

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

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Appeal No. 286/2018/SIC-I

Shri Nitin Y. Patekar,  
Oshalbag, Dhargal,  
P.O. Colvale, Goa.

....Appellant

V/s

1) The Public Information Officer,  
Office of Block Development Officer(BDO).  
Mapusa Bardez Goa.

2) First Appellate Authority,  
Office of Directorate of Panchayat,  
Junta House, Panaji Goa.

.....Respondents

**CORAM:**

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

Filed on:26/11/2018

Decided on:31/01/2019

**ORDER**

1. The fact arising in the present appeal are that the appellant Shri Nitin Y. Patekar, by his application dated 27/7/2018 filed u/s 6(1) of the RTI Act, 2005 sought from the PIO of Director of Panchayat, Panjim Goa, certain information on 3 points as stated therein in the application pertaining to the Village Panchayat Secretary Shri Dhiraj J. Govekar and also inspection of service book of Shri Dhiraj Govekar was sought by the appellant at point No. 4 .
2. It is contention of the appellant that the said application was transferred by the Dy. Director of Panchayat/PIO of the office of Directorate of Panchayat, North, Panajim-Goa to the Respondent No. 1 PIO of the office of Block Development officer, Bardez-Goa on 6/8/2018 in terms of section 6(3) of the RTI Act with a request to deal with the same and to dispose request as per section 7(1) RTI Act and the copy of the same was marked to the appellant.
3. It is the contention of the appellant that the said application was responded by the Respondent No. 1 PIO on 6/9/2018 wherein the

information was denied in terms of section 8(1) (j) of the RTI Act 2005 and it was also informed to him that in response to notice u/s 11(1), the 3<sup>rd</sup> party has objected for disclosure of information on the ground that disclosure has no relationship to any public activity or interest.

4. The appellant being aggrieved by such a response filed first appeal before the Directorate of Panchayat at Panjim on 26/09/2018 being first appellate authority who is the respondent no.2 herein.
5. It is the contention of the appellant that the Respondent no 2 First appellate authority did not dispose or passed any order within time limit on the First appeal filed by him, as such he being aggrieved by the action of both the Respondents is forced to approach this commission.
6. In this background, the present appeal has been preferred on 26/11/2018 in terms of section 19(3) of the RTI Act, 2005 with the contention that information at point no 2,3 and 4 have not been still provided to him . In the present appeal he has sought for the prayer for directions to Respondent no.1 PIO for furnishing him the information as sought by him and for initiating disciplinary actions against respondent No. 2 first appellate authority under the service rules for not disposing his first appeal within time limit.
7. The matter was listed on the board and for taken for hearing. Notice to third party Shru Dhiraj Govekar was also issued in terms of section 19(4) of RTI Act.
8. In pursuant to the notice of this commission appellant appeared . Respondent No. 1 PIO Shri k.S. Panguem Appeared alongwith Umesh Shetgaonkar. Replies was filed by Respondent PIO on 14/1/2019. Respondent No. 2 the First appellate authority opted to remain absent neither filed any reply. Advocate Kanchan Akoskar appeared on behalf of third Party Shri Dhiraj Govekar and filed reply on 14/1/2019. Copies of replies were furnished to the appellant .

9. When the matter was fixed for argument appellant did not appeared and as such the arguments of the Respondent No. 1 and Third party were heard. However opportunity was given to the appellant to file his written argument if any within 5 days and the matter was fixed for order. No written argument came to be submitted by the appellant.
10. The Respondent PIO vide his reply dated 14/1/2019 and during argument submitted that information sought at point no. 1,2,and 4 is a personal information and the appellant is silent and not whispered anything about larger public interest justifying his cause for seeking someone personal information and hence he had denied the information at pint no. 2and 4 in terms of section 8(1) (j) of RTI Act, 2005 . He further contended that the information sought at point No 3 was not clear, as such a letter dated 28/8/2018 was send to the appellant requesting to clarify the exact information desired by him on point 3. He further submitted that the Appellant acknowledged the said letter by the Registered A. D. post however failed to inform what is exact information desired by him in respect of TA/DA of Shri Dhiraj Govekar. He further contended that since no clarification was given by appellant he could not furnish the said information. He further submits that if still the clarification is given he is ready and willing to provide the said information.
11. He further submitted that the contention of the appellant that first appeal was not disposed is false as the respondent no. 2 after hearing all the parties passed reasoned order on 15/11/2018 thereby dismissing his first appeal by upholding the say of PIO.
12. Advocate representing third party submitted that the third party Shri Dhiraj Govekar has objection to release his information being personal in nature and if the same is provided it would cause unwarranted invasion of his privacy. She further contended that appellant has filed the present application as he has some personal grudge against him and he is repeatedly filing RTI application

seeking his information only to cause him mental harassment. She further contended that the appellant has come with uncleaned hand and did not properly placed correct facts before this commission. She further submitted that the order was passed by FAA on 15 /11/2018 and in support of her contention she relied upon the order passed by the Respondent 2 dated 15/11/2018 .

13. I have scrutinise the records available in the file and also considered the submissions of the parties
14. On scrutiny of the application dated 27/7/2018 filed in terms of section 6(1) of RTI Act, it is seen that the appellant has sought for all transfer orders, showcause notices , Censure, memo issued to Panchayat Secretary Shri Dhiraj J. Govekar and at point No. 4 has sought for the inspection of service book of village Panchayat Secretary Shri Dhiraj J. Govekar which is essentially a matter between employer and employee.
15. The important events like confirmation, fixation of pay, Annual Confidential Report, disciplinary proceedings taken against employees, memos, centures, showcause notices issued to the employees , penalty , termination of services etc. are reflected in the body of service book.
16. In the contest of the nature of the information that can be sought and can be dispensed, The Hon'ble Apex Court in special leave petitions (civil) 27734 of 2012(arising out of CC 14781/2012) Girish Ramchand Deshpandey v/s central information commission and others it was held that

“ We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e copies of all memos issued to the 3<sup>rd</sup> Respondent, showcause notices and the orders of the censure punishment etc, qualified to be personal information as defined of clause (j) of section 8(1) of RTI Act. The performance of an employee/officer in

an organisation is primary the matter between the employee and employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand the disclosure of which would cause unwarranted inversion of privacy of that individual. And if the central public information officer or the state public information officer of the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right".

17. Yet is another decision the Apex Court In Civil Appellate jurisdiction civil appeal No. of 2013 (arising out of SLP(C) No. 22609 of 2012) R.K Jain V/s Union of India, dismissed the above appeal by subscribing the decision given in case of Shri. Girish Deshpandey (Supra) wherein the appellant sought for the inspection of document relating to the ACR of members and the follow-up action taken thereon and so forth.
18. Yet in another decision the Supreme of court of India in civil appellate jurisdiction Civil Appeal No. 22 of 2009 Canara bank V/s C.S. Shyam and another's . wherein the information seeker has sought for regarding transfer and posting of the staff , the Apex Court at para 14 and 15 has held that ;

“ In our considered opinion, the aforementioned principle of law applied to the facts of this case in all force. It is for the reasons that, firstly, the information sought by respondent No.1 or individual employees working in the Bank was personal in nature, secondly, it was exempted from being disclosed under section 8(j) of the Act and lastly, neither respondent No. 1 disclosed any public interest much less larger public interest involved in seeking

such information of the individual employees and not any findings was recorded by the Central information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No. 1 .

19. By subscribing to the ratio as laid down by Apex court in above cases and as in the present case as the appellant did not make out any case that the disclosure of such information has relationship to public activity or interest nor has succeeded in establishing that the information sought for is for larger public interest, being so, I am not inclined to grant information at point No. 1, 2 and 4 as sought by the appellant vide his application dated 27/7/2018.
20. The amount of TA/DA is paid from the public money, as such the citizen have right to know about the same. It appears that the appellant herein at point No. 3 is trying to gather some information pertaining to TA/DA of Shri Dhiraj Govekar for attending the various courts. However the query/the information sought at point No. 3 is vague, ambiguous and not very clear. It does not also specify the period for which he seeking the information. On analysing point no. 3 it cannot be gathered what is the exact information that appellant desires to have. The appellant have also not responded the letter of PIO dated 28/8/2018 seeking clarification at point No. 3. There was no denial on the part of the PIO to furnish the same. Never the less since PIO have again agreed before this commission to furnish him the said information after necessary clarification is given by the appellant, the appellant if he so desires may clarify point No. 3 within 15 days so as to unable the PIO to furnish the same.
20. The appellant has also sought for disciplinary action as against respondent No. 2 first appellate authority .The same does not warrant in the facts and circumstances of the present case as the records produced by the third party shows that the appropriate order was passed by the Respondent no. 2 first appellate authority

on 15/11/2018. Be that as it may , as per the provisions of the RTI Act , only the PIO can be penalized u/s 20 and not the First Appellate authority. Hence the prayer (2) as sought by the appellant in the present appeal proceedings cannot be granted .

In the facts and circumstances of this case following order is passed.

#### Order

1. Appeal partly allowed .
2. The appellant if he so desires may give clarification to the Respondent no. 1 PIO in respect of the information sought at point no. 3 within 15 days and thereafter Respondent PIO is directed to act in accordance with law. The information at point no. 1, 2 and 4 is denied being qualified to be exempted interms of section 8(1)(j) of RTI Act, 2005.
3. Prayer –II and III of the memo of appeal is rejected.

Appeal disposed accordingly. Proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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.

Sd/-

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