

**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.124/SCIC/2013**

Engr. Rabindra A.L. Dias ,  
Dr. Pires Colony, Block "B"  
Cujira, St. Cruz , Tiswadi Goa-

**.... Appellant**

v/s

1.Public Information Officer,  
Village Panchayat of St. Cruz,  
Tiswadi –Goa.

2.First Appellate Authority,  
Block Development Officer,  
Panaji-Goa.

**..... Respondents**

**Relevant emerging dates:**

Date of Hearing : 27-03-2019

Date of Decision : 27-03-2019

**O R D E R**

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 02/02/2013 addressed to the PIO, O/o Village Panchayat, St. Cruz, Tiswadi, Goa sought certain information u/s 6(1) of the RTI Act. It is seen that the information sought is voluminous and consists of 33 points. The Appellant is *inter alia* seeking copies of Cadastral Plan & Dimensions of Survey Nos.3/1,2,3,4,& 5 and 601/1 & 2, Form No. I, II & III of Survey No. 3/1,2,3,4 & 5 and 601/1 & 2 respectively; Form I & XIV of Survey No. 3/1,2,3,4 & 5 and 601/1 & 2 respectively, form I & XIV of Survey No.3/2 of Calapor Village, Tiswadi Taluka as on 25/02/2008 and 27/11/2008; Register of maintaining the name of the occupant prior to 25/02/2008 and other such information as contained in the RTI application therein.
2. It is seen that the PIO vide reply No.VP/SC/2237/2012-13 dated 13/03/2013 has furnished information on all 33 points. With respect to point from 1 to 20 and 24, 29, 30 and 31 the PIO stated that the information is not available. The PIO has in point Nos. 21, 22, 23, 25, 26, 27, 28, & 32 furnished the information by enclosing the information documents. The PIO also informed the Appellant that he may visit the Office of Village Panchayat, St. Cruz and to inspect the records during office hours.

3. Not satisfied with the reply of the PIO, the Appellant filed a First Appeal on 06/03/2013 and the First Appellate Authority (FAA) disposed the First Appeal on 21/03/2013 by stating that during pendency of the First Appeal, whatever information was available has been furnished to the Appellant, free of cost.
4. With respect to the argument of the Appellant that the PIO should have transferred the RTI application u/s 6(3) to other PIO's and collected the information the FAA has observed thus: neither Government nor Hon'ble State Information Commission has issued any written instructions or Advisory which can lay down which subjects are dealt with by which Public Authority, so as to facilitate the PIO's to make transfers u/s 6(3) of the RTI Act, 2005.
5. The FAA further observed...At present, it is the IQ level of the concerned PIO which is material to come to a conclusion about which statement is held by which Public Authority & accordingly to make transfer u/s 6(3) of the RTI Act, 2005. Hence, in my opinion, a PIO can be compelled to make transfer u/s 6(3), if a file is sent to some other Public Authority by himself & that is how he is certain that particular information is held by a particular Public Authority.
6. Being aggrieved with the Order of the First Appellate Authority the Appellant has filed a Second Appeal registered before the Commission on 13/09/2013 and has prayed to direct the PIO to collect the information from the PIO of the other authority and make the same available to the Appellant under section 7(6) and for penalty and other such reliefs.
7. **HEARING:** This old matter of the year 2013 has come up before the Commission on numerous previous occasions and hence taken up for final disposal. During the hearing the Appellant Engr. Rabindra A. L. Dias is absent. The Respondent PIO, Shri. Rajesh Naik, Secretary, V.P. St. Cruz, Tiswadi is present in person.

8. **SUBMISSION:** The PIO submits that whatever information was available with the Panchayat has been furnished to the Appellant by the former PIO vide reply No.VP/SC/223/2012-13 dated 13/03/2013. It is further submitted that the FAA in his Order has also upheld the reply of the PIO that whatever information was available has been furnished to the Appellant and thereby disposed off the First Appeal. The Respondent PIO finally submits that in certain points of the RTI application, the former PIO had stated that the information is not available, as the information sought regarding Cadastral Survey Plans and Form No. I, II & III or Form I & XIV etc are not held by the Panchayat.
9. The PIO argues that the Appellant is in the habit of seeking voluminous information in one single RTI application including information which is not held by the public authority and thereafter expects the PIO to transfer to other PIO's and collect and hand over the information and which is not possible because of constraint of time as any transfer of the RTI under Section 6(3) should be within 5 days. It is also submitted that the PIO was trying to search and locate the information in the records of the Panchayat and as the same were not available had informed accordingly informed the Appellant and thus the PIO cannot be faulted for not transferring to other PIO's
10. The Commission on perusing the material on record and hearing the submission of the PIO finds that the PIO has furnished whatever information was available as per 7(1) vide letter No.VP/SC/223/2012-13 dated 13/03/2013 and which is the mandate of the RTI act 2005. The Commission also finds that the FAA has passed a distinct speaking order also clarifying the issue of transfer of RTI application u/s 6(3) and has observed thus: neither Government nor Hon'ble State Information Commission has issued any written instructions or Advisory which can lay down which subjects are dealt with by which Public Authority, so as to facilitate the PIO's to make transfers u/s 6(3) of the RTI Act, 2005.

11. **CONCLUSION:** The Commission is convinced with the argument of the Respondent PIO regarding the practical difficulties faced by the PIO when it comes to transferring information held by other Public Authorities under section 6(3) and which has to be done within five days. The Commission is of the considered opinion that a duty is also cast on the Appellant to find out which information is available with which public authority and accordingly file the RTI application with the PIO of that authority for that particular information.
12. It is improper on the part of the Appellant to have sought voluminous information at 33 points by filing one single RTI application with the PIO, Secretary, V.P. Santacruz and seeking information that is not held with the Public Authority and then expecting readymade services from the PIO to transfer the RTI application u/s 6(3) to other PIO's and collect and furnish the same to the Appellant. The Appellant should have known that the information regarding Survey Forms I & XIV are available online and can be downloaded immediately.

In the case of **Central board of Secondary Education V/s Aditya Bandopadhyay reported in (2011) 8 SCC 497**, the Hon'ble Supreme Court has held in para 35 ... 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, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. **The Hon'ble Madras High court V. Boobaraghamoorthy V/s District Revenue Officer of the Villupuram District** has held that the RTI Act should not be allowed to be misused or abused. To become a tool to obstruct the national development and integration nor it should be converted into a tool of oppression or intimidation of the honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of the public authorities spends 76% of their time in collecting and furnishing information to applicant instead of discharging their regular duties. The threat of penalties under RTI Act and the pressure on the authorities under the RTUI Act should not lead to employees of public authorities prioritizing information furnishing at the cost of their normal and regular duties

13. 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.
14. **No intervention is required with the Order of the First Appellate Authority (FAA).** In view that the PIO has furnished information whatever was available, nothing further survives in the Appeal case.

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

Consequently the prayer of the Appellant to direct the PIO, Secretary, V.P Santacruz to collect the information from the PIO of other authority and to make it available to the Appellant under Section 7 (1) and the prayer for imposing penalty on the PIO stand rejected.

With these observations 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**