

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

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**CORAM: Shri Juino De Souza : State Information Commissioner**

**Appeal No. 209/2019/SIC-II**

Mr. Ashank Naik Gaonkar,  
Major of Age,  
Resident of Flat. No. 101 A Building,  
Clover, Vidhyadhiraj Math Road,  
Gogol, Margao – Goa.

**..... Appellant**

**v/s**

1. The Public Information Officer,  
Deputy Director (Vigilance)  
Director of Vigilance,  
Altinho Panaji – Goa.

2. The Director,  
The First Appellate Authority,  
Director of Vigilance,  
Altinho Panaji – Goa.

**.... Respondents**

**Relevant emerging dates:**

**Date of Hearing : 14-01-2020**

**Date of Decision : 22-01-2020**

**O R D E R**

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 04/02/2019, sought certain information under Section 6(1) of the RTI Act. 2005 from the Respondent PIO, Personnel Department, Porvorim-Goa.
2. The Appellant is *inter alia* seeking information regarding regularization of suspension period and dropping of vigilance enquiry against the Government **Officers** concerned, the Appellant has stated in the RTI application that one of the accused person in Ruby Residency building collapse case was under suspension from 06/01/2014 to 11/06/2014 along with other Government officers **and that he** has been given to understand that the Personnel Department, Government of Goa has dropped all the charges against Shri.Dipak Dessai, Shri.Prashant Shirodkar and Shri Pradeep Naik (Gazetted Officers) and to furnish all certified copies of all the relevant documents pertaining to dropping of charges against above mentioned officers under Right to Information Act, 2005.

3. It is seen that the PIO vide reply no. 6/4/2019-PER/RTI/439 dated 06/02/2019 transferred the RTI Application u/s 6(3) to the PIO, Dy. Director, Directorate of Vigilance, Altinho, Panaji- Goa. It is further seen that the PIO, Dy. Director, Directorate of Vigilance vide letter No.13/59/2005-VIG/2019/RTI/20/563 dated 20/02/2019 denied the information by applying section 8(1)(h) and informed the Appellant that the information sought by him cannot be spared in view of Section 8(1)(h) of Right to Information Act, 2005 as the inquiry in one of the related matter is in progress.
4. Not satisfied with the reply of the PIO the Appellant filed a First Appeal on 19/03/2019 and the First Appellate Authority (FAA) vide Order dated 10/05/2019 upheld the reply of the Respondent PIO and dismissed the First Appeal by holding that the information has been rightfully denied u/s 8(1)(h) of the RTI Act, 2005.
5. The FAA in his order has also observed thus: 'after perusing the Appeal filed by the appellant and reply filed by the PIO as well as the case laws relied by the Respondent and considered the arguments advanced by both parties. The Respondent has rightly denied the information to the Appellant by invoking correct provision of section 8(1)(h) of the RTI Act, 2005'.
6. Being aggrieved with the order of the FAA, the Appellant subsequently approached the Commission by way of Second Appeal **registered** before the Commission on 01/07/2019 and has prayed to direct the Respondent to furnish complete information as sought in the RTI application dated 04/02/2019 and for cost, penalty and for other reliefs.
7. **HEARING:** This matter by consent taken up for final disposal. During the hearing the Appellant Mr. Ashank Naik Gaonkar is represented by Advocate Vithal Naik whose Vakalatnama is on record. The Respondent PIO, Ms. Nathine Araujo, Dy. Director of Vigilance is present in person. The FAA is absent.

8. **SUBMISSION:** Advocate Vithal Naik for the Appellant submits that the application was filed under RTI Act seeking information in respect of certain Government employees who were otherwise facing charges in Ruby Residency collapse **case** and the government has dropped the charges and the departmental enquiry against these officers.
9. It is also submitted that the information was applied to know the basis on which the government has taken decision to close the departmental proceedings against these officers. **Adv. Vithal Naik** argues that the information could not have been refused under Section 8(1)(h) as admittedly the departmental enquiry against the concerned officers have been closed and charges dropped as such the question of Impeding Investigation as per section 8(1)(h) does not arise. It is also submitted that information is denied under section 8(1)(h) only to conceal the information pertaining to selective closure of departmental proceedings.
10. Advocate Vithal Naik further submitted that in case the PIO is refusing information under section 8(1)(h), then the PIO is required to provide reasons and sufficient material to show how the disclosure of information is likely to impede the process of Investigation. It is submitted that merely stating 'Pending Investigation' cannot be a ground to refuse information and in the present case no reasons have been placed on record by the PIO and therefore the impugned order of the FAA amounts to arbitrary refusal of information and as such deserves to be quashed and set aside.
11. Per contra, the Respondent PIO submits that the information sought relates to disciplinary proceedings against concerned officers in connection with the Ruby Residency Building Collapse case, wherein the Government had approved disciplinary proceedings against Gazetted and non Gazetted Officers from various Department. It is submitted that the disciplinary proceedings were also approved against the Appellant as per the decision taken by the Government.

12. It is also submitted that the Government has taken the decision to close the disciplinary proceedings against the respective officers namely Shri.Dipak Dessai, Shri.Prashant Shirodkar and Shri Pradeep Naik (Gazetted Officers) against whom the information under RTI is sought by the Appellant based on the facts and circumstances on individual cases and department wise. However the Disciplinary proceedings are still not finalized against some other officers who are also connected with the same "Ruby Residency case" including the appellant and Investigations are going on.
13. The PIO finally submitted that the information was denied by applying section 8(1)(h) by exercising discretion as the furnishing of the information would impede investigations also in view that the appellant himself is one of the officers against whom the disciplinary proceedings are going on and there is no need for giving detailed reasons.
14. Regarding the argument of the Advocate for the Appellant stating that a new ground raised of section 8(1)(j) is raised by the PIO in Para 7 of the reply dated 04/11/2019 filed before the commission and this was not the stand taken by the PIO in her initial reply No.13/59/2005-VIG/2019/RTI/20/563 dated 20/02/2019, the PIO submitted that section 8(1)(j) was raised inadvertently and in good faith and there is no malafide intention and admits that it is not applicable.
15. The Advocate for the Appellant relied upon the following Judgments S Nathi Devi v. Radha Devi Gupta 2005 (2) SCC 201; B. R. Kapoor v. State of Tamil Nadu V. Tulasamma v. Sesha Reddy while the PIO has relied on the following: P.K Sinha V/s D.B. Janotkar, PIO, Mahanandi Coalfield Ltd. (CIC/AT/A/2007/00333 dated 17/08/2007), Shanker Sharma and others V/s Director of Income Tax (CIC/AT/A/2007/00007.
16. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record indeed finds that although the charges were dropped.....

..... against the concerned three officers namely Shri.Dipak Dessai, Shri.Prashant Shirodkar and Shri Pradeep Naik (Gazetted Officers) the investigation is still going on in respect to the other officers including the appellant in connection with the infamous Ruby Residency Building Collapse case and as such the PIO was justified in applying section 8(1)(h) as the furnishing of information would impede investigation more so as the appellant himself is one of the officer against whom the investigations of disciplinary proceedings are going on.

17. The Commission also finds that the PIO had in her reply dated 04/11/2019 has raised the ground of also rejecting the information u/s 8(1)(j) being Personal Information and which was done inadvertently and in good faith and as such is entitled for protection taken in good faith as per section 21 of the RTI act 2005.
18. **DECISION:** No intervention is required with the order of the First Appellate Authority (FAA). The Commission comes to the conclusion that although the charges are dropped against the concerned three officers namely Shri.Dipak Dessai, Shri.Prashant Shirodkar and Shri Pradeep Naik against whom the information is sought, however in view that investigations / Disciplinary Proceedings are still going on in cases concerning certain other officers including the appellant and as such the information was correctly rejected by the PIO by applying section 8(1)(h) as the same impedes investigation. Consequently the reliefs sought for by the appellant in his prayer are rejected.

**The Appeal is devoid of any merit and stands dismissed.**

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**