

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 111/2019/SIC-II

Adv. Mrs. Luiza M. Rego,
Major of age, married, Advocate,
H. No. 49, Headland Sada,
Mormugao Goa
Office at Shop No. 11, Ground
Floor, Queeny Elite Building,
Opposite Damodar Temple,
Vasco da Gama Goa 403802.

... Appellant

v/s

1. The Public Information Officer,
Office of the Dy. Collector & SDO,
Mormugao, Vasco da Gama Goa.

2. First Appellate Authority,
Additional Collector-I,
South Goa District,
Margao – Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 12-02-2020

Date of Decision : 12-02-2020

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 24/08/2018 sought information from the Respondent PIO, O/o Dy. Collector, Mormugao Vasco da Gama, Goa under section 6(1) of the RTI act 2005 with reference to case No.LRC/EVC/03/2000, and the appellant is seeking copies of Judgment and Order dated 06/12/2000 with the copy of documents relied upon to pass the Judgment and Order dated 06/12/2000.

2. It is seen that the PIO vide reply letter No. 3/2/RTI/2018/2891 dated 29/10/2018 informed the Appellant that old inventory records is done and the information sought in case No.LRC/EVC/03/2000 is not traceable at present as the said file cannot be found / located. The PIO also enclosed an office order dated 17/10/2018 wherein two staff members Shri Walter Rodrigues UDC & Shri Vishwas Vast were entrusted with the search of the records.

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3. The Appellant not satisfied with the information furnished, and the fact that the case file is not traceable and as such filed a First Appeal on 28/11/2018 and the First Appellate Authority after hearing both the parties disposed off the Appeal on 05/02/2019. The FAA in his order has observed that the representative for the PIO, Shri. Nilesh Salgaonkar, Awal Karkun stated that the information could not be furnish as the said file was not traceable and possibly lost or damaged and reiterated that that a thorough search would be conducted once again to trace the missing file.
4. Being aggrieved with the Order of the First Appellate Authority (FAA), the Appellant thereafter filed a Second Appeal registered before the Commission on 02/05/2020 and has prayed to direct the Respondent PIO to locate the case file No. LRC/EVC/03/2000 and furnish the information and for fine and other such reliefs.
5. **HEARNG:** This matter has come up before the Commission on five previous occasions and hence is taken up for final disposal. During the hearing the Appellant Adv. Mrs. Luiza M. Rego is represented by Shri Sudesh Y. Mesta whose letter of authority is on record. The Respondent PIO is represented by Shri. Nilesh Salgaonkar, Awal Karkun O/o Dy. Collector & SDO, Mormugao. The FAA is absent.
6. **SUBMISSION:** The representative for the PIO submits that at the last hearing the Commission has directed the PIO to file an Affidavit confirming that the information sought by the Appellant with regard to case file LRC/EVC/03/2000 is not traceable. The PIO, Shri. Nilesh Salgaonkar, accordingly produces a copy of Affidavit- in- reply dated 10/02/2020 filed by the Respondent PIO, Shri. Paresh Faldessai, Dy. Collector Mormugao, Vasco da Gama confirming that the information sought for is not available and not traceable alongwith various enclosures of the information already furnished to the Appellant. The Affidavit-in-reply is taken on record. One copy is served on the representative for the Appellant.

7. **DECISION:** As the information sought by the Appellant of case No. LRC/EVC/03/2000 is not traceable and which is confirmed by an Affidavit-in-reply filed by the PIO dated 10/02/2020, the Commission comes to the conclusion that the said information cannot be furnished.
8. As stipulated in the RTI Act, the role of the PIO is to provide information as is available and if available from the records. The PIO is not called upon to create information.. The very fact that the PIO has filed an Affidavit-in-reply is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO to either deny or conceal the information and which is mandate of the RTI Act 2005. Thus the PIO cannot be faulted in any way.

Nothing further survives in the Appeal case which accordingly 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