

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

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**Appeal No.282/2018/SIC-I**

Shri Rishiraj J. Kamble,  
A-5, Pradnya Sheel,  
Housing Board Colony,  
Mapusa Goa.

....Appellant

V/s

1)The Public Information Officer,  
The Deputy Director of Administration,(DDA),  
Office of Chief Engineer,  
Sinchai Bhawan, Porvorim Goa.

2)First Appellate Authority,  
The S.E. (C.P.O),  
Sinchai Bhawan,  
W.R.D, Near Sanjay School,  
Porvorim, Goa .

.....Respondents

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

**Filed on:23/11/2018**

**Decided on: 31/01/2018**

**ORDER**

1. By this appeal the Appellant assails the order dated 31/10/2018, passed by the Respondent No. 2, Superintendent Engineer, water Resource Department, Porvorim, Bardez-Goa and First Appellate Authority (FAA), in first appeal No.27/F.No.213/SE-CPO/2018-19/508, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Shri Rishiraj kamble vide his application dated 18/7/2018 had sought information as listed at serial No. 1 to 8 therein. The said information was sought from the PIO of the office of Chief Engineer of Water Resource Department, Porvorim, Goa in exercise of appellant right under sub-section (1) of section 6 of Right To Information Act, 2005.

3. It is contention of the appellant that the PIO of (Engineering Office Section), vide his letter dated 19/7/2018 transferred his application to the respondent no. 1 PIO of the office of the Deputy Director of Administration, Water Resource Department, Porvorim-Goa, interms of section 6(3) of Right To Information Act, 2005 with a request to provide the information directly to the applicant as the same was pertaining to the Administration section.
4. It is the contention of the appellant that he received a reply from Respondents no. 1 PIO herein on 16/08/2018 interms of section 7(1) of RTI Act there by requesting appellant to attend their office to verify the available documents and to identify the same for the purpose of furnishing the same to the appellant .
5. It is the contention of the appellant that respondent NO. 1 PIO vide letter dated 21/9/2018 informed him that his information is ready and the same may be collected on payment of fees.
6. It is the contention of the appellant that Respondent No. 1 PIO vide letter dated 28/9/2018 furnished him point wise reply alongwith enclosures.
7. It is the contention of the appellant that the information at annexure 'D' and 'F' was provided to him incomplete and incorrect and hence he preferred first appeal on 1/10/2018 before the Respondent no. 2 herein interms of section 19(1) of the Right To Information Act, 2005.
8. It is the contention of the appellant that the Respondent No. 2 First appellate authority by an order dated 31/10/2018 disposed his first appeal by upholding the say of PIO and coming to the conclusion that information has been furnished to the appellant as per the available office records . No any further relief was granted to the appellant by the First appellate authority.
9. Being not satisfied with the order dated 31/10/2018 passed by Respondent No.2 First appellate authority and reasoning given by

Respondent No.2 First appellate authority, the Appellant approached this Commission on 23/11/2018 on the ground that information given by the Respondent no. 1 PIO at point No. 4 annexure 'D' is incomplete and incorrect.

10. 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 documents(including No. 3/12-1 / 95WR / 516 /dated 10/8/2004)
11. In pursuant of notice of this commission, appellant appeared in person. Respondent No.1 PIO Dr. Geeta Nagvekar and Respondent No. 2 first appellate authority Shri V.V. Pujari were present .
12. Reply filed by respondent No. 1 PIO on 4/1/2019 and on 14/1/2019 alongwith the enclosures.
13. Arguments were advanced by both the parties.
14. It is the contention of the appellant that the PIO ought to have provided him list of seniority of Group-A officer on 1/7/2005 and on 1/1/2007 in WRD which he had sought at point No. 4 and the same denied to him deliberately. The appellant also expressed his grievance with respect to information furnished to him at point no. 4 vide reply dated 28/9/2018 at annexure "D". It is his contention that documents provided at "D" i.e the memorandum dated 6/9/2004 issued by S.D. Sayanak, Chief Engineer (WR) Ex-Officio Additional Secretary to Government drawing the final seniority list of the superintendent Engineer is incomplete and incorrect . According to the appellant there had to be more names of the officers included in the said seniority list however only four name are reflected in the said memorandum. It is his further contention that he had also sought for memorandum dated 10/8/2004 inviting objections vide his another RTI application and it is his apprehension that the said is missing/is hidden.
15. It is the contention of the Respondent PIO that she had taken various efforts to make sure that the appellant gets the necessary

information which he was seeking to obtain and with the intention of speeding up the process she vide letter dated 16/8/2018 called upon appellant to verify the documents available in the office records and after inspection of the records of the appellant the necessary information was furnished to the appellant vide letter dated 28/9/2018. She further contended that the said facts were brought to the notice of Respondent no. 2 by her. She further contended that no Seniority list has been issued of Group -A officer on 1/7/2005 and on 1/1/2007 in WRD which was sought by the appellant. The appellant has also verified the officials record and on his request seniority list dated 6/9/2004 and dated 12/10/2007 was provided to him.

16. It is a further contention of the PIO that even during the present proceedings she made efforts and in pursuant to same a memorandum dated 24/12/2018 was issued by her to Shri Swapnesh Gawade, Head Clerk to provide the information to her as sought by the appellant at point No. 4 on or before 28/12/2018 and the said Head Clerk Shri Swapenesh Gawade had informed her vide letter dated 28/12/2018 that no seniority list has been issued on 1/7/2005 and on 1/1/2007.
17. In the nutshell it is the case of respondent PIO that the information/documents sought by the appellant i.e the list of seniority of Group –A officer on 1/7/2005 and on 1/1/2007 in WRD was not issued and hence the same could not be provided to the appellant.
18. I have scrutinized the record available in the file so also considered the submissions made by the both the parties .
19. 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. ”

20. 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 of 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”.**

21. The PIO is duty bound to furnish the information as available and as exist in the office records. In the present case the appellant has sought for list of seniority of Group-A officer on 1/7/2005 and on 1/1/2007 at point No. 4 of his application dated 18/7/2018. The

PIO has clearly stated and affirmed that apart from memorandum dated 6/9/2004 and 12/10/2007 there are no any other seniority list available in the records of the office.

22. The Delhi High Court in L.P.A. No.14/2008, Manohar Singh V/s N.T.P.C. has held;

“The stand taken by PIO through out for which a reference is made to earlier communication issued to the appellant by PIO. It will be clear that even on that day also specific stand was taken that there is no specific documentation made available on the basis of which reply was sent and hence the directions to furnish the records if the same is not in existence cannot be given.”

23. Hence by subscribing to the ratios laid down by Hon'ble Apex court, and various High Courts, as the documents sought at point no. 4 since are not available and not existing in the records of the public authority, no any directions can be issued for furnishing non existing information.

24. The grievance of the appellant that memorandum dated 6/9/2004 finalising the seniority list is incomplete and incorrect cannot be looked into by this commission as this commission has got no jurisdiction and not empowered to entertain such grievances under the RTI Act. The appellant if so desire may redress his above grievance with competent forum.

25. In the above given circumstances and as discussed above the reliefs sought by the appellant for direction to Respondent PIO for providing him information at point No. 4 as sought by him vide his application dated 16/7/2018 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