

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

CORAM: Shri Juino De Souza: State Information Commissioner

Complaint No.27, 28 & 29/2019/SIC-II

Shri Swaraj S. Phadte,
Office at Bhanav Apartment, 2nd floor,
S-1, Near Mahalaxmi Temple,
Next to Axis Bank, Panaji – Goa.

..... Complainant

v/s

Public Information Officer,
Office of River Navigation Department,
Betim, Bardez - Goa.

....Opponent / Respondent

Relevant emerging dates:

Date of Hearing : 11-07-2019

Date of Decision : 11-07-2019

O R D E R

S/ N	Complaint Nos.	Date of filing RTI Application	Date of reply of PIO	Date of filing First Appeal	Date of Order of FAA	Date of Second Appeal
1)	Complaint No. 27/2019/SIC-II	19/04/2018	14/08/18 18/04/19	11/09/2018	16/01/2019	27/03/2019
2)	Complaint No. 28/2019/SIC-II	26/06/2018	24/07/18 18/04/19	27/08/2018	16/01/2019	27/03/2019
3)	Complaint No. 29/2019/SIC-II	27/04/2018	14/08/18 18/04/19	11/09/2018	16/01/2019	27/03/2019

The above three Complaint cases pertain to one and the same parties and are having similar subject matter and as such they are clubbed together and disposed by one single common Order.

1. **BRIEF FACTS** of the case are that the Complainant has filed the above complaint cases u/s 18 before the Commission registered on 27/03/2019 being aggrieved by the fact that despite the order of the First Appellate Authority (FAA), the PIO has refused to furnish the information. It is the contention of the Complainant that the PIO has acted beyond the scope of the RTI act 2005 as once the First Appellate Authority (FAA) has taken a final decision being a higher authority, the concerned PIO cannot exercise his discretion contrary to the said decision in holding that the information was exempted from being furnished and has prayed for directions to furnish the information free of cost and for penalty and other such reliefs.

2. **HEARING:** During the hearing the Complainant is absent it is seen from the roznama that at the last hearing also he was absent and it appears that the Complainant is not interested to pursue his case. The Respondent PIO, Shri. G. C. Arabekar, Accounts cum Administrative Officer is present along with Priya D'mello, Jr. Steno.
3. **SUBMISSIONS:** At the outset PIO submits that apart from the present three complaint cases, the Complainant had also filed three similar complaint cases being case nos 24/2019/SIC-I, 25/2019/SIC-I, 26/2019/SIC-I which were disposed by the Commissioner presiding in the Chamber I wherein the Complainant had withdrawn the said Complaints as information was furnished to him. The PIO states that in the present three Complaint cases also the information has been furnished to the Complainant which has been collected by him and that the complainant had also agreed to withdraw the present cases.
4. **With regard to Complaint case no. 27/2019/SIC-II** The PIO submits that the information sought in the RTI Application dated 19/04/2018 and sought information at six points and some of the information sought was personal information of one Mr. Pradip Surya Salgaokar who is working with the department and the Complainant had asked to furnish his residential address, grade pay, working hours, working days, annual property returns and appointment orders and also promotional orders till date.
5. It is also submitted that the Capt of Ports / FAA had vide reply No.RND/Admn/I/316/935 dated 14/08/2018 had furnished the information at all six points except with respect to point no.5 regarding annual property returns which were not furnished as the same was objected by the third party Mr. Pradip Surya Salgaokar vide his letter dated 23/07/2018. The PIO stated that the Appellant had also filed a First Appeal on 11/09/2018 and First Appellate Authority (FAA) vide order dated 16/01/2019 had disposed the appeal with directions to the PIO to furnish the information requested by the Complainant, if available. ...3

6. It is finally stated that the pursuant to the order of FAA dated 16/01/2019, the PIO vide letter No.RND/Admn/I/316/2397 dated 18/01/2019 had informed the Complainant in all the above three complaint cases that the information sought was personal information of Shri. Pradip Surya Salgaonkar and which cannot be disclosed as the same is objected by the him vide letter dated 23/07/2018 and exempted under section 8(1)(j) and hence the information is rejected.
7. **With regards to Complaint case no. 28/2019/SIC-II** The PIO stated that the Complainant sought information in his RTI Application dated 26/06/2018 on seven points regarding Mr. Pradip Surya Salgaokar to furnish his (1) Designation in Dept., (2) Date of his appointment and date of increment and promotion if any, (3) Service book, (4) detailed process carried out commencing from creation of post till his appointment, (5) Memos issued, (6) certified copy of reply action on each instances regarding point 5 i.e regarding memos and (7) certified copy of action taken on report on each notice, memo, complaint order etc.
8. The PIO vide reply No.RND/Admn/I/316/810 dated 24/07/2018 furnished the information at all points. However the PIO states that information at point no.3 and 5 which was regarding service book and memos issued were not furnished being third party information as the third party Mr. Pradip Surya Salgaokar had objected to furnishing the information vide his letter dated 23/07/2018.
9. The PIO stated that the Appellant had also filed a First Appeal on 27/09/2018 and First Appellate Authority (FAA) vide order dated 16/01/2019 had disposed the appeal with directions to the PIO to furnish the information requested by the Complainant, if available.

10. **With regards to Complaint case no. 29/2019/SIC-II** The PIO submitted that the Complainant had sought information in his RTI Application dated 27/04/2018 on six points regarding Mr. Pradip Surya Salgaokar and to furnish the following: (1) birth certificate, (2) educational qualification, (3) certified copy of permission/sanction/license/intimation obtained by him to construct house in Sant Monicas Propert, (4) certified copy of permission by him from your department to take property on 99 year lease from Sant Monicas Convent (5) certified copy of annual property returns since inception till date (6) Date on which application was made for leave and remarks of the sanctioning authority .
11. The Capt of Ports/FAA vide reply No.RND/Admn/I/316/932 dated 14/08/2018 had furnished the information at all points. The PIO states that information at point no.3 to 5 was not furnished as the same was not available and information at 1 & 2 was objected by the third party Mr. Pradip Surya Salgaokar by letter dated 23/07/2018.
12. The PIO stated that the Appellant had also filed a First Appeal on 11/09/2018 and First Appellate Authority (FAA) vide order dated 16/01/2019 had disposed the appeal with directions to the PIO to furnish the information requested by the Complainant, if available. The PIO files a detailed affidavit cum declaration dated 11/07/2019 along with relevant enclosures confirming the facts in all the above three complaint cases which is taken on record.
13. **FINDINGS:** The Commission has perused the material on record including the order of the FAA dated 16/01/2019 and the affidavit cum declaration of the PIO and has heard the submission of the PIO and finds that a reply has been given in all the three RTI applications in the above three complaint cases and also the Complainant has been provided with the information as was available.

14. The Commission also finds that the PIO had correctly denied the furnishing of certain third party information pertaining to Mr. Pradip Surya Salgaokar more so as the concerned third party had objected to furnishing the information vide his letter dated 23/07/2018. Also the PIO has correctly not disclosed certain other information as the same was exempted u/s 8(1)(j) being Personal Information and which was informed to the Complainant by letter No. RND/Admn/I/316/2397 dated 18/01/2019.
15. **DECISION:** The Commission accordingly comes to the conclusion that FAA has not passed a proper speaking order as such the order of the FAA dated 16/01/2019 is hereby quashed and set aside. As the PIO has furnished information as was available while correctly denying certain other information that was objected by the third party and which was exempted u/s 8(1)(j) being Personal information, therefore the question of imposing penalty against the PIO does not arise. Consequently the prayer for penalty is rejected.
16. The Commission also is of the opinion that there is nothing in the RTI act which compels a PIO to blindly obey an Order passed by his superior officer i.e, the FAA. The PIO can very well reject information, if according to him it pertains to 'third party' and the said third party has objected to furnishing the information and also if the information sought falls under section 8(1)(j), being personal information.

The Complaint cases are devoid of merit and stand dismissed.

All proceedings in the above three Complaint cases stand 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