

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 88/2019/SIC-II

Mr. Manuel John Fernandes,
H. No. 7/152, Villa Emmanuel,
Saunta Vaddo, Calangute,
Bardez Goa. 403516.

.... Appellant

v/s

1. Public Information Officer
Shri Raghuvir Bagkar, Secretary
O/o. Village Panchayat Calangute,
Bardez Goa – 403516.

2. First Appellate Authority.
Shri K.S. Pangam,
Block Development Officer,
2nd floor, Govt. Office Complex,
Mapusa, Bardez Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 10-07-2019

Date of Decision: 10-07-2019

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 22/11/2018 addressed to the PIO, Secretary, Village Panchayat of Calangute, Bardez Goa sought certain information u/s 6(1) of the RTI Act, at four points. The Appellant is *inter alia* seeking information regarding (1) Have the Panchayat issued Trade Licence to operate "Om Tattoo Shop" in front of property bearing Survey No.248/13 at Saunta Vaddo, (2) Have the Panchayat issued NOC to the Electrical Department for obtaining electricity supply for Om Tattoo Shop. (3) Has the Panchayat given House no. to the Structure constructed in the open space in front of property bearing survey No.248/13. And (4) kindly issue me a copy of the Last House Tax paid (year) of House No.7/150 in Survey No.248/13.
2. It is seen that the PIO vide his reply letter No.VP/Cal/F-53/18-19/4134 dated 03/01/2019 informed the Appellant that the information was not available. ...2

3. Not being satisfied with the reply of the PIO, the Appellant filed a First Appeal on 03/01/2019 and the First Appellate Authority (FAA) after issuing notices to the parties fixed THE hearing on 16/01/2019 and vide an Order dated 06/02/2019 disposed off the said First Appeal, by directing the Respondent PIO to search THE office record and furnish the information in case the same is existing in the office within 10 days free of cost.
4. It is seen that pursuant to the Order passed by the First Appellate Authority (FAA), the PIO vide letter No.VP/Cal/F-53/18-19/5304 dated 12/02/2019 has informed the Appellant once again that the information is not available in their office record.
5. The Appellant being aggrieved with the reply of the PIO, subsequently has approached the Commission by way of Second Appeal registered on 09/04/2019 and has prayed to direct the Respondent PIO to search through office records and furnish the information within 10 days.
6. **HEARING:** During the hearing the Appellant Mr. Manuel John Fernandes is present in person. The Respondent PIO is absent. The FAA is represented by Shri. Umesh A. Shetgaonkar who files a letter of authority which is taken on record.
7. **SUBMISSION:** The Appellant submits that he had filed the RTI application because a wrong doer who is running "Om Tattoo Shop" in front of his property bearing Survey No.248/13 without a valid trade Licence and with illegal electricity supply and has requested for the house number, if any issued to the illegal concrete structure built in the open space in front of his property. The Appellant states that due to this reason he had filed the RTI application and that the PIO has not furnished any information and also pursuant to the direction of the First Appellate Authority (FAA), the PIO replied that the information is not available.

8. **FINDINGS:** The Commission after hearing the submission of the Appellant and scrutinizing the material on record, at the outset finds that the Appellant in his RTI application dated 22/11/2018 is seeking information in 'question form' by asking questions such as: Have the Panchayat issued? Has the Panchayat given House no.? and which does not fall under the purview of section 2(f) of the RTI act 2005.

Section 2(f) in The Right To Information Act, 2005.

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

9. Thus, asking of hypothetical questions or demanding reasons for a decision or asking as to why a particular decision was taken or what future course of action a public authority will take or whether a particular policy applies to a particular set of circumstances are all questions beyond the purview of the RTI Act to be precise and does not fall under the ambit of the information as per the sections of 2(f).
10. The Honorable High Court of Bombay at Goa in W.P no 419/2007 has held that an RTI applicant cannot ask 'why' and cannot claim an answer. In decision of Goa State Information Commission in Appeal no.87/SCIC/2009 dated 14/1/2010 it has been held that no one can claim answers for questions like whether , why, what, how etc.
11. The Commission further finds that despite the Appellant seeking information in question form, the PIO has sent a reply No. VP/Cal/F-53/18-19/4134 dated 03/01/2019 informing the Appellant that the information was not available. Also after the order of the FAA dated 06/02/2019, the PIO sent another letter No.VP/Cal/F-53/18-19/5304 dated 12/02/2019 informing the Appellant once again that the information is not available in their office record.

12. As stipulated in the RTI Act the role of the PIO is to furnish information as is available from the records. Regrettably the PIO cannot procure information for the satisfaction of the Appellant. The PIO is not authorized to give any information which is non-existent nor can he create or analyze the information merely to satisfy the whims and fancies of the Appellant. The Commission finds that it is not a case where the PIO has denied the request for information or knowingly given incorrect, incomplete or misleading information or obstructed in any manner in furnishing the information.
13. **DECISION:** As the Appellant had sought information in 'question form' and which the PIO is not bound to answer and further as the said information was not available, the same could not be furnished by the PIO and which fact has been communicated to the Appellant, therefore no fault lies with the PIO.

The Appeal is devoid of any merit and stands dismissed.

14. The Commission however observes that the information sought at point No.4 of the RTI application w.r.t copy of the last House Tax paid of House No.7/150 in Survey No.248/13 can certainly be furnished by the PIO and accordingly directs the PIO to trace out the information from the house tax register and furnish to the appellant, if available, free of cost within 15 days of the receipt of the Order. It is open to the Appellant, if he so desires to approach the office of the PIO and inspect house tax register, pertaining to House No.7/150 in Survey No.248/13 with prior consent of the PIO.

With these directions 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

