

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

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**Appeal No.285/2018/SIC-I**

Mr. Savio Fernandes . ....Appellant  
H.No. 496 Penha de France,  
Near Tourist Cottages,  
Bardez Goa.  
V/s

1.The Public Information Officer,  
Office of Superintendent  
of Police Traffic(North),  
Altinho Panaji Goa.

2.First Appellate Authority,  
Superintendent of Police  
Traffic (North),  
Altinho Panaji Goa.

.....Respondents

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

**Filed on: 26/11/2018**  
**Decided on: 14/01/2019**

**ORDER**

1. By this appeal the Appellant assails the order dated 5/11/2018, passed by the Respondent No. 2 Superintendent of Police, Traffic Goa and First Appellate Authority (FAA), in first appeal No. 4 of 2018, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Mr. Savio Fernandes vide his application dated 3/9/2018 had sought information as listed at serial No. 1 to 5 pertaining to Malim Traffic island /junction on the existing Mandovi Bridge. The said information was sought from the PIO of the office of North Goa Collector, Panajim 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 Collectorate of North Panajim Goa vide his letter dated 28/9/2018 transferred his

application to the Respondent no. 1 Superintendent of Police (Traffic), North Goa at Panajim in terms of section 6(3) of Right To Information Act, 2005 with a request to provide the information at point No. 3,4,and 5 of the said application directly to the applicant as the same was pertaining to the Department of Police.

4. It is the contention of the appellant that he received a reply from Respondents no. 1 herein on 17/10/2018 pertaining to his point 3,4 and 5.
5. It is the contention of the appellant that he was not satisfied with the reply given at point No. 5 as such he preferred first appeal on 29/10/2018 before the Respondent no. 2 herein in terms of section 19(1) of the Right To Information Act, 2005.
6. It is the contention of the appellant that the Respondent No. 2 First appellate authority by an order dated 5/11/2018 disposed his first appeal by upholding the say of PIO . No any further relief was granted to the appellant by the First appellate authority.
7. Being not satisfied with the order dated 5/11/2018 passed by Respondent No.2 First appellate authority and reasoning given by Respondent No.2 First appellate authority, the Appellant approached this Commission on 26/11/2018 on the ground that information given by the Respondent no. 1 to point No. 5 is incorrect and vague reply and the same is done to cover up wrong doings of the Department.
8. In this back ground the appellant has approach this commission thereby seeking several relief vis-a-vis direction for furnishing information at point no. 5 as sought by him, setting and quashing aside the order dated 5/11/2018 passed by Respondent No. 2 and for initiating disciplinary proceedings as against Respondent no. 1 .
9. In pursuant of notice of this commission appellant appeared in person. Respondent No. 1 PIO Shri D.G.P. Angle appeared and Respondent No. 2 first appellate authority was represented by Shri Narayan Chimulkar.

10. Reply and additional reply was filed by Respondent No. 1 PIO on 14/1/2019 and Respondent No. 2 filed his reply on 7/1/2019. Copies of the replies filed by the Respondent were furnished to the appellant .
11. Arguments were advanced by both the parties .
12. I have scrutinized the record available in the file so also considered the submissions made by the both the parties .
13. On scrutinizing the records it is seen that at information at point No. 5 the appellant has sought following information

*"Give me details of when the Malim traffic island/junction on the existing Mandovi bridges will be thrown open to traffic".*

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 Hon'ble High Court of Bombay at Goa in the case of **Dr. Celsa Pinto V/s. The Goa State Information Commission and another, reported in 2008(110)Bombay L.R.1238 at relevant para 8 has held;**

" The definition of information cannot include within its fold answers to the question why which would be same thing as asking a reason for a Justification for a particular thing, The Public information authorities cannot be expected to communicate to the citizens the reasons why a certain thing was done or not done in the sense of justification because the citizen makes a requisition about information justifications are matters within the domain of adjudicating authorities and cannot properly be classified as information".

16. 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".

17. The Hon'ble High Court of Delhi in writ petition No. 5957/2007 Kusum Devi V/s Central Information Commission & others has held that at para 5;

"Most of the questions asked by the petitioner are argumentative, presumptuous or asking for opinion and cannot be categorized as "information". The petitioner certainly has right to ask for "information" with regards to complaint made by him, action taken and the decision taken thereafter, but not ask for opinion or presumptive question."

18. It appears from information sought at point No. 5 that the appellant intends to know the details when the Malim, Traffic will be thrown open to traffic . The PIO vide his clarification dated 14/1/2019 has clearly answered the "*information is not available* on record in the office of Deputy Superintendent of Police North". By subscribing to the ratios laid down by the above courts, I find that the Information at point no. 5 does not come within the purview of definition of "information" and as the said is not available on the records of the office as such the same cannot be ordered to be furnished.
19. With respect to other prayers, Prima facie it is seen from the records that the application u/s 6(1) of the RTI Act was transferred to PIO before PIO, on 28/9/2018 and the same was responded by the respondent PIO on 17/10/2018 well within stipulated time thereby providing information. I do not find any illegality or irregularity or any perverse in the reply dated 17/10/2018 given by the PIO. As such I am of the opinion that this is not a fit case warranting levy of penalty on the PIO
20. Be that as it may, the appellant during the hearing on 14/1/2019 after the receipt of replies of respondent No. 1 PIO submitted that he is not pressing for penal provisions since clear information at point No. 5 have been now provided and accordingly endorsed his say on the memo of appeal.

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