

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 202/2018/SIC-II

Avelino Menino Furtado,
Flat No.A-204, 2nd Floor, Allan Villa,
Kalina Church Road,
Kalina Santa Cruz, (East),
Mumbai-400 029.

..... Appellant

v/s

1. Public Information Officer
Uday Prabhu Desai
Dy. Collector & SDO,
Salcete Margao,
South Goa.
2. The First Appellate Authority,
Additional Collector I,
Office of the Collector, South Goa,
Margao Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 11-03-2019

Date of Decision : 11-03-2019

ORDER

1. **Brief facts of the case** This appeal arises out of earlier appeal case being Appeal No.184/2017 which was disposed by this Commission on 06/02/2018 wherein the matter was remanded back to the First Appellate Authority (FAA), Additional Collector I, South Goa and the Appellant therein was given liberty to approach the Commission in case being aggrieved with the order of the First Appellate Authority (FAA).
2. The Appellant is aggrieved with the Order passed by the First Appellate Authority dated 29/05/2018 and hence has approached this Commission once again by way of a Second Appeal registered on 27/08/2018 and has prayed that the Respondent PIO be directed to furnish information as sought by the Appellant in the RTI Application on 26/02/2017 and for penalty compensation and other such reliefs.

3. **HEARING:** This matter has come up before the Commission on two previous occasions and hence taken up for final disposal. During the hearing the Mr. Avelino Menino Furtado is present in person. The Respondent PIO, Shri. Uday Prabhu Desai, PIO, Dy. Collector & SDO, Salcete Margao is present alongwith Shri Abhishek Naik, Awal Karkun.
4. **SUBMISSIONS:** At the outset the Appellant submits, that the First Appellate Authority (FAA), Addl. Collector I, had vide order dated 29/05/2018 directed the PIO to furnish all information sought by the Appellant free of cost, however the PIO has failed to comply with the ORDER of the First Appellate Authority (FAA).
5. The Appellant further submits that the PIO is denying the detailed report and framing an incorrect documents and that this Commission should pass an Order to redress the grievances in correcting the names on the form I & XIV and Sanad and also award compensation. The Appellant finally submits that the First Appellate Authority has passed inappropriate/Capricious Order dated 29/05/2018 instead of an appropriate Order for correcting names as mentioned in the Order Judgment No.184/2017 passed by the Commission on 06/02/2018.
6. The Respondent PIO submits that in response to the RTI application dated 26/02/2017 and inwards on 03/07/2017 the PIO had vide reply dated 31/07/2017 furnished information to the appellant by enclosing copy of application regarding clerical error correction in names dated 17/07/2017 wherein it was informed that the application dated 08/06/2017 does not attract section 103 of Land Revenue Court (LRC) 1968 and as per the documents submitted in inventory proceedings 9/2005/D from the Court of the Civil Judge Junior Division at Margao depicts the name as Menino Avelino Furtado and Filomena faria e Furtado and hence your application under section 103 of the LRC is hereby rejected. The PIO submits a copy of the said letter dated 31/07/2017 along with copy of information document dated 17/07/2017 to the Commission which is taken on record. ..3

7. **FINDINGS:** The Commission after perusing the material on record and after hearing the submission of the respective parties at the outset finds that the Appellant is seeking information in the RTI application dated 26/02/2017 by asking questions such as 'whether' any action has been taken on his Complaint letter dated 08/06/2017 and 12/05/2017' and 'what' action has been taken and 'when' would the complaint be redressed and other such questions which do not come under the purview of section 2(f) of the RTI act 2005.
8. As stipulated in the RTI act, the PIO cannot be called upon to answer questions as to 'Whether' and 'What action' and 'When'. Regrettably the PIO cannot procure information for the satisfaction of the Appellant. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority and not to do research or analyze information on behalf of the citizen to deduce anything from the material and then supply it to him.

Hon'ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. "...*Under the RTI Act "information" is defined under Section 2(f) which provides:*

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, 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."

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed."

"...the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him."

The Hon'ble Supreme Court of India in the matter of [Union of India v. Namit Sharma](#) in REVIEW PETITION [C] No.2309 OF 2012 IN Writ Petition [C] No.210 OF 2012 with State of Rajasthan and Anr. vs. Namit Sharma Review Petition [C] No.2675 OF 2012 In Writ Petition [C] No.210 OF 2012 had held as under: While deciding whether a citizen should or should not get a particular information "which is held by or under the control of any public authority", the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority. This function obviously is not a judicial function, but an administrative function conferred by the Act on the Information Commissions."

*Hon'ble Supreme Court decision in 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), wherein it was held as under:
35..... "It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority.*

9. The Commission further finds that the PIO had already informed the Appellant vide letter dated 31/07/2017 with regard to the RTI application dated 26/02/2017 inwards on 03/07/2017 by enclosing a copy of the information document bearing No.SDO/SAL/COR/2017/6095 dated 17/07/2017 wherein it was informed that the application dated 08/06/2017 does not attract section 103 of Land Revenue Court (LRC) 1968 and as per the documents submitted in inventory proceedings 9/2005/D from the Court of the Civil Judge Junior Division at Margao depicts the name as Menino Avelino Furtado and Filomena faria e Furtado and hence the application u/s 103 of the LRC is rejected.

10. The Commission has also scrutinized the reply filed by the Appellant dated 11/03/2019 wherein the Appellant is requesting the Commission to pass an appropriate Order to readdress the grievance regarding correction of names in form I & XIV and the Sanad and in this regard finds that such directions cannot be given to the PIO as being beyond the mandate of the RTI Act. The Appellant should file proceedings in the appropriate court of law to effect names corrections and cannot seek such redressal through the State Information Commission which deals purely with the RTI act and is not empowered to entertain civil disputes.

High Court of Delhi in the matter of Hansi Rawat and Anr. vs. Punjab National Bank and Ors. LPA No.785/2012 dated 11.01.2013 held as under: "6. The proceedings under the RTI Act do not entail detailed adjudication of the said aspects. The dispute relating to dismissal of the appellant No.2 LPA No.785/2012 from the employment of the respondent Bank is admittedly pending consideration before the appropriate forum. The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute. The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished."

DECISION: As the information whatever is available in the records has been furnished nothing survives in the Appeal which accordingly stands dismissed. The request of the Appellant on compensation and other reliefs consequently also stands 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**