

**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.95/2019/SIC-II**

Shri Venkatesh Shenai,  
r/o. Villa No. 10,  
Aditya Garden Villas,  
Duler, Mapusa Goa.

**..... Appellant**

**v/s**

1. Public Information Officer,  
The Goa State Coop. Bank Ltd.,  
Panaji Goa.
2. The First Appellate Authority,  
The Goa State Coop. Bank Ltd.,  
Panaji Goa.

**.... Respondents**

**Relevant emerging dates:**

**Date of Hearing : 08-01-2020**

**Date of Decision : 16-01-2020**

**ORDER**

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 05/11/2018 sought certain information from Respondent PIO, The Goa State Cooperative Bank Ltd, Panaji-Goa. The information pertains to 34 points and the Appellant *inter alia* is seeking information of the date of submission of draft audit observation by the statutory auditor of Bank for the Financial year 2017-18, draft audit observation in the audit received from statutory auditor for the F.Y.2017-18, date of discussion draft audit observation with the management administrative Committee of the Bank by the statutory auditor of the bank, copy of response to the draft audit observation (letter issued to statutory auditor after discussion of draft audit observation, copy of VRS scheme implemented in the F.Y.2017 -18, details of process followed for the selection of fund manager and appointment of Fund Manager, copy of appointment letter issued to fund manager and other such information as contained in the RTI application therein.

2. It is seen that the PIO vide reply letter No.GSCB/LEGAL/2018-2019/8164 dated 07/12/2018 informed the Appellant that the information sought is hit by provision of section 8(1)(h) of the RTI Act, and Bank is exempted from disclosure of information/document as requested by you.
3. Not satisfied with the reply of PIO, the Appellant filed a First Appeal on 13/12/2018 and the First Appellate Authority (FAA) vide an Order dated 11/01/2019 set aside the reply of the PIO dated 07/12/2018 with a direction to reconsider the case a fresh and to pass a reasoned reply/Order.
4. It is seen that pursuant to the Order of the First Appellate Authority (FAA) the PIO vide reply no GSCB/Legal/2018-19/9456 dated 21/01/2019 informed that the Bank has received a Complaint on 19/09/2018 against the Appellant, and which is pending before the Director, Disciplinary Directorate, Institute of Chartered Accountant of India and for this reason pending investigation the Bank is not entitled to give the documents sought by the appellant. It is further submitted that the bank is exempted from disclosure under section 8(1)(h) of the RTI Act, 2005.
5. The PIO in the Second paragraph of the said letter has stated that the Goa State Cooperative Bank is Cooperative Society formed by its members under the bye laws and is neither established nor constituted under any law or under notification nor it is owned /controlled or substantially financed by the Government and therefore does not fall within the meaning "Public Authority "under section 2 (h) of the RTI Act.
6. Being aggrieved with this reply of the PIO, the Appellant has thereafter filed a Second Appeal before the Commission registered on 12/04/2019 and has prayed for necessary Orders be passed directing the Respondent PIO to furnish the above referred documents within ten days free of cost and for other such reliefs.

7. **HEARING:** This matter has come up for hearing before the Commission on four previous occasions and hence it is taken up for final disposal. During the hearing the Appellant Venkatesh Shenai is absent. The Respondent PIO and FAA both are represented by Adv. R. Rivankar.
8. **SUBMISSIONS:** Adv. R. Rivankar for the Respondent PIO submits that Goa State Cooperative Bank Ltd is not a public authority and that it is accountable only to its members and is neither substantially financed controlled nor owned by the Government. Adv. R. Rivankar places reliance on several judgments including the Judgment of Bombay High Court (Nagpur Bench) in the case of Dr Punjabrao Deshmukh Urban Cooperative Bank V/s State Information Commission, Jalgoan Cooperative Bank's Association Ltd V/s State of Maharashtra and also Mr Michael Dsouza V/s PIO in Complaint no 77/2009 passed by this commission.
9. **FINDINGS:** The Commission after hearing the submissions of the Adv for the Respondent PIO and perusing the material on record including the appeal memo and reply filed by the appellant dated 08/01/2020 and reply filed by the Advocate for the PIO dated 01/07/2019 finds that although the Advocate for the Respondent PIO has submitted that Goa State Cooperative Bank is not a public authority and that it is accountable only to its members and is neither substantially financed controlled nor owned by the Government, this stand is not reflected in the initial reply of the PIO dated 07/12/2018 and also not reflected at the level of the First Appellate Authority.
10. As a matter of fact, the First Appellate Authority (FAA) who is Managing Director of the Bank in his Order dated 11/01/2019 has not held that the Bank is not a public authority. Quite contrary the FAA observed that a complaint against the Appellant is pending before the Director Disciplinary Directorate, The Institute of Chartered Accountants of India, New Delhi and hence the PIO has rejected the RTI request. The FAA in fact has set aside the Order of the PIO with direction to reconsider the case and to pass a reason Order /reply. ...4

11. The Commission also finds that pursuant to the order of the FAA, the PIO in his second reply dated 21/01/2019 changed his stance and stated the actual reason why section 8(1)(h) was applied and which is because there was a Complaint filed by the Bank on 19/09/2018 against the Appellant and which the Complaint was pending for disposal before the Institute of Chartered Accountants of India, New Delhi.
12. Advocate Rivankar in his arguments has submitted that the issue between the bank and the appellant has been now settled and as such the Commission finds that there is no impediment for the bank to now furnish the information.
13. **DECISION**: It is an undisputed Bank that the Goa State Cooperative Bank Ltd was declared as a public authority by Appropriate Government and had nominated a PIO, and FAA and as such the argument submitted by Adv. R. Rivankar that the Bank is not a public authority cannot be accepted. The Government is a shareholder in the Bank although it may not be a major shareholder. Also Registrar of Cooperative Societies has statutory control over the Bank. Further the Bank is also established under the RBI and under NABARD.
14. In view of the above discussion the Commission accordingly comes to the conclusion that the Goa State Cooperative Bank Ltd falls under the purview of public authority under section 2(h) of the RTI act 2005 and directs the PIO to furnish the information as sought in the RTI application to the appellant more so also in view that the matter regarding the complaint between the bank and the appellant is settled within 15 days from the date of the receipt of this order.

**With these directions the Appeal case stands disposed.**

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**

