

**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: 63/2019/SIC-II**

Judith Almeida,  
257/1, 3<sup>rd</sup> Ward, Bagdem,  
Colva, Salcete Goa.  
403708.

**..... Appellant**

**v/s**

1. Public Information Officer,  
Office of Town Planner,  
Osia Complex, 4<sup>th</sup> Floor,  
Margao – Goa . 403601.
2. The First Appellate Authority,  
Office of the Senior Town Planner,  
Osia Complex, 4<sup>th</sup> Floor,  
Margao – Goa . 403601

**..... Respondents**

**Relevant emerging dates:**

Date of Hearing : 28-11-2019  
Date of Decision : 09-12-2019

**O R D E R**

1. **BRIEF FACTS** of the case are that the Appellant vide an RTI application dated 28/09/2018, sought certain information under Section 6(1) of the RTI Act. 2005 from the Respondent PIO, Office of the Town Planner, Osia Complex, 4<sup>th</sup> Floor, Margao, Salcete-Goa.
2. The Appellant is seeking information with reference to technical clearance order having ref. no. TPM/29221/Colva/39/3-A/18/5387 dated 07/09/2018 for the reconstruction of residential house in survey no. 39 sub div no.3-A and with respect to coastal area classification and development regulations as per environmental protection act 1986 as referred and depicted in Goa Daman and Diu Town and Country Planning Act.
3. The information sought is at 6 points as follows: 1) Certified copies of rules, circulars, notification, directions based on the above referred development of construction of house. 2) Certified information including names, designation of all officers involved in scrutiny and approval of the above referred development of construction of house...  
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.... 3) Information based on which reconstruction and alteration of existing plinth is permitted within 100m of the High Tide Line in coastal area 4) Information if authenticity of the approvals accorded for reconstruction of residential houses by the Goa Coastal Zone Management Authority for the above referred construction within 200m of High Tide Line is verified by the Town and Country Planning Department and if yes kindly provide certified copies of such information 5) To provide information including certified copies on coastal area classification and category under which the property bearing survey no.39 sub div no. 3-A in Colva village is zoned 6) Information on which part of the property bearing survey no.39 sub div no. 3-A in Colva village is classified as settlement zone.

4. It is seen that the PIO vide reply No. TPM/RTI/Colva/1816/18/623 dated 26/10/2018 has furnished information to the Appellant at all six points. With respect to point no.1, the PIO informed that the Technical Clearance order for reconstruction of residential house in sy. No. 39/3-A of Colva village was issued based on the approval granted by the Goa Coastal Zone Management Authority and according to the Goa Land Development Building Construction Regulations 2010. With respect to point no.2, the PIO informed that the noting sheets were already collected by the Appellant vide letter dated 28/09/2018 showing signatures and designations of officers involved in scrutiny and approval of the above referred development for reconstruction of house and to inspect the file on any working day and collect the information after paying the photocopying charges. With respect to point no. 3, the PIO informed the Appellant that the reconstruction was permitted based on the approval granted by GCZMA. With respect to point no.4, the PIO informed that as the information sought is in material form as such informed the appellant to inspect the file and collect required information after necessary payment of photocopying charges.....

.....With respect to point no.5, the PIO informed that the information is not available as such cannot be furnished. With respect to point no.6, the PIO informed that the part portion of the land towards north east corner where the structure existing and reconstruction proposed falls in the settlement zone and informed to collect the land use as per the Regional plan for GOA 2021 for Sy. No. 39/3-A of the Colva Village after payment of photocopying fees.

5. Not satisfied with the information furnished, the Appellant filed a First Appeal on 29/10/2018 and the First Appellate Authority (FAA) vide an Order dated 12/12/2018 directed the Respondent PIO to provide appropriate information with clarity within 10 days.
6. It is seen that pursuant to the directions of the FAA, the PIO has furnished further information with clarity at all six points reply vide letter no. TPM/RTI/Colva/1816/19/940 dated 06/02/2019 and with respect to point no. 1, the PIO informed that the appellant may collect the copies of Coastal Regulation Zone notification published on Goa Land Development Building Construction Regulation 2010 on any working day. With respect to point 2, the names and designation of the officers were listed as follows 1)James Mathew— Chief Town Planner(Administration) 2)Rajesh Naik –Chief Town Planner (Planning) 3) S.M.Byakod – Senior Town Planner 4) M.N. Verenkar – Dy. Town Planner 5) Ritesh Shirodkar – Dy. Town Planner. With respect to the point no. 3, the PIO informed that the technical clearance was granted based on the approval granted by Goa Coastal Zone Management Authority and Coastal Regulation. With respect to point no. 4, the PIO informed that the authenticity of approvals accorded by coastal zone management authority is not known by the PIO. With respect to point no.5, the PIO informed that the classification of Coastal area is available as per sr. no.1 and finally with respect to point no.6, the PIO informed.....

..... that the Colva village is classified as VP-2 as per final report of Regional Plan for Goa 2021, Release three copy of which may be collected from the office.

7. Being aggrieved that misleading and incorrect information has been furnished by the PIO, the Appellant thereafter filed a Second Appeal u/s 19(3) before the Commission registered on 11/03/2019 and has prayed that the Respondent No.1 be directed to provide the information as sought for and for penalty and other such reliefs.
8. **HEARING:** This matter has come up for hearing before the Commission on four previous occasions and is thus taken up for final disposal. During the hearing the Appellant is represented by her daughter Ms. Madonna Almeida. The Respondent PIO and FAA are both absent.
9. **SUBMISSIONS:** The Representative for the Appellant submits that the Appellant has filed detailed clarification during the hearing held on 19/08/2019 and which copy has been received by the Respondent PIO wherein it is stated that despite the Order of the First Appellate Authority dated 12/12/2018 that the 'PIO shall provide appropriate information with clarity', the Respondent PIO instead provided misleading and incorrect information vide letter dated 06/02/2019 no. TPM/RTI/Colva/1816/19/940. It is further submits that the Respondent has contradicted himself as he states that authenticity of approvals accorded by Goa Coastal Zone Management is not known by the PIO, although he himself is the Town Planner who has scrutinized and granted the technical order.
10. It is also submitted that the Technical order for reconstruction of the house in Sy. No. 39/3-A, is not as per Coastal Regulation Zone Notification published in Goa Land Development building construction and therefore.....

..... the information provided at serial no.1 of the letter dated 06/02/2019 is false. It is stated that the PIO has furnished incomplete and misleading information at Sr. no.5. regarding coastal area classification and category under which property bearing Sy. No. 39/3-A is sought to be malafidely denied by stating that "the classification is as per Coastal Regulation Zone notification published on Goa Land Development Building Construction Regulation 2010".

11. It is finally submitted that the PIO himself is the authority for grant of such permission and should specifically provide information on the category and classification of the property bearing sy. No. 39/3-A and which has not been furnished and that the appraisal letters of the Respondents are enough evidence of the malafide intent to deny information sought.
12. The Representative for the Appellant also points out the written arguments of the Appellant dated 10/10/2019 with respect to the AFFIDAVIT filed by the PIO and states that the content of the Affidavit exposes the malafide intent to deny information as it is an accepted fact that the information sought at the serial no.4 was denied by the PIO at the first instance and only after the order of the First Appellate Authority, the Respondent PIO has sought to state that the "authenticity of approval accorded by Goa Coastal Zone management authority is not known to the PIO" and thus it is amply clear that the technical clearance order for reconstruction is not according to the Goa Land development and Building construction Regulations 2010 as claimed by the Respondent while providing information sought at serial no.1 in his reply dated 26/10/2018. It is also submitted that in fact the PIO should have had the material information as contended by him, yet with malafide intent provided wrong and misleading information to smokescreen illegal orders issued by the Office of the Town Planner.

13. It is further submitted that the Respondent provided contrary and misleading information at serial no.6 as large portion of the property bearing Sy. No. 39/3-A is classified as settlement which is beyond the existing structure and reconstruction proposed, yet the Respondent PIO has stated that " the part portion of land towards north east corner where structure existing and reconstruction proposed falls in settlement zone." Such false and malafide information sought to be provided is to mislead those who cannot read and understand plans.
14. It is finally submitted that the PIO has cleverly camouflaged the fact that vast areas within No Development Zone are marked as settlement in contravention of the Goa Land Development and Building construction Regulations 2010 and permission granted by the Goa Coastal Zone Management authority 2010.
15. **FINDINGS**: The Commission finds that pursuant to the receipt of the RTI application dated 28/09/2018, the PIO vide reply No.TPM/RTI/Colva/1816/18/623 dated 26/10/2018 has furnished the information on all six points. The Commission further finds that pursuant to the Order of the First Appellate Authority dated 12/12/2018, the PIO vide another letter No. TPM/RTI/Colva /19/940 dated 06/02/2019 has also provided further information with clarity. The Commission finds that the PIO has filed an **Affidavit** confirming the facts and that the information furnished is true to his knowledge and is as available in the records.
16. The Appellant has disputed the part of the information furnished is irrelevant, misleading and incorrect and contended that the Respondent PIO on one hand has given technical order for reconstruction of residential house in Survey No.39, sub div. no.3-A, Colva village based on the approval granted by GCZMA as regard point No.3 and in the next paragraph in point No.4, the PIO contradicts by stating that authenticity of the approvals accorded by Goa Coastal Management (CZMA) is not known by the PIO. ...7

17. The Appellant has also argued that the PIO himself is the Town Planner who has scrutinized and granted the technical order and that the Technical order for reconstruction of house in Sy. No.39/3-A is not as per Coastal Regulation Zone notification published in Goa Land Development building construction and therefore the information furnished at Serial No.1 of the letter dated 06/02/2019 is false.
18. The Appellant has further contended that misleading incorrect is provided at serial No.5, wherein information seeking Coastal classification under which property bearing survey No.39/3-A is sought is being malafidely denied by stating that "classification is as per Coastal Regulation zone notification published on Goa Land Regulation 2010" .
19. The Appellant contended that the PIO himself is the authority to grant permission and should have specifically provide information on the category and classification of the property which has been not done and has malafidely denied information to cover up the lapses and irregularities on his part in issuing the technical order for reconstruction of the said house.
20. **DECISION:** As stipulated in the RTI Act, the role of the PIO is to provide information as is available, how is available, what is available and if available in the records. The PIO is not called upon to create some information or do calculation or research or to analyze information so as to satisfy the whims and fancies of the Appellant. The very fact that the PIO has given a timely reply furnishing information as available in the records and which has been confirmed by a sworn AFFIDAVIT dated 18/07/2019 is sufficient to prove the bonafide and that there are no malafide intentions on part of the PIO to either deny or conceal information and which is as per the mandate of the RTI act 2005. The Commission also finds that the PIO has filed a reply affidavit dated 18/07/2019 confirming the facts.

21. The Appellant has sought to raise the issue that the PIO is also the Town Planner and he is one who has given technical clearance and has sought to cleverly camouflage the fact that vast areas within No Development Zone are marked as settlement in contravention of the Goa Land Development and Building construction Regulation 2010 and other such contentions.
22. In this contest the Commission is of the opinion that although the PIO and the Town Planner may be one and the same person, however the roles played in both capacities is different. Whereas the role of the PIO is to furnish information as is available in the records as per the RTI act, the role as a Town Planner is to accord approvals as per TCP act and rules.
23. The Commission would be exceeding its brief by directing the PIO who may also be the Town Planner to correct his decision regarding grant of technical order in granting approval regarding the reconstruction of house pertaining to the property bearing survey No.39 sub div no.3-A or to ask the PIO as to why such decision was taken by him in the capacity of a Town Planner.

**As all information as available in the records have been furnished and which is confirmed by an AFFIDAVIT, nothing further survives in the appeal case which stands disposed.**

24. The Appellant is at liberty to agitate the wrong doings of Town Planner in granting Technical order for reconstruction of house in Sy. No.39/3-A before the appropriate forum.

With these observations all proceedings in Appeal case stands 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**