

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 227/2018/SIC-II

Shri Amol S. Sawant,
H.No. 647, Walkeshwar wada,
Betim, Bardez, Goa-403 101

..... Appellant

v/s

Public Information Officer,
O/o Mamlatdar of Bardez,
Mapusa, Goa

..... Respondent

Relevant emerging dates:

Date of Hearing : 19-09-2019

Date of Decision: 19-09-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 18/04/2018 sought certain information under section 6(1) of RTI Act, 2005 from the Respondent PIO, Mamlatdar of Bardez, Mapusa Goa.
2. The Appellant is *inter alia* seeking information regarding a Memorandum under ref.No. Dyc/RB/Misc/2018/567 dated 14/03/2018 issued by the Dy. Collector (Rev), Panaji on nine points namely about (a) certified copy of Sketch showing original conversion of temporally constructed house to Pucca construction and further extensions. (b) Check list dated 23/3/2018 prepared by Talathi (c) Other documents produced by the opponent to for relying on their say. (d) Copy of documents submitted by the appellant to circle inspector to rely on say. (e) document relied upon by stating in Report that late Shri Vihswanatah Parab is grandfather of Sanyog J. Chodankar. (f) Document relied upon by stating in Report that another Shri. Vishwanath Parab is a Paternal uncle of Shri Sanyog Chodankar and other such related information as mentioned in RTI Application therein.
3. It is seen that the PIO vide reply No.22-31-ASS/2018/F.A.A./RTI dated -nil- furnished information on all 9 points from a) to i). The PIO with reference to point a & b has furnished copy of the sketch and Affidavit. In point c & d, the PIO has stated that information is not available. In points e), f), g), h) & i) the PIO has stated that it is as per local enquiry. ...2

4. Not satisfied with reply of the PIO, the Appellant thereafter filed a First Appeal on 23/05/2018 and the First Appellate Authority (FAA) vide his short Order dated 19/06/2018 disposed off the said First Appeal by directing the Respondent PIO to issue information from point (a) to (i) of the RTI application point wise free of cost.
5. Being aggrieved that despite the Order of the FAA, the PIO has not furnished information, the Appellant subsequently has approached the Commission by way of Second Appeal registered before the Commission on 24/09/2018 and has prayed to direct the Respondent PIO to furnish information at points b), d), e), f), g) and i) and other such reliefs.
6. **HEARING:** This matter has come up before the Commission on six previous occasions and hence taken up for final disposal. During hearing the Appellant Shri. Amol S. Sawant is present in person. The Respondent present PIO, Mamlatdar of Bardez, Shri Laxmikant Kuttikar, is present alongwith Shri Ashok Naik, UDC with the public authority.
7. **SUBMISSION:** At outset the PIO furnishes an Affidavit stating that information at point a), b), c), e), f), & h) have been furnished to the Appellant and further the information at point d), g), & i) is not available in the office records. The Respondent PIO therefore requests the Commission to dispose off the said pending Appeal case.
8. The Appellant in his submissions states that the Respondent PIO has furnished misleading and incorrect information and points out that the Mamlatdar of Bardez had issued Notice to the opponent for inspection of site of the alleged illegal construction on 21/03/2018 and directed his team mates to inspect the site and place the necessary document as per their laid down procedure and to take further action in matter. The Appellant also submitted that the Mamlatdar is hand in gloves with opponent and that purported sketch dated 21/03/2018 which was furnished under RTI is vague.

9. It is also submitted that the information sought by the Appellant was based on a report sent by Mamlatdar of Bardez dated 03/04/2018 to Dy. Collector & SDO, Mapusa Bardez to take further action in the matter. The Appellant also submits that the PIO, Mamlatdar of Bardez is bound to give a fresh Sketch as the sketch furnished does not have name of the house owner and house number.
10. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record finds that the PIO vide reply dated 28/12/2018 has furnished 19 pages of information documents including copy of the Sketch as sought at point a) by the Appellant and a copy of letter written by Mamlatdar of Bardez to Dy. Collector regarding illegal conversion, various Talathi Report, Check list, Form I & XIV, receipt of payment and other such documents.
11. The Commission also finds that there is another detailed reply of the PIO dated 11/03/2019 stating that the information was received by the Appellant on 29/04/2019. The Commission finally finds that an affidavit is filed by the PIO dated 18/09/2019 confirming the facts. No doubt the appellant has filed a rejoinder dated 18/06/2019 wherein he has disputed the documents furnished and vehemently argued that the documents furnished are not the information document that were sought in the RI application.
12. **DECISION:** As stipulated in the RTI Act, the role of the PIO is to provide information as is available, how is available, what is available and if available in the records. The PIO is not called upon to create information or to deduce or analyze information so as to satisfy the whims and fancies of the Appellant. The very fact that the PIO has furnished information as was available in the records and further has confirmed the facts by swearing an affidavit dated 18/09/2019 is sufficient to prove the bonafide that there is no malafide intentions on part of the PIO to either deny or conceal information and thus the PIO cannot be faulted in any way.

13. The Appellant apparently is seeking directions from the Commission to the PIO to issue a new Sketch as the sketch purportedly furnished does not contain the name of the house owner nor the house number. In this connection the Commission finds that issuing such directions would be beyond the mandate and purview of the RTI act 2005 and would be exceeding the brief.
14. The PIO has furnished information as was available in his records and which is the mandate as per the RTI act 2005. Also it is seen that the present PIO has not dealt with the RTI application as such he cannot be called upon to create any new document or Sketch on the basis of the Appellant's assumption that the Talathi report may be wrong. The Commission cannot be used as a forum to settle personal and property disputes through RTI. The Appellant is at liberty to move the appropriate government agencies for correcting the documents, if he so desires.

As information as was available has been furnished and further confirmed by the PIO by way of a sworn Affidavit, nothing further survives in the Appeal case which accordingly stands disposed.

All proceedings in Appeal case stands 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