

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.318/2019/SIC-II

Capt. Drobny Joseph Fernandes,
r/o. H. No. 1400, Tembim, Curtorim,
Salcete Goa.
403709.

..... Appellant

v/s

1. Shri Uday Prabhu Dessai,
Public Information Officer,
Dy. Collector & SDO-I,
O/o the Dy. Collector & SDO,
1st Floor, Mathany Saldanha
Administrative Complex,
Margao – Salcete Goa. 403601

..... Respondents

2. Shri Uday Prabhu Dessai,
First Appellate Authority,
Addtl. Collector,
4th Floor, Mathany Saldanha
Administrative Complex,
Margao – Salcete Goa 403601

Relevant emerging dates:

Date of Hearing : 26-02-2020

Date of Decision : 26-02-2020

ORDER

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 06/05/2019 sought certain information u/s 6(1) of the RTI Act, 2005 from the Respondent PIO, Office of the Dy. Collector & SDO-I, Margao –Goa.
2. The Appellant is seeking information at two points (1) To furnish information 'whether' an application has been made to the Collector of Goa under section 32 of the Land Revenue code 1968 for conversion of use of land of Mr. Camilo Fernandes for residential purpose for property bearing survey no 168/18 (P) of Curtorim Village of Salcete Taluka Sate of Goa and (2) To furnish information whether conversion Sanad under Rule 7 of Goa Daman & Diu Land Revenue (Conversion of use of land and Non Agricultural assessment) Rule 1969... ..2

..... has been issued to Shri Camilo Fernandes resident of Hno.1556/A Pandicol Curtorim Salcete Goa for construction of: Compound wall, Residential house of R.C Slab Construction, Car Garage & Filling of Agricultural Land in property bearing survey no 168/18(p) of Curtorim Village of Salcete Taluka State of Goa.

3. It is seen that the PIO vide letter No.DO/SAL/RTI/6-5-2019/6906/2019/4226 dated 10/05/2019 informed the Appellant as per 7(1) as follows: 'With reference to your application dated 06/05/2019, you are requested to submit the file number in order to provide the information at the earliest'.
4. Not satisfied with the reply furnished by the PIO, the Appellant filed a First Appeal on 18/06/2019 and First Appellate Authority (FAA) vide order dated 06/08/2019 disposed off the First Appeal and closed the proceedings
5. The FAA in his Order has observed thus "The Appellant has today confirmed that after searching all the records from office of Dy. Collector, there is no conversion Sanad issued with regards Survey No.168/18(p) of Curtorim village of Salcete Taluka. As the Appellant is satisfied with regards RTI query as asked in his application dated 06/05/2019 after inspection. As such, the matter stands closed. "
6. Being aggrieved with the order of the First Appellate Authority (FAA), the Appellant thereafter filed the Second Appeal before this Commission registered on 14/11/2019 and has prayed to direct the PIO to furnish the information as sought in the RTI application.
7. **HEARING:** This matter is taken up for final disposal and during the hearing the Appellant Capt. Drobny Joseph Fernandes is present in person. The representative for the PIO, Shri Sameer Naik, LDC, O/o Dy. Collector & S.D.O. Margao, Salcete. The FAA is absent.

8. **SUBMISSIONS**: The Appellant submits that the Order of the First Appellate Authority (FAA) is incorrect and that he never asked for inspection of the files nor has inspected any files and as such the statement recorded by the First Appellate Authority of him the Appellant having confirmed that after searching the records there is no conversion Sanad with regard to Survey No.168/18 is totally wrong.
9. When the Commission inquired with the Appellant if he had visited the office of the PIO and taken inspection of files, the Appellant denied having visited the PIO's office and submitted that he never sought for inspection of the file and as such the question of even visiting the O/o of the PIO for inspection does not arise. The Appellant submits that it is the bounden duty of the PIO to have searched the records and to furnish the information. The APPELLANT finally submits that the public authority should implement section 4(1)(a) and 4(1)(b) and display all information on the website. The appellant files a reply dated 26/02/2020 which is taken on record.
10. **FINDINGS**: The Commission after hearing the submission of the Appellant and perusing the material on record at the outset finds that the information sought by the Appellant in the RTI application is in 'question form' by asking the question 'Whether' an application has been made to the Collector and 'Whether' Conversion Sanad under Rule 7 of Goa Daman & Diu Land Revenue Rule 1969 has been issued and asking information in question form do not fall under the ambit of the definition of the word information under section 2(f) of the RTI act 2005.
11. Section 2(f) Information is any material in any form and includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

12. Asking of hypothetical questions such as 'WHETHER' 'WHY' 'HOW' 'WHAT' or demanding reasons for a decision are all questions beyond the purview of the RTI Act and the PIO not called upon to answer such questions as per the ratio laid down in the case of Dr. Celsa Pinto, Ex-Officio Joint ... vs The Goa State Information ... on 3 April, 2008-Equivalent citations: 2008 (110) Bom L R 1238.
13. The Public Information Authorities cannot expect to communicate to the citizen the reason whether a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. On this ground itself the appeal case is liable to be dismissed.
14. This apart the Commission finds that although the Appellant in his submission before the commission has denied having carried out any inspection of the file and has stated that what is recorded in the Order of the First Appellate Authority (FAA) is erroneous, however quite contrary there is no such statement of denial made in the pleadings or appeal memo.
15. The appellant while assailing the order of the FAA should have had in the appeal memo averred that the statement recorded by the FAA of him (appellant) having taken inspection is false and should have clarified that no such inspection was ever carried out by him. In the absence of such averments the Commission finds it difficult to believe the submissions put forth by the appellant. The Commission is also unable to understand as to why any FAA should record a wrong statement more so when the Appellant himself is present during the hearing before the FAA and there seems to be no valid reason. No interference is therefore required with the order of the FAA.
16. **DECISION:** As information sought by the Appellant is in question form and which cannot be answered by the PIO and further as the Appellant has not provided details of file number or order number and or date of the application under.... ...5

..... which the conversion sanad file may have been processed and or may have been issued, the Commission is unable to issue directions to the PIO to undertake a search merely to answer the query of the Appellant.

17. The Commission comes to the conclusion that the Appellant is fishing for information and that the Appellant has filed the RTI application as he himself is not sure whether any conversion sanad was issued or not and wants to extract an answer from the PIO that no conversion sanad issued with regard to survey 168/18(P) of Curtorim Village and which the PIO is not called upon to answer or issue any such statement which would tantamount to creating information.

The Appeal is devoid of any merit and stands dismissed.

18. Before parting the Appellant has filed a reply dated 26/02/2020 wherein he has submitted that certain obligations are to be carried out by the public authorities in fulfillment of the mandate of the section 4(1)(a) and 4 (1)(b) which is not been implemented. In this connection the Commission directs the Collector (South) to take immediate steps for implementing section 4(1)(a) and 4 (1)(b).

With these observations all proceedings in the Appeal case stands closed. 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**

