

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

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Appeal No. 191/2019/SIC-I

Mr. Aslino Fernandez,  
H.No. 525, Boutewaddo, Assagao,  
Bardez, Goa,403507.

....Appellant

V/s

- 1) The Public Information Officer,  
The Block Development Officer  
Of Bardez, Mapusa Goa.
- 2) First Appellate Authority,  
The Deputy Director of Panchayat,  
North at Panaji Goa.

.....Respondents

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

Filed on: 18/06/2019  
Decided on:29/08/2019

**ORDER**

1. The second appeal came to be filed by the appellant Shri Aslino Fernandes on 18/6/2019 against the Respondent No.1 Public Information Officer of the office of the Block Development Officer of Bardez, Mapusa-Goa and against Respondent no.2 first appellate authority under sub section (3) of section 19 of RTI Act, 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 28/02/2019 had sought for the information on three points pertaining to the application filed by Mrs. Iris Fernandes for permission or repair of House No.525 at Rautawada, Assagao, Bardez–Goa dated 30/12/2017 inwarded No. 1722 dated 1/1/2018 to the Village Panchayat Assagao.
3. The said information was sought by the appellant in exercise of his right u/s 6(1) of RTI Act, 2005.
4. It is the contention of the appellant that his above application filed in terms of sub section (1) of section 6 was responded by the

respondent no 1 PIO on 19/3/2019 wherein he was requested to collect the information sought after depositing the amount of Rs. 4/- towards coping charges.

5. It is the contention of the appellant that Respondent PIO provided him the copy of objection for permission for repair of Building dated 22/1/2018 filed by Mr. Ricky Fernandes and the memorandum issued by the Respondent dated 27/10/2018 based on the said objection and did not provide him any other documents pertaining to said file i.e. further steps taken on meetings held or action taken with respect to the said objection raised by Mr. Ricky Fernandes. Hence he being not satisfied with a said information the appellant filed 1<sup>st</sup> appeal on 10/4/2019 to Respondent no. 2 Deputy Director of Panchayat at Panajim-Goa being first appellate authority interms of section 19(1)of RTI Act,2005.
6. It is the contention of the appellant that the respondent no.2 first appellate authority vide order dated 13/5/2019 dismissed his appeal.
7. It is the contention of the appellant that being aggrieved by the action of both the Respondent he had to approach this commission in his 2<sup>nd</sup> appeal as contemplated u/s 19(3) of RTI Act thereby seeking relief of directions to PIO to furnish the information
8. Notices were issued to both the parties, in pursuant to which Appellant was represented by Advocate Ghate and Advocate S. Asgaonkar. The Respondent No.1 PIO Shri K.S.Panguem was present and Respondent No.2 first appellate authority was represented by Anjali Shirodkar.
9. Reply filed by Respondent no.1 PIO on 15/7/2019. Reply also filed by Respondent No.2 on 3/7/2019. Arguments were advanced by both the parties.

10. It is the contention of the appellant that incorrect and incomplete information was furnished to him. It was contended that the information sought was in respect of application of repairs by Mrs. Iris Fernandes and not of Mr. Ricky Fernandes. It was further contended that the appellant had sought for the information with respect to all the correspondence with respect to the said file but the Respondent PIO failed to provide him so.
11. The Respondent PIO contended that vide their reply dated 19/3/2019 furnished point wise whatever information to the appellant which was existing and was on the record of the office as on the date of reply to the RTI application of the appellant. It was further contended that vide memorandum dated 27/10/2018 the respondent had returned the original files to the Village Panchayat Assagaon. It was further contended that the first appellant authority Respondent No.2 has thoroughly dealt with all the aforesaid issues by giving personal hearing to both the parties and after having considering all the aspects, the respondent No. 2 First appellate authority have correctly dismissed the first appeal. The Respondent PIO also relied upon the decision given by the Hon'ble Supreme Court of India in central board of Education and others and Aditya Bandhopadaya and others .
12. I have scrutinized the record available in the file so also considered the submissions made by the both the parties.
13. In the contest of the nature of information that can be sought from PIO the Hon'ble Supreme Court in case of in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya wherein it has been held at para 35;  
"At this juncture, it is necessary to clear some misconception about the RTI Act. **The RTI Act provides access to all information that is available and**

**existing.** This is clear from the combined reading of section 3 and the definition of "information" and "right to information" under clause (f) and (j) of section 2 of the Act. **If the public authority has any information in the form of data or analysed data or abstracts or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the records of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant.** A public authority is also not required to furnish information which required drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice to an applicant. "

14. Yet in another decision, the Apex court in case of Peoples Union for Civil Liberties V/s Union of India, AIR Supreme Court 1442 has held;

**"under the provisions of RTI Act, Public Authority is having an obligation to provide such information which is recorded and stored** but not thinking process which transpired in the mind of authority which has passed an order".

15. AIR 2012 Pat 60; letters appeal no 1270 of 2009 in civil writ jurisdiction case 11913/2009; Shekarchandra Verma vs State Information Commissioner Bihar has held

“in our view, the RTI Act contemplates furnishing of information which is available on record, but it does not go so far as to require an authority to first carry out an inquiry and collect, collate information and then to make it available to applicant.”

16. Hence according to above judgment of the Apex court, the PIO is duty bound to furnish the information **as available and as exist in the office records**. PIO has clearly stated that original file is not available in their custody as the same is returned to the Village Panchayat Assagaon and whatever information was available and existing with the Public Authority have been furnished to the appellant .
17. By subscribing to the ratios laid down by the Hon'ble Apex Courts (a) in case of Aditya Bandhopadhay (supra) (b) People Union for Civil Liberties V/s Union of India(supra)and(c) Shekarchandra Verma vs State Information Commissioner Bihar(Supra),the information since is not in existence/not available in the records of the office of the public authority concerned herein, the same cannot be ordered to be furnished and hence the reliefs sought at serial No.(a) by the appellant cannot be granted.
18. In view of the above discussion , I do not find merits in the appeal proceedings, hence liable to be dismissed which I hereby do.

Appeal disposed accordingly. 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