

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

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Appeal No. : 85/2020/SIC-I/

Shri Somnath Vaman Devji,  
Ratnay Niwas, Sy.No.175/1/j,  
Plot No. 5, Sidharth Colony,  
MES College Area, Zuarinagar-Goa.

.....Appellant

v/s

1. The Public Information Officer (PIO),  
Office of the Village Panchayat Sancoale,  
Mormugao-Goa.
2. The First Appellate Authority (FAA),  
Block Development Officer,  
Mormugao Goa.

.....Respondents

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

Filed on:29/5/2020  
Decided on:13/07/2020

**ORDER**

1. The brief facts leading to the second appeal as put forth by the Appellant Shri Somanath V. Devji are that he vide his application dated 6/11/2019 had sought for the following information:-
  - a) Deed of Sale of Smt. Rekha R. Pingulkar, alongwith an approved Plan showing the sub-division of land bearing Sy. No.175/1-J, Sancoale submitted for the registration of the plot No. 07, Sidharth Colony, Zuarinagar-Goa.
  - b) Approved plan in the property zone as 'S-1' zone in OPD-2026 of Sancoale Mormugao Taluka bearing Sy. No. 175/1-J of plot No. 5 of the approved sub-division ref.No. VPDA/7-A-19/02-03/1604 dated 22/01/2003.
  - c) Notice's served to Mr. Ashok L.Naik,Sy.No 175/1-J,plot No. 07, Sidharth Colony, Zuarinagar-Goa.
2. The said information was sought from the Respondent No. 1 Public Information Officer (PIO) of the Office of Village Panchayat

Sancoale Mormugao–Goa in exercise of Appellants right u/s 6(1) of Right To Information Act, 2005.

3. It is contention of the Appellant that his said application was responded by Respondent No.1 PIO on 13/12/2019 interms of section 7(1) of RTI Act thereby enclosing the information.
4. It is contention of the Appellant that vide letter dated 13/12/2019 information at serial No.1 and 3 were furnished to him and the Respondent No.1 PIO failed to provide him the correct information at serial No. 2 .
5. It is the contention of the Appellant that he is not satisfied with the information provided to him at point no. 2 by the Respondent PIO hence he filed first appeal on 10/1/2020 in terms of section 19(1)of the RTI Act,2005 with the Respondent No.2 Block development Officer, Office of BDO, Mormugao Goa being First Appellate Authority.
6. It is the contention of the Appellant that after hearing the matter the Respondent no.2 First Appellate Authority directed the Respondent PIO to furnish the documents however till date the PIO had not furnished the same
7. It is the contention of the Appellant that he being aggrieved by the said action of Respondent, is been forced to approached this commission, by way of this present second appeal.
8. In this background the Appellant being aggrieved by Respondent PIO has approached this commission on 26/5/2020 in the second appeal as contemplated u/s 19(3) of RTI Act,2005 on the grounds raised on memo of Appeal with the contention the information is not provided and seeking order from this commission to direct the PIO to furnish the information at point No. 2
9. In pursuant to notice of this commission, Appellant appeared. Respondent No.1PIO Shri Krishna Gawade was present. Respondent No.2 was represented by Shri Surendra Govekar.

10. Reply was filed by Respondent No. 1 PIO and by Respondent No. 2 PIO on 13/7/2020. The copy of the same was furnished to the Appellant herein.
11. Arguments were advanced by both the parties.
12. It was contended by the Appellant that Respondent has deliberately denied and acted irresponsibly and he has failed to entertain the request thereby malafidely blocking the information sought for with ulterior motive. It was further contended that the PIO did not adhere to the direction given by the First Appellate Authority vide order dated 21/01/2020 .He further submitted that he required the said information on priority basis since the same can be useful for him to produce it before competent forum.
13. The Respondent No.1 PIO contended that the whatever information was available on record have been furnished to the Appellant and the documents sought by the Appellant at point no. 2 since not available on the record of public authority the same could not be furnished to the Appellant. It was further submitted that the documents sought at point No. 2 have never been submitted to their office and those were not issued by the Village Panchayat Sancoale but by the Mormugao Planning and Development Authority. It was further contended that he vide letter dated 3/7/2020 again informed the said fact to the Appellant .
14. Respondent No. 2 First Appellate Authority vide reply dated 13/7/2020 contended that an appropriate order has been passed by him on 21/1/2020 after hearing both the parties .
15. I have scrutinized the record available in the file so also considered the submissions made by the both the parties .
16. As per section 19(3) of RTI Act a second appeal against the decision under sub-section (1) shall lie within 90 days on the date on which decision should have been made or was actually

received. From the records it is seen that the order was passed by the Respondent No. 2 First Appellate Authority on 21/1/2020. One could gathered from the Roznama that both the parties were present at the time of passing of the order by Respondent no. 2 First Appellate authority. The Appellant herein had not filed the present appeal within limitation period i.e within 90 days. However taking into consideration the lockdown due to the Covide 19 and also in the interest of justice, the delay occurred in filing the present proceedings was condoned by this commission and the matter was heard .

17. In the contest of the nature of information that can be sought from PIO, the Hon'ble Supreme Court in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhaya has 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. "

18. 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".

19. Yet in another decision reported in 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."

20. 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.**

21. In the present case since the Respondent No.1 PIO has clearly stated and submitted that information at serial No. 2 sought by the Appellant is not available in the records of their office. Hence by subscribing to the ratios laid down by above courts, no any direction can be issued to Respondent PIO to provide the information which is not available and existing in a records of a public authority.

22. Since the Respondent PIO have now submitted that the information at serial No. 2 i.e the plan Approved plan in the

property zone as 'S-1' zone in OPD-2026 of Sancoale Mormugao Taluka bearing Sy. No. 175/1-J of plot No. 5 of the approved subdivision ref. No. VPDA/7-A-19/02-03/1604 dated 22/01/2003 has been created and issued by Mormugao Planning and Development Authority, the same ought to be in the records of the said concerned authority.

23. In the above given circumstances I, find that the ends of justice will meet with following order.

**Order**

The Respondent No. 1 PIO is hereby directed to transfer the point at serial No.2 of the RTI application dated 6/11/2019 filed by the Appellant herein to the PIO of office of Mormugao Planning and Development Authority within 5 days interms of section 6(3) of RTI Act,2005 from the receipt of this order and the PIO of Mormugao Planning and Development Authority is hereby directed to act in accordance with the provisions of RTI Act.

With the above directions, the Appeal Proceedings stands closed.

Pronounced in the open court. Notify the parties

Authenticated copies of the order should be given to the parties free of cost including to the PIO of Mormugao Planning and Development Authority.

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.

Sd/-  
**(Ms.Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission  
Panaji-Goa.