furnished to him. Appellant has therefore approach for the direction of this Commission to the PIO to reply her both queries and to provide information with the word "yes" or "no" and also for invoking penalty.
6. Notice were issued to the parties. In pursuant to which son of appellant Shri Paritosh Sakate appeared. Respondent represented by Suresh D. Palkar.
7. The PIO on 10/1/2017 filed his reply to the appeal.
8. Perused the records and considered the submission of both the parties. In the course of arguments and as per the memo of appeal also, it is contention of the appellant that information have not been furnished to her. It is her further contention that her question at point No. 1 was not about the calculation in the awards but the applicability of the section 34 of the Land Acquisition Act, 1894 and as such she had sought for the information whether the interest from the date of award till its payment or deposit with court is applicable in her case or not. It is her case that even after passing order by FAA. The PIO had replied negatively. And at point number 2 it is her contention that since there is difference in the calculation done by the public Authority and by her as per section 23 of the act, she has sought the information to know how the said calculation of interest of 12 % or deduction included if any.

9. In the nutshell it is case of the appellant that whether section 34 of the Land Acquisition act 1894 was invoked by the competent authority while awarding said award and on what bases the calculation of the interest as per section 23 of the Land Acquisition Act 1894 was made while calculating the compensation.
10. I therefore restrict my finding on the entitlement of the appellant on the information at both points.
11. The appellant herein has raised, certain queries and sought about the provisions of law under which certain act were and can be done or not done while the authority passing said award and fixing the compensation.
12. Cojoint reading of to section 2(f) and 2( j) of the RTI Act, shows that seeker can excise his right in the form of manner as specified in section 2(j) in respect of the records as specified in section 2(f).
13. In the context of the nature of information that can be sought from PIO, Hon'ble supreme Court in **"Central Board of Secondary Education and another V/s Aditya Bandopadhyay and Others ( Civil Appeal No. 6454 of 2011),** at para 35 has observed:  
 "At this juncture, it is necessary to clear some misconception about the RTI Act . The RTI Act provides access to all information that is available and existing . This is clear from the combined reading of section 3 and the definition of "information " and "right to information "under clause (f) and (j) of section 2 of the Act. **If the 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, 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 of 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."

11. Yet in another decision Hon'ble High Court of Bombay at Goa in the case of **Dr. Celsa Pinto V/s. The Goa State Information Commission and another, reported in 2008(110)Bombay L.R.1238 at relevant para 8 has held**

" The definition of information cannot include within its fold answers to the question" why" which would be same thing as asking a reason for a Justification for a particular thing, **The Public information authorities cannot be expected to communicate to the citizens the reasons why a certain thing was done or not done in the sense of justification because the citizen makes a requisition about information.** justifications are matters within the domain of adjudicating authorities and cannot properly be classified as information" .

12. The Apex court in case of Peoples Union for Civil Liberties V/s Union of India; AIR 2004 Supreme Court 1442 has held

“under the provisions of RTI Act of **Public Authority is having an obligation to provide such information which is recorded and stored but not thinking process which transpired in the mind of authority which an passed an order”.**

13. By applying the same ratio to the present appeal, I find that information sought by the appellant in the form of opinion and queries does not come within the purview of definition of information. Hence, I find no irregularity or perversity in the reply of PIO. Never the less, the representative of appellant namely Ashitosh Sakate submitted that a copy of letter dated 26/12/2017 addressed to Dy. Collector of Margao by Dy. Collector & SDO of Ponda enclosed to the written statement of Respondent No.1, due calculation of interest are reflected in the same as such queries /information sought by him vide RTI application have been replied and accordingly made endorsement on memo of appeal.

14. Since appellant has got no any further grievance, I am of the opinion there is no any reason to proceed with the case. Hence proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-  
**(Ms. Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

Kk/-