

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

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

**Appeal No.106/2018/SIC-II**

Sebastian Cardoso,  
Red Room Apt., 2<sup>nd</sup> Floor,  
H.No.429, Hotel Silver Sands,  
Colva Salcete , Goa 403 708

**..... Appellant**

**v/s**

1. Public Information Officer  
Executive Engineer, W-Div-VIII,  
Public Works Department,  
Fatorda, Margao, Goa 403 601.

2. Public Information Officer  
Assistant Engineer,  
P.W.D. Sub Div II, W.Div. VIII,  
Fatorda, Margao, Goa 403 601.

**..... Respondents**

**Relevant emerging dates:**

**Date of Hearing : 20-03-2019**

**Date of Decision: 20-03-2019**

**ORDER**

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 27/11/2012 addressed to the PIO, O/o Executive Engineer, Works Div VII, Fatorda - Goa, sought certain information under section 6(1) of RTI Act, 2005 by enclosing copies for reference of Town and Country Planning Dept Letter No.DJ/2705/4172/77-78 dated 17/01/1978 and Panchayat Construction Licence No. 3377 – 78 letter dated 02/02/1978. The information sought is with reference to the above is regarding Hotel Silver Sands, Colva Building Construction Plan in Survey No. 24/2,3 as per Construction Licence no. 33/77-78 and Copy of Colva Panchayat letter dated 14/05/1981 addressed to Asst. Eng. PWD Div VII Sub Div II, Fatorda.
2. It is seen that PIO vide reply letter no.PWD8/F.1062/2017-18/Adm/3117 dated 22/12/2017 informed the Appellant that search has being made in the office records of sub Division-II, Division VIII and No information is available.

3. Not satisfied with the reply of the PIO, Appellant filed a First Appeal dated 25/01/2018 and the First Appellate Authority (FAA) vide an Order dated 05/03/2018 disposed the First Appeal by directing the PIO to trace out the file/information and furnish the information to the Appellant within 15 days or a specific reply may be given to the Appellant so that the Appellant can take further course of action as per RTI Act, 2005.
4. Being aggrieved that despite the directions of the First Appellate Authority (FAA), the PIO has not furnished any information, the Appellant has filed a one page hand written Second Appeal before the Commission registered on 04/05/2018 without stating the grounds and the reliefs sought.
5. **HEARING:** This matter has come up for hearing before the Commission on numerous previous occasions and hence taken up for final disposal. During the hearing the Appellant Shri. Sebastian Cardoso is absent. The Respondent No. 1, Mr. Francis E fernandes, Ex. Engineer, Works Div. VII, PWD, Margao is present in person. Adv. K.L Bhagat is also present on behalf of both the Respondent No.1 and 2.
6. **SUBMISSION:** At the outset Adv. K.L Bhagat submits that information sought was regarding Hotel Silver Sands Colva Building Construction Plan in Survey No. 24/2,3 as per Construction Licence no. 33/77-78 and Copy of Colva Panchayat letter dated 14/05/1981 addressed to Asst. Eng. PWD Div VII Sub Div II, Fatorda and that that PIO had given timely reply vide letter no PWD8/F.1062/2017-18/Adm/3117 dated 22/12/2017 stating that the information sought in RTI Application is not available as it is very old.
7. It is further submitted that a First Appeal was filed by the Appellant and pursuant to the order of FAA, PIO continued making a search of the documents and informed the Appellant vide another letter No.PWD8/F.1062/2017-18/Adm/04 dated 03/04/2018 that efforts are being made to find documents as the records is very old and once the office receives any information will be conveyed. ...3

8. Adv. K.L Bhagat finally submits that the PIO has made every effort to trace the old file of the year 1977-78, however the same is not available and as such the information cannot be furnished. An affidavit dated 16/03/2019 is filed by the PIO confirming the facts and also placing reliance on several judgments which is taken on record.
9. **FINDINGS:** The Commission after perusing the material on record and hearing the submissions of Adv. K.L Bhagat indeed finds that the PIO has made all efforts to search the file of constructions plans of Hotel Silver Sands, Colva Building Construction Plan in Survey No. 24/2,3. Construction Licence no. 33/77-78 but despite diligent efforts the same could not be traced.
10. **CONCLUSION:** As stipulated in the RTI Act, the role of the PIO is to provide information as is available and what is available in the records. The PIO is not called upon to create some information so as to satisfy the whims and fancies of the Appellant.
11. The very fact that PIO had given a timely vide reply vide letter No. PWD8/F.1062/2017-18/Adm/3117 dated 22/12/2017 stating that that search is being made in the office records and that no information is available and further also sent another letter No.PWD8/F.1062/2017-18/Adm/04 dated 03/04/2018 stating that efforts are being made to find documents as the records are very old is sufficient to prove the bonafide that there was no malafide intentions on part of the PIO to either conceal or deny the information. The Commission is convinced that the PIO has diligently performed his duties and in view of the affidavit filed confirming the facts accordingly comes to the conclusion that the information is not traceable and as such could not be furnished.

**The Appeal case is devoid of any merit and stands dismissed.**

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**

