

**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: 77/2019/SIC-II**

Shri Nigel Francis D'Souza,  
Resident of Flat No. 12/T1,  
Kamat Classic, Phase 4,  
Caranzalem Goa.

**..... Appellant**

**v/s**

1. Public Information Officer,  
Town & Country Planning Department,  
2<sup>nd</sup> floor, Dempo Towers,  
Patto Plaza, Panaji – Goa.

2. The Town Planner,  
Town & Country Planning Department,  
2<sup>nd</sup> floor, Dempo Towers,  
Patto Plaza, Panaji – Goa.

**..... Respondents**

**Relevant emerging dates:**

**Date of Hearing : 24-10-2019**

**Date of Decision : 24-10-2019**

**ORDER**

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 17/12/2018 addressed to the PIO, Town Country Planning Department, Panaji-Goa sought certain information u/s 6 (1) of the RTI Act, 2005 of Survey number 132/4 Village Arossim, Taluka Mormugao.
2. The Appellant *inter alia* is seeking information of the whole Survey No.132/4 and especially Survey No132/4 which falls within 200.00 meters of High Tide Line and which is a No Development Zone (NDZ) and the same is primarily marked "SAND DUNES" and as such is classified also as CRZ area and no portion of such areas can be marked as Settlement Zone. The Appellant has stated in his RTI application that Survey Plan clearly marks this plot as Sand Dunes/Sandy Areas, however it appears from the Regional Plan for Goa-2021, that this Survey Number 132/4 has been marked as Settlement Zone and the Appellant is asking on what bases the marking of the plot as settlement zone was done, and to furnish certified copies of the request for changing the zone status of this plot i.e. the Regional Plan. ..2

3. It is seen that PIO vide reply dated 16/01/2019 informed the Appellant that with regards to information sought in the RTI application the office records were checked and that the information is not traceable in the office records and as such information sought cannot be furnished.
4. Not satisfied with reply of the PIO the Appellant filed a first Appeal inwards on 29/01/2019 and the First Appellate Authority vide an Order dated 04/03/20149 stated that the PIO is not expected to answer the hypothetical questions nor is he expected to create information and answer the Applicant. The PIO is not expected to offer any views or comments on the decision of the public authority or its officers nor is expected to give reasons for the decisions taken by the public authority and as such has upheld the reply of the PIO and dismissed the Appeal.
5. Being aggrieved with the Order of the First Appellate Authority (FAA) the Appellant (FAA) thereafter has approached the Commission by way of Second Appeal registered on 23/02/2019 and has prayed to allow the Appeal and to direct the Respondent PIO to furnish information as applied by him vide his RTI application dated 17/12/2018 and for other such reliefs.
6. **HEARING:** This matter has come up before the Commission on three previous occasions and thus taken up for final disposal. During hearing Appellant Shri Nigel Francis D'Souza is absent. The Respondent PIO, Smt. Sampurna Bhagat, Dy. Town Planner, TCP Panaji is present in person. The FAA is absent.
7. **SUBMISSIONS:** Smt. Sampurna Bhagat submits that the information sought by the Appellant was by asking a question "on what basis the marking of the plot (the survey No.132/4) was marked as settlement Zone and to furnish certified copies of request for changing zone status. The PIO further submits that vide a reply dated 16/01/2018, it was informed to the Appellant that the office records were checked and the information was not traceable.

8. It is also submitted that the Appellant had filed a First Appeal and the First Appellate Authority (FAA) has upheld the reply of the PIO and has stated that the PIO is not called upon to offer any views or comments decision taken by the public authority any reason given and as what basis the decision was taken and dismissed the Appeal.
9. Smt. Sampurna Bhagat finally submits that the Appellant had visited the office of the PIO on 30/08/2019 and has inspected the entire Mormugao Taluka file and himself could not trace the applications of request for change of Zone pertaining to Survey No.132/4 of Arrossim Village and he satisfied with the same, and as such request the Commission to disposed off the Appeal case
10. **FINDINGS**: The Commission after hearing the submission of the PIO and perusing the material on record including the RTI application dated 17/12/2018 finds that the Appellant has sought information in question form by asking the question "on what basis for marking of the plot (Survey No.132/4 ) was marked a settlement Zone was done and which question the PIO is not called upon to answer"
11. The Hon'ble Bench of Bombay High Court at Panaji in the case of Dr. Celsa Pinto Vs. Goa State Information Commission, (Dr. Celsa Pinto, Ex-Officio Joint ... vs The Goa State Information ... on 3 April, 2008 Equivalent citations: 2008 (110) Bom L R 1238) has held that the definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.

12. **DECISION:** As stipulated in the RTI Act the role of the PIO is to furnish information as is available, how is available, what is available and if is available. The PIO is not called upon to create information or to answer questions and to analyze information so as to satisfy the whims and fancies of the Appellant. The very fact that the PIO has given a reply dated 16/01/2019, informing the Appellant that the information is not available is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO, either to deny or conceal any information and which proves the bonafide. The Commission further finds that the Appellant himself had approached the office of the Respondent PIO and inspected the entire file pertaining to Survey No.132/4 of Arrossim Village and was satisfied that there are no such applications made for request for change of Zone.

13. As the information sought was in question form which cannot be answered by the PIO and further in view that the PIO had also informed that the information is not available and also that the Appellant himself has visited the office of the PIO and inspected the entire file pertaining to the said Zone nothing further survives in the appeal case.

**No interference is required with the Order of the FAA, the appeal case accordingly stands disposed.**

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**