

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

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Appeal No.25/2019/SIC-I

Shri Nirdosh Shirodkar,  
R/O H.No. 43/5, Pomburpa,  
Bardez-Goa.

...Appellant

V/s

1. The Public Information Officer,  
Village Panchayat Pomburpa,  
Olaulim, Bardez-Goa .
2. First Appellate Authority,  
Block Development Officer-II,  
Mapusa Goa.

.....Respondents

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

**Filed on: 8/2/2019**  
**Decided on:12/3/2019**

**ORDER**

1. By this appeal the Appellant assails the order dated 8/1/2019 passed by the Respondent No. 2 Block development officer -II, Goa and First Appellate Authority (FAA), in first appeal No. BDO-BAR/RTI/63/2018, filed by the Appellant herein.
2. The brief facts which arises in the present appeal are that the Appellant Shri Nirdosh Shirodkar vide his application dated 15/10/2018 had sought information as listed at serial No. 1 to 5 therein. The said information was sought from the PIO of the office of Registrar of Birth and Death, Village Panchayat Pomburpa Olaulim, Goa in exercise of appellant right under sub-section (1) of section 6 of Right To Information Act, 2005.
3. It is the contention of the appellant that the said application was responded by the Respondent No. 1 PIO on 22/10/2018 wherein the information at point no.1,3,4,and 5 were provided to him but information at point no. 2 was denied to him.

4. It is the contention of the appellant that he being aggrieved by such a response of Respondent no.1, filed first appeal before the Block Development officer II, Mapusa on 19/11/2018 being first appellate authority who is 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 by an order dated 8/1/2019 dismissed his first appeal by upholding the say of PIO. No any further relief was granted to the appellant by the First appellate authority.
6. Being not satisfied with the order dated 8/1/2019 passed by Respondent No. 2 first appellate authority and reasoning given by Respondent No.2 first appellate authority, the Appellant approached this Commission on 07/02/2019 on the ground raised in the memo of appeal and with a contention that information at point no.2 still not provided to him by the Respondent No.1 as was sought by him.
7. In this back ground the appellant has approached this commission with a prayer for quashing and setting aside the order passed by first appellate authority and for directions to Respondent No.1 PIO for furnishing correct and complete information.
8. In pursuant of notice of this commission, Appellant appeared in person Respondent No.1 PIO Shri Avelino D'Souza appeared. Respondent No. 2 was represented by Shri Umesh Shetgaonkar.
9. Reply filed by Respondent No.1 PIO on 12/03/2019. The copy of the reply alongwith the enclosure is furnished to the appellant.
10. Arguments were advanced by both the parties.
11. It is the contention of the appellant that Smt. Deepali Sen Gupta who was the resident of Hyderabad expired on 28/7/2018 and the village Panchayat Pomburpa had issued her Death Certificate on 4/8/2018 even prior to the investigation conducted by the Police.

It is his further contention that the cremation of the death body of Smt. Deepali Sen Gupa was done at Golna Crematorium without taking any permission from Village Panchayat of Pomburpa as such a complaint was filed by Smt. Rashmita Hadphadkar, Dy. Sarpanch and ward member of Golna wado Pompurpa with the Police Station and the matter is pending with the Police for inquiry and investigation. It was further submitted that the copy of the medical certificate of cause of death (form 4-A) of late Deepali Sen Gupta is required by him with a larger public interest as he suspects some foul play in the entire issue as the body was cremated without any permission from village Panchayat. It is his further contention the information relating the cause of death are accessible under RTI Act if the larger public interest warrants the disclosure of such information.

12. It is the contention of the Respondent PIO that he has furnished all the information of the remaining point sought by the appellant except the point No. 2. It is his contention that the information relating to cause of death cannot be furnished to any party as the same is specifically prohibited under section 17(b) of Registration of Births and Deaths Act and he being the Registrar of Birth and Death under the said act is not suppose to furnish the said information .
13. I have scrutinised the records available in the file also considered the submission made on behalf of both the parties.
14. The applicant at point no. 2 has sought for certified copy of Medical Certificate of cause of death of late Smt. Deepali Sen Gupta. Admittedly the appellant herein is not a legal heir of the deceased nor has any relationship with the deceased. The possibility of the doctors recording the other details of ailments suffered by the deceased on the said Medical Certificate cannot be ruled out. Such records is disclosed will revealed the secrete /

confidential details of third party/deceased. The regulation 7.14 and regulation 2.2 of Indian Medical Council (professional conduct, etiquette and ethics) regulation 2002 also prohibits of disclosure of such information. Section 17 (1) (b) of births and deaths Act also put ban on furnishing the particulars regarding the cause of death as entered in the register.

15. While dealing with the similar issue the Hon'ble High Court of Bombay at Goa writ petition No. 1/2009 (Kashinath J. Shetye V/s Public Information Officer and other) has observed at para 8

“To my mind, what cannot be supplied, is a medical record maintained by the family Physician or a private hospital to that extent, it is his right of privacy, it certainly, cannot be invaded .....

16. Considering the above provision of the law, ratio laid down by Bombay High Court in Kashinath Shetye case and by further considering the nature of the information sought at point No. 2, I am in agreement with the PIO that the information sought will come under exception under section 8(1)(e)and(j) of the Act and as such I do not find any error or illegality in the orders passed by the first appellate authority seeking exemption under section 8(1)(e) of the Right to information Act nor any procedural illegalities can be inferred. Hence in my opinion the decision of the FAA and reply of PIO do not call for any inferences .

17. Be that as it may, since the law is already set in motion by Smt. Rashmita Hadphadkar, Deputy Sarpanch and ward member of Golna Ward, Pomburpa and since the investigation agency is already seized with the matter, it is for the police to inquire, investigate, to go in detail regarding the cause of death and to find out the truth in the entire issue. As such in my considered opinion the release of diversion of such information about the

cause of death of disease Smt. Deepali Sen Gupta to appellant who is not a legal heir of the disease at this crucial stage when inquiry/ investigation is still in progress, may jeopardise and may hamper the investigation or prosecution process.

18. In view of above discussions I find no merits in the appeal and hence I am not inclined to grant relief-(a) sought by the appellant consequently the appeal proceedings Stands dismissed.

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