

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

---

**Complaint No. 8/2018/SIC-I**

Shri Sushant P. Nagvenkar,  
H.No. C-312, Fondvem,  
Ribandar, Goa -403006.

....Complainant

V/s

1) The Public Information Officer,  
Trupti B. Manerkar,  
Under Secretary (Law- Estt.),  
Secretariat, Porvorim Goa.

.....Respondent

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

Filed on: 05/02/2018  
Decided on: 04/06/2019

**ORDER**

1. This order disposes the present complaint filed by the complainant U/s 18 of the Right to information Act, 2005.
2. The brief facts leading to the present complaint are as under;
  - (a) The Complainant herein Shri Sushant P. Nagvenkar by application dated 1/12/2016 filed under sub-section (1) of section 6 of Right to information Act, 2005, sought for certain information from the Respondent PIO, of the Law Department (Estt), Secretariat, Porvorim-Goa on 4 points as stated therein in the said application so also sought random inspection of the documents.
  - (b) It is the contention of the complainant that his request was returned vide communication dated 5/12/2014 which was received by him on 8/12/2016 wherein it was informed to him that the same is not in accordance with a circular No. DI/INF/RTI/2013/3786 dated 30/10/2013 issued by the Department of Information & Publicity. The copy of the circular and Model application format for obtaining information under RTI Act 2005, was also enclosed to the letter dated 5/12/2014 by the PIO.

(c) It is the contention of the complainant that he being aggrieved by such an action of Respondent PIO, preferred first appeal before the first appellate authority on 13/12/2016 and the first appellate authority allowed his first appeal by an order dated 10/1/2017 wherein the directions were given to PIO to dispose his application dated 1/12/2016 on or before 20/1/2017.

(d) It is the contention of the complainant that the Respondent knowingly with malafide intention denied him information and on said ground he had approached this commission on 7/7/2017 u/s18(1)(b),(c)and(f)ofRTI Act,2005.

3. Notice were issued to both the parties. In pursuant to which appellant appeared in person Respondent PIO Mrs. Trupti Manerkar was present along with Legal Officer Shri Chandrashekar Naik of Law Department.
4. Reply came to be filed on 24/07/2018 and on 26/3/2019 by the Respondent alongwith the enclosures.
5. Written arguments were also filed by Complainant on 1/4/2019 and 9/5/2019 and by respondent on 30/4/2019. Both the parties also advanced oral arguments.
6. It is the contention of the complainant that as per section 6(2) of the act he is only required to give the details that may necessary for contacting him and he has provided his mobile numbers and the address in his application as such his application was with conformity with section 6 of the RTI Act and hence ought not to have been faulted, rejected or returned. It was further contented that respondent PIO did not contact him despite of he providing his mobile number. It was further contended that it is a settled position that right to information is a fundamental right guaranteed under article 19 (1) (a) of

the constitution and finds it inception universal declaration of 1948 which is ratified by India and in support of his contention he relied upon the decision of the (i) Hon'ble Apex Court in a matter of chief Information Commissioner V/s State of Manipur and of(ii) Hon'ble Delhi High Court, in Bhagat Sing V/s chief Information Commissioner and others and (iii) of Central Information commissioner in matter of CIC/CC/A/2014/001933-SA. It was further contended that the circular cannot override the act. It was further contended that the circular dated 30/10/13 conspicuously states that PIO is required to satisfied himself that information seeker is a citizen of India before providing the information sought under the act and not at a time of processing the application as done in the present case. It was further contended that Respondent failed to state the specific provisions or direction in the circular dated 30/10/13 which requires the Respondent to return application to the application seeker. It was further contended that returning of the application under the RTI Act in a arbitrary manner is in violation of fundamental rights of the complainant guarantee under the constitution. As such it is the contention of the complainant that act of returning the application under the RTI Act by the Respondents who has legal and administrative training and acumen cannot be treated other than deliberate act of causing hardship and inconvenience to him which was not in accordance with letter or spirit of the circular relied upon. It was further contended that section 6 of the act commences with the words "A person" and not citizen. It was further contended that section 4 of the RTI Act requires the public authority to post the informtion on internet or media broad cast and therefore the contention of the Respondent PIO that the request can be made only by the citizen of India was untenable. It was further contended that the RTI Act does not define the format for seeking information and as such returning back his

application amounts to denial of information and he vehemently pressed for initiating penal action as against respondents as envisaged u/s 20(1) of the Act.

7. The respondent PIO contended that the RTI application dated 1/12/2016 of the applicant was returned to the complainant as the same was not in accordance with the circular No. DI/INF/RTI/2013/3786 dated 31/10/2013 issued by the information & Publicity. It was further contended that the appellant has not pointed out where the circular has gone wrong. It was further contended that as per section 3 of the Right to information act "*all the citizen*" shall have right to information and article 19 of constitution provides right to only citizen and as such all the PIOs and APIOs are required to satisfied themselves that the persons seeking information under Right to information Act, is a citizen of India . It is her further contention that the complainant did not disclosed that he is a citizen of India hence his original application was returned to the complainant along with the circular. The respondent PIO further submitted that she has given assistance to the complainant thereby enclosing the circular and as such there are no malafides involved and that she has not rejected any information.

Vide reply dated 24/7/2018 the Respondent PIO contended that in pursuant to the order dated 10/1/2017 of the first appellate authority, the available information was provided to the complainant vide letter dated 13/1/2017 and so also vide letter dated 24/1/2017 the complainant was requested to be present for further inspection of files .

8. In counter reply the complainant submitted that article occurs in part III of constitution headed "fundamental rights" also extends to "every person" in India and not only to "Citizen" and in support of his above contention he relied upon the decision

given by Hon'ble Apex Court in writ petition (Civil)79 of 1959, Smt. Ujjam Bai V/s State of U.P.

9. I have scrutinize the records available in the file also considered the submission made on behalf of both the parties.
10. Section 6 of RTI Act deals with the request for obtaining information and section 7 deals with disposal of request for obtaining information.

As per section 6 of RTI Act, person has to make a request in writing to the PIO of concerned authority as the case may be thereby accompanying such fees as may be prescribed and the information seeker is only required to provide only details that may be necessary for contacting him .

As per Sub section (1) of Section 7 of RTI, Act Public Information Officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, **either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9.**

11. Hence the PIO is required to act within the parameters of section 7(1) of RTI Act, and as such is required either to provide the information or reject the request for any of the reasons specified in section 8 and 9 of the Act. It is not the case of PIO that information sought was exempted in terms of section 8 or 9 of the Act. Section 7(1) of RTI Act does not give scope to PIO to return the application back to the information seeker.
12. On perusing and bare reading of the said circular dated 30/10/2013 based on which the RTI application of the complainant was rejected, it could be gathered that it is open to the PIO to seek that the information seeker to establishes his or her identity **before the information is supplied.** No where it

gives right to the PIO to returned the RTI application back to the information seeker at the stage of processing the same on technical ground . It appears that the Respondent PIO have conveniently ignored the later part of circular which says ***however ,it shall not be used as a means to deny information or cause inconvenience to the applicant seeking information.***

13. In the present case the respondent PIO nowhere has whispered that she had doubt about the nationality of the complainant, nor such an stand was taken during the present proceedings. The RTI Act is a people friendly act as such there is a provision thereby requiring PIO to render all reasonable assistance to the Information seeker. On perusing of the reply of the PIO dated 5/12/2014 given in terms of section 7 (1) of RTI Act it is seen that she has merely returned the application without specifying what was the requirement not fulfilled by the complainant. Merely enclosing the circular without specifying the grounds doesn't amount to giving assistance to the information seeker as claimed by the respondent PIO. Never the less if PIO was having some doubt about nationality of the complainant, she could have contacted him telephonically since his personal details such as addressed and the telephone number was available on the application itself and ought to have asked him to give a declaration on the application about his citizenship. The respondent PIO have not adhered to such an exercise nor had called upon the complainant fulfill the said requirement.
14. It appears that the PIO has returned the application to the complainant in a casual manner without proper application of mind by misinterpreting the circular thereby causing inconvenience to the complainant. Even the first appellate authority in his order dated 10/1/2017 has observed that circular dated 30/10/2013, is not attracted to the present case

and therefore the respondent was thereby directed to dispose the application dated 1/12/2016 of the complainant on or before 20/1/2017.

15. The PIO was not been able to point out the provisions of the RTI Act nor in the circular empowering her to return the request of the information seeker at the time of processing the same .

16. Be that as it may ;

Sub section 2 of section 4 requires every public authority to take steps in accordance with the requirement of clause (b) of sub section 1 to provide as much as information suo motu to the public at regular intervals through various means of communication, **including internet** , so that the **public** have minimum resort to the use of the act. The word used in section (4) is "**Public**" and not the "**citizen**". Hence, it goes without saying that when the information is required to put and disclose in public domain, not only citizen but any person can access the said information from the website. As such I find some substance in arguments of the complainant that there is no restriction to seek information by any persons.

17. The Hon'ble Supreme Court in civil appeal No. 10787-10788 of 2011 (Arising out of S.L.P(C) No. 32768-32769/2010 Chief Information Commissioner and another's V/s State of Manipur and others has held at para 25;

" It is quite interesting to note that even though under Section 3 of the Act right of all citizens, to receive information, is statutorily recognized but section 6 gives the said right to any person.

**Therefore, section 6, in a sense, is wider in its ambit than section 3".**

18. Though the expression "Citizen" is used in preamble and section 3, declares that citizen has right to information, other sections impose obligation/duty on public authority to give information to "person". Thus the issue of only citizen ship alone cannot be considered as a sole ground to reject the RTI request.
19. A right base enactment is akin to welfare measures, like the act, should receive a liberal interpretation. Considering the provision of section 4 of RTI Act and the rationale laid down by the Hon'ble Apex Court in case of State of Manipur(Supra), I find that the PIO's logic for withholding the information was seriously flawed as such I do not find the action on the part of Respondent PIO of returning the application back to the complainant as justifiable. In my opinion that the proof of citizen ship is not required from a information seeker as the matter of principle at the time of processing the application as it is trite that under this RTI Act, disclosure is a rule and not disclosure, as exceptions u/s 8 and to deprived the individual of their statutory rights would not be just , fair and equitable. The PIO has not acted in consonance with the provision of RTI Act. Such a gesture and conduct on the part of PIO of the law Department who is well versed and conversant with the law was least expected.
20. Apparently there is a lapse on the part of the PIO. It appears that the PIO has misconstrued the circular and not considered the provisions and the intent of RTI Act in true spirit. However since there is nothing on record that such lapse on the part of PIO is persistence, a lenient view is taken in the matter and she is hereby admonished and directed to be vigilant henceforth while dealing with the RTI matters .

With the above directions, 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