

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

Appeal No.259/2018/SIC-I

**Shri Bapu Yeso alias
Yeshwant Virnodkar,
R/o Girkarwada, Kepe,
Arambol, Pernem Goa.**

....Appellant

V/s

**1. Maya K. Amonkar,
The Public Information Officer,
Inspector of Survey & land records,
Record of Rights, Panaji Goa.**

**2. Ms. Domiana Nazareth,
First Appellate Authority,
Superintendent of
Survey & Land Records,
Panaji Goa.**

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

**Filed on: 05/11/2018
Decided on: 08/01/2019**

ORDER

1. The brief facts which arises in the present appeal are that the Appellant Shri Bapu Yeso alias Yeshwant Virnodkar vide his application dated 8/12/2017 had sought for certified copies of proceeding sheets with respect to cancellation and deletion of names of Yeso Dhondu Virnodkar, Vasant Rama Virnodkar, Krishna Madhav Virnodkar, Laxman Soma Virnodkar, and Rajaram Keshav Virnodkar from 'name of Tenant' column of the property bearing Sy. No. 58/1 of Arambol, Pernem, Goa. The said information was sought from the PIO of the office of Mamlatdar of Pernem in exercise of appellant right under sub-section (1) of section 6 of Right To Information Act, 2005.

2. It is contention of the appellant that the PIO of Mamlatdar of Pernem Taluka vide his letter dated 30/7/2018 transferred his application to the Respondent no. 1 the PIO of the office of Survey and Land Records, Panajim,Goa, interms of section 6(3) of Right To Information Act, 2005 with a request to provide the information directly to the applicant. The said application was transferred to Respondent No. 1 intems of the directions given by this commission on 26/7/2018 in appeal No. 122/2018 .
3. It is the contention of the appellant that he received a reply from Respondents no. 1 PIO herein on 1/08/2018 interms of section 7(1) of RTI Act there by informing him the records pertaining to village Pernem Taluka are not available in their office records.
4. It is the contention of the appellant that since he was not satisfied with the above reply, he preferred first appeal on 3/9/2018 before the Respondent no. 2 herein interms of section 19(1) of the Right To Information Act, 2005.
5. It is the contention of the appellant that the Respondent No. 2 First appellate authority did not disposed his first appeal and No any further relief was granted to the appellant by the First appellate authority, as such he had approached this Commission on 5/11/2018 on the ground that information as sought still not provided to him.
6. In this back ground the appellant has approached this commission with a prayer for directions to Respondent No. 1 PIO for furnishing correct and complete information, for invoking penal provisions.
7. In pursuant of notice of this commission appellant appeared in person. Respondent No. 1 PIO Smt. Maya Amonkar appeared and Respondent No. 2 first appellate authority was represented by Vinita kamble .
8. Reply in affidavit filed by respondent No. 1 PIO on 08/01/2019 and reply on behalf of Respondent No. 2 is also filed on 08/01/2019 by the representative of First appellate authority.

9. Arguments were advanced by both the parties.
10. It is the contention of the appellant that the information is denied to him by single statement that is it not available and the PIO ought to have specified the particular reasons for it and for deletion of his name on form III and as such he has sought the said information in order to approach the appropriate authorities with his grievances.
11. It is the contention of the Respondent PIO that the said records pertaining to form III (Index of land) of survey No. 58/1 of Village Arambol of Pernem Taluka nor any dispute case of Arambol village are available in their office records and hence the same could not be provided to the appellant.
12. Vide reply dated 08/01/2019, Respondent No. 2 have contended that he had disposed the first appeal on 25/9/2018 by upholding the say of PIO after both the parties were heard and in support of his contention he relied upon the order passed by him in his first appeal No. 15/DSLRL/RTI/ EST/958/2018 .
13. I have scrutinized the record available in the file so also considered the submissions made by the both the parties .
14. In the contest of the nature of information that can be sought from PIO the Hon'ble Supreme Court in case of in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya wherein it has been held at para 35

"At this juncture, it is necessary to clear some misconception about the RTI Act. **The RTI Act provides access to all information that is available and existing.** This is clear from the combined reading of section 3 and the definition of "information "and "right to information "under clause (f) and (j) of section 2 of the Act . **If the public authority has any information in the form of data or analysed data or abstracts or statistics , an applicant may access such information ,subject to the exemptions in**

section 8 of the Act . But where the information sought is not a part of the records 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. A public authority is also not required to furnish information which required drawing of inferences and/or making of assumptions . 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. "

15. Yet in another decision , the Apex court in case of peoples Union for Civil Liberties V/s Union of India, AIR Supreme Court 1442 has held

"under the provisions of RTI Act ,Public Authority is having an obligation to provide such information which is recorded and stored but not thinking process which transpired in the mind of authority which an passed an order".

16. Hence the PIO is duty bound to furnish the information as available and as exist in the office records. In the present case the PIO has clearly stated and affirmed that that the information sought by the appellant are not available in their office records.
17. By subscribing to the ratios laid down by Hon'ble Apex court the information which is not available/does not exist in the office records cannot be ordered to be furnished.
18. The respondent PIO has received the RTI application of the appellant vide forwarding letter of Mamlatdar of Pernem Taluka dated 30/7/2018 and the same has been responded by her on 1/8/2018 well within stipulated time of 30 days interms of section 7 (1) of RTI Act. The records show that Respondent No. 1 was diligent in her duty under the

RTI Act . Though the appellant vide his memo of appeal have contended that Respondent have provided him incomplete and misleading information, have not supported his said statement with cogent and sufficient evidence . Hence I am of the opinion that this is not a fit case warranting levy of penalty on PIO.

19. In the above given circumstances and as discussed above I do not find merits in the appeal and hence the reliefs sought by the appellant cannot be granted.

Appeal disposed accordingly. Proceedings stands closed.

Notify the parties.

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.

Pronounced in the open court.

Sd/-

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